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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS–2013–0021]

RIN 0579–AD77

User Fees for Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interpretative rule and request for comments.

SUMMARY: On May 13, 2016, the Air Transport Association of America filed suit against the Animal and Plant Health Inspection Service (APHIS), claiming APHIS' 2015 final rule setting fee structures for its Agricultural Quarantine Inspection (AQI) program (Docket No. APHIS–2013–0021, effective December 28, 2015) violated the Administrative Procedure Act. In its March 28, 2018 Order, the U.S District Court for the District of Columbia rejected challenges based on the calculations and methods for setting the fees and APHIS' adoption of the final rule. However, the Court also held that APHIS improperly relied on an expired provision in the relevant statute to justify its ability to levy a fee to support a reserve account. In so doing, the Court did ''not evaluate or rule on the agency's current argument that it has authority to fund a reserve'' pursuant to other statutory authority. In this clarification to the final rule, APHIS clarifies that, while we accept the court's holding that congressional authority under one specific provision of the statute to maintain a reasonable balance in the reserve account expired in 2002, this expiration does not abrogate our authority to collect for a reserve, as that authorization is written into other provisions of the statute. This interpretation is consistent with APHIS' long-standing precedent as set forth in prior rulemakings. The agency is only seeking comments related to the legal authority for the reserve component of AQI User Fee Program and is not reexamining any other aspect of the program at this time, including the AQI User Fee calculation.

DATES: The interpretive rule is issued April 26, 2019. We will consider all comments that we receive on or before May 28, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2013-0021*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0021, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0021* 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:

Mr. George Balady, AQI User Fee Coordinator, Office of the Executive Director-Policy Management, PPQ, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737 1231; (301) 851–2338; Email: *AQI.User.Fees@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 2016, the Air Transport Association of America filed suit against the Animal and Plant Health Inspection Service (APHIS), claiming APHIS' 2015, final rule (80 FR 66748–66779, Docket No. APHIS–2013–0021, effective December 28, 2015) setting fee structures for its Agricultural Quarantine Inspection (AQI) program violated the Administrative Procedure Act. In its March 28, 2018, Order, the U.S. District Court for the District of Columbia affirmed APHIS' cost methodology and the sufficiency of its data. The Court remanded to APHIS the reserve portion of the final rule updating user fees for the AQI program. The Court expressly did not vacate the rule pending further explanation by the agency. *See Air Transport Ass'n of Am.* v. *U.S. Dep't of Agric,* 317 F. Supp. 3d 385, 392 (D.D.C. 2018).

In its memorandum opinion accompanying that order, the Court stated that the agency unreasonably relied on the ''reasonable balance'' allowance in 21 U.S.C. 136a(a)(1)(C) of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990, 21 U.S.C. 136a, to justify its continued fee collection to maintain a reserve, as that allowance expired after fiscal year 2002. The Court did not rule on whether APHIS had authority for continued fee collection to maintain a reserve under any other subsection of the FACT Act and, therefore, remanded to the Agency for ''reconsideration of its authority to charge a surcharge for the reserve account.'' *See Air Transport Ass'n,* 303 F. Supp. 3d at 57. The Court expressly declined to consider APHIS' explanation in its legal filings that, consistent with its past explanations and practice, APHIS justified its authority to collect such fees under other of subsections of 21 U.S.C. 136a(a)(1). *Air Transport Ass'n of Am., Inc.* 303 F. Supp. 3d at 51; *see, e.g.,* User Fees for Agricultural Quarantine & Inspection Services, 71 FR 49984 (August 24, 2006). The Court did ''not evaluate or rule on the agency's . . . argument that it had authority to fund a reserve under'' a different part of the statute, and instead remanded the rule to the agency without vacating for further consideration of the agency's authority. *Id.* In this clarification to the final rule, APHIS restates its longstanding practice and authority under 21 U.S.C. 136a(a)(1)(A) and (B) provide for its continued collection of user fees to maintain a reserve in the AQI User Fee Account.

II. Clarification of Authority

A. The Rulemaking at Issue

The FACT Act authorizes APHIS to collect user fees to fully fund its AQI Program. These user fees must be sufficient to cover the costs of:

- Providing AQI services to commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers in connection with the arrival, at a port in

the customs territory of the United States (21 U.S.C. 136a(a)(1)(A));

- Providing preclearance or preinspection at a site outside the customs territory of the United States to international passengers, commercial vessels, commercial trucks, commercial railroad cars, and commercial aircraft (21 U.S.C. 136a(a)(1)(A)); and
- Administering the AQI Program (21 U.S.C. 136a(a)(1)(B)).

In the April 25, 2014, **Federal Register** (79 FR 22895), we issued a proposal to update the methodology by which APHIS would calculate user fees across user fee classes. Such a change was necessary to address historic underfunding for the AQI Program and to create a system whereby future adjustments to the user fee schedule could be easily made to more accurately reflect actual costs. In the 2015 final rule (80 FR 66748), we applied an activity-based-costing methodology to determine the appropriate user fee for each user fee group in a manner that accurately reflects individual user fee costs and protects users against cross-subsidization across user fee groups.

The 2014 proposed rule cited APHIS's authority to maintain a ''reasonable reserve,'' without specifically articulating which subsection of the FACT Act granted it authority to do so; however, the 2015 final rule used the phrase ''reasonable balance.'' While not explicitly citing 21 U.S.C. 136a(a)(1)(C) to justify continued collection with respect to the AQI Reserve, APHIS acknowledges the unexplained change in nomenclature could lead to an interpretation of the rule to mean that APHIS was, in fact, relying on that subsection, which states that the Secretary of Agriculture may prescribe and collect fees sufficient, ''through fiscal year 2002, to *maintain a reasonable balance* in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5)'' 21 U.S.C. 136a(a)(1)(C) (emphasis added).

B. Further Clarification of APHIS' Authority To Maintain a Reserve in Response to the Court's Orders

In light of the Court's remand, and after further review, APHIS is clarifying that subsections 136a(a)(1)(A) and (B) of the FACT Act provide adequate authority to continue setting user fees in amounts to maintain the AQI Reserve. This conclusion is consistent with APHIS' longstanding practice, which has been explained to the public through multiple rulemaking proceedings, beginning in 2002.

In a November 16, 1999, final rule, APHIS amended the regulations but inadvertently indicated that the fees would only remain in effect through September 30, 2002. *See* 64 FR 62089. To remedy the oversight, APHIS published an interim rule and request for comments on September 3, 2002. *See* 67 FR 56217. In this interim rule, APHIS stated that its authority to maintain a reasonable balance expired on September 30, 2002. *See id.* Still, APHIS reiterated that it had authority to collect user fees for ''providing AQI services *in connection* with the arrival at a port in the customs territory of the United States'' and for ''*administering* the user fee program[.]'' *Id.* (emphasis added). APHIS stated further that, ''[t]his interim rule will extend *existing* user fee rates and continue to allow the collection of the fees beyond September 30, 2002. Collection of these fees is necessary for the continuance of specific border inspection activities that are essential to protect U.S. agriculture from plant and animal disease and pest threats.'' *Id.* (emphasis added). The existing fees included the cost of maintaining the reserve, which was in place at this time. *Id.* On January 24, 2003, this interim rule became final without revision after no comments were received.

On December 9, 2004, APHIS revised its user fee regulations in another interim rule and request for comments. *See* 69 FR 71660. In this rule, APHIS did not mention its ability to maintain a reasonable reserve balance in its background section; however, it did state that the Act gives it the authority to collect user fees for ''providing AQI services *in connection* with the arrival at a port in the customs territory of the United States'' and for ''*administering* the user fee program[.]'' *Id.* (emphasis added). To explain its rationale for wanting a reserve balance equal to 25 percent of annual operating costs for APHIS and CBP AQI activities in the AQI account, APHIS stated:

> The reserve fund provides us with a means to ensure the continuity of AQI services in cases of fluctuations in activity volumes, bad debt, carrier insolvency, or other unforeseen events, such as those of September 11, 2001, which, as noted earlier, resulted in substantial cost increases for the AQI programs and lower-than-anticipated revenues. Maintaining an adequate reserve fund is, therefore, essential for the AQI program.

Id. at 71664.

In the final rule, published August 24, 2006, APHIS responded (71 FR 49985) to comments regarding the need to maintain a 25 percent reserve fund. In our response, we explained that a 25 percent reserve is needed to ensure continuity of AQI services in cases of fluctuations in activity volumes. Without this reserve, a significant drop in international passenger travel, such as occurred post 9/11, would be catastrophic to the program. Full-time personnel would have to be furloughed and services would have to be reduced. As travel volumes returned to normal, the AQI program would need to recruit, replace, and/or rehire the furloughed employees. This disruptive and costly process would increase the cost of AQI services and, consequently, necessitate higher user fees going forward. Moreover, during this time, there would be a drastically increased risk of the introduction of harmful plant pests in the United States. Conversely, the 25 percent reserve also allows for growth in the AQI program should APHIS find it necessary to supplement inspection services due to, for example, a sudden increase in demand.

Finally, a 25 percent reserve is needed to account for the lag in AQI user fee collections. Payments are made into AQI user fee accounts for commercial aircraft and international airline passengers on a quarterly basis, with monies not remitted to APHIS until 1 month after the end of the quarter in which they were collected. Since the fourth quarter fees are not due, and therefore not received, until after the fiscal year is over, we are not able to use those funds to pay for providing AQI services for commercial airlines and international air passengers in the fiscal year in which they are earned.

So, while not explicitly stated, APHIS had ceased relying on 21 U.S.C. 136a(1)(C) to justify its collection for the reserve in favor of reliance on sections (1)(A) and (1)(B). That same reasoning holds true today.

Title 21 U.S.C. 136a(a)(1)(A) permits the Secretary of Agriculture to prescribe and collect fees sufficient to ''cover the cost of providing agricultural quarantine and inspection *services in connection with* the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car'' (emphasis added). Title 21 U.S.C. 136a(a)(1)(B), extends this authority to ''cover the cost of administering'' the AQI Program as well. As noted in both the 2014 proposed rule and the 2015 final rule, APHIS sets fees based on Federal guidance found in Office of Management and Budget Circular A–25 and Federal Accounting Standards Advisory Board Statement of Accounting Standards Number 4, which

states that fees shall recover the full cost incurred by the government.

Congress has been made expressly aware of the fact that the agency has been setting fees at a level to maintain a reasonable balance in the account since at least FY 2002. Each year since FY 2002, Congress asked APHIS to submit information on AQI user fee collections, including the balance in the reserve, and each year, APHIS has advised that its collections have resulted in a positive reserve balance. Additionally, on several occasions, the U.S. Government Accountability Office (GAO) has reported to Congress on APHIS' maintenance of the reserve. *See* GAO, Federal User Fees: A Design Guide, GAO–08–386SP (May 2008) noting that ''the AQI fee statute gives APHIS permanent authority to use the collected fees and APHIS maintains a reserve in case of emergency''; GAO, Agricultural Quarantine Inspection Fees: Major Changes Needed to Align Fee Revenues with Program Costs, GAO–13–268 (March 2013) discussing maintenance of AQI reserve; GAO, Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability, GAO–13–820 (September 2013) discussing same; GAO, Federal User Fees: Key Considerations for Designing and Implementing Regulatory Fees, GAO–15–718 (September 2015) discussing same.

APHIS has consistently explained in past rules that the reserve fund provides ''a means to ensure the continuity of AQI services in cases of fluctuations in activity volumes, bad debt, carrier insolvency, or other unforeseen events, such as those of September 11, 2001, which . . . resulted in substantial cost increases for AQI programs and lower-than-anticipated revenues.'' *See, e.g.,* 69 FR 71660–71664. At various times since AQI user fees were established, as a result of service demands, APHIS has had to rely on the AQI reserve fund to maintain its operations, nearly draining the reserve on at least one occasion. *See* 64 FR 62090. In December 2004, APHIS reported in an interim rulemaking that it was close to running out of money altogether. *See* 69 FR 71661. The reserve fund allows the program to ensure the continuity of services even under these service constraints, and therefore constitutes a cost of providing the services, as permitted by subsection 136a(a)(1)(A).

Even when user fees are set at a level that keeps pace with current costs, the 3-month temporal lag between the end of the fiscal year and the conclusion of the calendar year inherently results in a significant delay in fee remittances. *See* 64 FR 43106. Because of cash management issues inherent in the program, the bulk of users remit their payments on a quarterly basis ''with monies not remitted to APHIS until 1 month after the end of the quarter in which they were collected,'' which is long after APHIS and U.S. Customs and Border Protection (CBP) have performed their necessary services in connection with the AQI program. *See* 71 FR 49984. This remittance process was developed to offset some of the burden on the users for collecting fees on the government's behalf, such as with the airline passenger fee, by allowing them to retain any interest paid on collections they hold in trust. Collecting fees to cover these costs required to run the AQI program, which may go over and beyond the specific operational costs of a particular inspection but nonetheless fall within the scope of operating the program, reasonably constitutes ''the costs of administering this subsection'' within the meaning of 21 U.S.C. 136a(a)(1)(B).

Because Congress has not provided specific guidance to APHIS on how to interpret 21 U.S.C. 136a(a)(1)(A) and (B), we construe these sections as providing authority to continue funding a reserve in order to ensure continuity of services as well as to protect the program from instability resulting from funding flow uncertainty, bad debt, and non-recurring financial obligations. Section (1)(A) provides congressional authority to set and collect fees to cover the cost of providing AQI services ''in connection'' with the arrival at a port in the customs territory of the United States. *See* 21 U.S.C. 136a(1)(A). Certain costs, such as upgrading facilities and replacing broken equipment, are not reoccurring costs and are therefore impossible to account for as line items in the court-approved ABC methodology for setting user fees. These onetime costs are still incurred ''in connection'' with the AQI program and must be factored into the overall user fees, as the statute demands full cost recovery. As such, there is no way to fund these obligations other than by accessing the AQI reserve.

Additionally, section (1)(B) demands that APHIS ''cover the cost of administering [the AQI program].'' *See* 21 U.S.C. 136a(a)(1)(B). As stated above, there is a significant temporal lag between the rendering of services by APHIS and CBP and the collection of fees to cover these services. Sometimes, fees are not collected at all even though the services have already been performed. For instance, bad debt may result from a commercial airline filing for bankruptcy. *See* 71 FR 49985. Administratively, if a bad debt arises, the Act requires APHIS to cover it since the services have already been performed and the costs have already been incurred. Therefore, a reserve is essential to prevent the AQI program from running a deficit, which could result in personnel furloughs or interruptions in service. Such interruptions would significantly increase the risk that the United States could be exposed to animal and plant pests from foreign countries.

The Court affirmed APHIS' cost methodology and the sufficiency of its data, and expressly did not vacate any portion of the existing rule. This interpretative rule relates only to the legal authority for the reserve component of the AQI User Fee Program. The final rule, which took effect in 2015, 80 FR 66748, remains in force, *Air Transport Ass'n,* 317 F. Supp. 3d at 392. Accordingly, this interpretive rule does not affect, inter alia, the user fee calculation with respect to the AQI Reserve.

Authority: 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08394 Filed 4–25–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2019–0304; Special Conditions No. 23–292–SC]

Special Conditions: Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 Airplane; Electronic Engine Control System Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 airplane. This airplane will have a novel or unusual design feature associated with installation of an engine that includes an electronic engine control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the

Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 26, 2019. We must receive your comments by May 28, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0304 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Federal Aviation Administration, Aircraft Certification Service, Policy & Innovation Division, Small Airplane Standards Branch, AIR–691, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined, in accordance with 5 U.S. Code §§ 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment hereon are unnecessary because substantially identical special conditions have been subject to the public comment process in several prior instances such that the FAA is satisfied that new comments are unlikely. For the same reason, the FAA finds that good cause exists for making these special conditions effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

Special conditions No.	Company/airplane model
23–253–SC [1] ..	Diamond Aircraft Industries/ Model DA–40NG.
23–267–SC [2] ..	Cirrus Design Corporation/ Model SF50.
23–282–SC [3] ..	Pilatus Aircraft Ltd./Model PC–24.

[1] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSC.nsf/0/1A102658468C62D386257950004D7183?OpenDocument.*
[2] *https://www.govinfo.gov/app/details/FR-2015-09-23/2015-24156/summary*
[3] *https://www.govinfo.gov/app/details/FR-2017-07-17/2017-14936.*

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On February 28, 2018, Costruzioni Aeronautiche Tecnam S.P.A. (Tecnam) applied for FAA validation of its type certificate for its new Model P2012 airplane. The Model P2012 is a normal category, metallic, non-pressurized, high wing, monoplane that will seat nine passengers and two flightcrew. Two wing mounted Lycoming piston engines driving four bladed variable pitch constant speed MT-Propeller Entwicklung GmbH Model MTV–14–B–C–F/CF195–30b propellers power the airplane. The airplane has fixed tricycle landing gear, a Garmin G1000 NXi avionics suite, and a maximum takeoff weight of 7,937 pounds.

The Model P2012 is equipped with two Lycoming Model TEO–540–C1A engines, each using an electronic engine control (EEC) system, commonly referred to as a full authority digital engine control (FADEC), instead of a traditional mechanical control system. Although the EEC is certificated with the engine, the installation of an EEC requires evaluation due to critical environmental effects and possible effects on or by other airplane systems such as; indirect effects of lightning, radio interference with other airplane electronic systems, and shared engine, airplane data, and power sources.

The regulatory requirements in Title 14, Code of Federal Regulations (CFR) part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in §§ 23.1306, 23.1308, and 23.1309. However, when § 23.1309 was published, the use of EECs for engines was not envisioned. The integral nature of these systems makes it necessary to ensure proper evaluation of the airplane functions, which may be included in the EEC, and that the installation does not degrade the EEC reliability approved under part 33 during engine type certification. Sections 23.1306(a) and 23.1308(a) apply to the EEC to ensure it remains equivalent to a mechanical only system, which is not generally susceptible to the High Intensity Radiated Fields (HIRF) and lightning environments.

In some cases, the airplane in which the engine is installed determines a higher classification than the engine controls are certificated for, requiring the EEC systems be analyzed at a higher classification. As of November 2005, EEC special conditions mandated the § 23.1309 classification for loss of EEC control as catastrophic for any airplane. This is not to imply an engine failure is classified as catastrophic, but that the EEC must provide an equivalent reliability to mechanical engine controls. In addition, §§ 23.1141(e) and 25.901(b)(2) provide the fault tolerant design requirements of turbine engine mechanical controls to the EEC and ensure adequate inspection and maintenance interval for the EEC.

Part 23 did not envision the use of full authority EECs and lacks the specific regulatory requirements necessary to provide an adequate level of safety. Therefore, special conditions are necessary.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Tecnam must show that the Model

P2012 airplane meets the applicable provisions of part 23, as amended by amendment 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations in part 23 do not contain adequate or appropriate safety standards for the Model P2012 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model P2012 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the FAA would apply these special conditions to the other model.

Novel or Unusual Design Features

The Model P2012 airplane will incorporate the following novel or unusual design features: The installation of an Electronic Engine Control (EEC) system. The EEC system is the generic family of electrical/electronic engine control systems, including full authority digital engine controls, supervisory controls, and derivatives of these.

Discussion

This airplane makes use of an electronic engine control system in addition to a traditional mechanical control system, which is a novel design for this type of airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. Mandating a structured assessment to determine potential installation issues mitigate the concerns that the addition of an electronic engine control does not produce a failure condition not previously considered.

Applicability

These special conditions are applicable to the Model P2012 airplane. Should Tecnam apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the FAA would apply these special conditions to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on the Model P2012 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702; Pub. L. 113–53, 127 Stat 584 (49 U.S.C. 44704) note.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Tecnam Model P2012 airplane.

1. Installation of Electronic Engine Control System

a. For electronic engine control (EEC) system installations, it must be established that no single failure or malfunction or probable combinations of failures of EEC system components will have an effect on the system, as installed in the airplane, that causes the Loss of Power Control (LOPC) probability of the system to exceed those allowed in part 33 certification.

b. Electronic engine control system installations must be evaluated for environmental and atmospheric conditions, including lightning and High Intensity Radiated Fields (HIRF). The EEC system lightning and HIRF effects that result in LOPC should be considered catastrophic.

c. The components of the installation must be constructed, arranged, and installed to ensure their continued safe operation between normal inspections or overhauls.

d. Functions incorporated into any electronic engine control that make it part of any equipment, systems or installation whose functions are beyond that of basic engine control, and which may also introduce system failures and malfunctions, are not exempt from § 23.1309 and must be shown to meet part 23 levels of safety as derived from § 23.1309. Part 33 certification data, if applicable, may be used to show compliance with any part 23 requirements. If part 33 data is used to substantiate compliance with part 23 requirements, then the part 23 applicant must be able to provide this data for its showing of compliance.

Note: The term ''probable'' in the context of ''probable combination of failures'' does not have the same meaning as used for a safety assessment process. The term ''probable'' in ''probable combination of failures'' means ''foreseeable,'' or those failure conditions anticipated to occur one or more times during the operational life of each airplane.

Issued in Kansas City, Missouri, on April 22, 2019.

William Schinstock,

Acting Manager, Small Airplane Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–08476 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2019–0301; Special Conditions No. 23–293–SC]

Special Conditions: Costruzioni Aeronautiche Tecnam S.P.A.; Model P2012 Airplane; Installation of Rechargeable Lithium Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 airplane. These airplanes will have a novel or unusual design feature associated with the installation of a rechargeable lithium battery. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 26, 2019.

We must receive your comments by May 28, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0301 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West

Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ruth Hirt, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, AIR–694, 901 Locust, Room 301, Kansas City, MO; telephone (816) 329–4108; facsimile (816)-329 4090.

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined, in accordance with 5 U.S. Code §§ 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment are unnecessary because substantially identical special conditions have been subjected to the public comment process in several prior instances such that the FAA is satisfied that new comments are unlikely. For the same reason, the FAA finds that good cause exists for making these special conditions effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

Special conditions No.	Company/airplane model
23–15–01–SC [1]	Kestrel Aircraft Company/Model K–350.
23–16–02–SC [2]	Pilatus Aircraft, Ltd, Models PC12, PC–12/45, and PC–12/47.
23–288–SC [3]	St. Louis Helicopter, LLC, Textron Aviation Models B300, B300C, B300C(MC–12W), and B300C (UC–12W).

[1] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSC.nsf/0/39B156C006EB842E86257EF3004BB13C?OpenDocument&Highlight=installation%20of%20rechargeable%20lithium%20battery.*

[2] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSC.nsf/0/5A2FEC165CB4913086258019005C34E2?OpenDocument&Highlight=23-278-sc.*

[3] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSC.nsf/0/B2D62B06A314D74186258282005F5E04?OpenDocument&Highlight=23-288-sc.*

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On March 13, 2018, Costruzioni Aeronautiche Tecnam S.P.A. (Tecnam) applied for FAA validation of its type certificate for its new Model P2012 airplane. The airplane is a normal category, metallic, non-pressurized, high wing, monoplane that will seat nine passengers and two flightcrew. Two wing mounted Lycoming Model TEO–540–C1A piston engines driving four blade variable pitch constant speed MT-Propellers USA, Inc. Model MTV–14–B–C–F/CF195–30b propellers power the airplane. The airplane has fixed tricycle landing gear, a Garmin G1000 NXi avionics suite, and a maximum takeoff weight of 7,937 pounds. The Model P2012 has rechargeable lithium batteries installed for higher energy density instead of the nickel-cadmium (Ni-Cd) or lead-acid rechargeable batteries.

The current regulatory requirements for part 23 airplanes do not contain adequate requirements for use of rechargeable lithium batteries in airborne applications. This type of battery possesses certain failure and operational characteristics with maintenance requirements that differ significantly from that of the nickel-cadmium (Ni-Cd) and lead-acid rechargeable batteries approved in § 23.1553, amendment 23–62 or earlier, for other normal, utility, acrobatic, and commuter category airplanes. Therefore, the FAA is issuing this special condition to address—

• All characteristics of the rechargeable lithium batteries and their installation that could affect safe operation of the Model P2012 airplane; and

• Appropriate Instructions for Continued Airworthiness (ICA) that include maintenance requirements to ensure the availability of electrical power from the batteries when needed.

Type Certification Basis

Under the provisions of § 21.17, Tecnam must show that the Model P2012 airplane meets the applicable provisions of part 23, as amended by amendment 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the Model P2012 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model P2012 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the models for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the FAA would apply these special conditions to the other model.

Novel or Unusual Design Features

The Model P2012 airplane will incorporate the following novel or unusual design features: The installation of a rechargeable lithium battery—intended as energy storage for the airplane—will power the essential load for continued safe flight and landing if the electrical generating system fails.

Discussion

The applicable regulations governing the installation of batteries in general aviation airplanes were derived from Civil Air Regulations (CAR) 3 as part of the recodification that established 14 CFR part 23. The battery requirements identified in § 23.1353 were a rewording of the CAR requirements. Subsequent rulemaking activities—resulting from increased incidents of Ni-Cd battery fire or failures—added § 23.1353(f) and (g), amendments 23–20 and 23–21, respectively. The FAA did not envision the introduction of lithium battery installations when these regulations were published.

The proposed use of rechargeable lithium batteries prompted the FAA to review the adequacy of these existing regulations. We determined the existing regulations do not adequately address the safety of lithium battery installations.

Current experience with rechargeable lithium batteries in commercial or general aviation is limited. However, other users of this technology—ranging from personal computers, to wireless telephone manufacturers, to the electric vehicle industry—have noted safety problems with rechargeable lithium batteries. These problems, as described in the following paragraphs, include overcharging, over-discharging, flammability of cell components, cell internal defects, and hazards resulting from exposure to extreme temperatures.

1. Overcharging. In general, rechargeable lithium batteries are significantly more susceptible than their Ni-Cd or lead-acid counterparts to thermal runaway, which is an internal failure that can result in self-sustaining increases in temperature and pressure. This is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway due to overcharging increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

2. Over-discharging. Discharge of some types of rechargeable lithium battery cells beyond the manufacturer's recommended specification can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flight crews as a means of checking battery status—a problem shared with Ni-Cd batteries. In addition, over-discharging has the potential to lead to an unsafe condition (creation of dendrites that could result in internal short circuit during the recharging cycle).

3. Flammability of Cell Components. Unlike Ni-Cd and lead-acid batteries, some types of rechargeable lithium batteries use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire, if there is a breach of the battery container.

4. Cell Internal Defects. The rechargeable lithium batteries and rechargeable battery systems have a history of undetected cell internal defects. These defects may or may not be detected during normal operational evaluation, test, and validation. This may lead to an unsafe condition during in-service operation.

5. Extreme Temperatures. Exposure to an extreme temperature environment has the potential to create major hazards. Care must be taken to ensure that the lithium battery remains within the manufacturer's recommended specification.

Applicability

As discussed above, these special conditions are applicable to the Model P2012 airplane. Should Tecnam apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the FAA would apply these special conditions to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Model P2012 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44704, Pub. L. 113–53, 127 Stat 584 (49 U.S.C. 44704) note

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued, in lieu of the requirements in § 23.1353 (a), (b), (c), (d), and (e), amendment 23–62, as part of the type certification basis for the Tecnam Model P2012 airplane.

Installation of Lithium Battery

Lithium battery installations must be designed and installed as follows:

(1) Safe cell temperatures and pressures must be maintained during—

i. Normal operations;

ii. Any probable failure conditions of charging or discharging or battery monitoring system; and

iii. Any failure of the charging or battery monitoring system shown to not be extremely remote.

(2) The rechargeable lithium battery installation must be designed to preclude explosion and fire in the event of a failure under (1)(ii) and (1)(iii) above.

(3) Design of the rechargeable lithium batteries must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

(4) No explosive or toxic gasses emitted by any rechargeable lithium battery in normal operation or as the result of any failure of the battery charging system, monitoring system, or battery installation, which is shown to not be extremely remote, may accumulate in hazardous quantities within the airplane.

(5) Installations of rechargeable lithium batteries must meet the requirements of § 23.863(a) through (d), amendment 23–34.

(6) No corrosive fluids or gases that may escape from any rechargeable lithium battery may damage surrounding structure or any adjacent systems, equipment, electrical wiring, or the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 23.1309, amendment 23–62.

(7) Each rechargeable lithium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

(8) Rechargeable lithium battery installations must have a system to automatically control the charging rate of the battery to prevent battery overheating and overcharging, and either:

i. A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition; or

ii. A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

(9) Any rechargeable lithium battery installation, the function of which is required for safe operation of the aircraft, must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state of charge of the batteries has fallen below levels considered acceptable for dispatch of the aircraft.

Note 1 to paragraph (9): Reference § 23.1353(h) for dispatch consideration.

(10) The Instructions for Continued Airworthiness (ICA) required by § 23.1529 must contain maintenance requirements to ensure that the battery has been sufficiently charged at appropriate intervals specified by the battery manufacturer and the equipment manufacturer that contain the rechargeable lithium battery or rechargeable lithium battery system. The lithium rechargeable batteries and lithium rechargeable battery systems must not degrade below specified ampere-hour levels sufficient to power the aircraft system. The ICA must also contain procedures for the maintenance of replacement batteries to prevent the installation of batteries that have degraded charge retention ability or other damage due to prolonged storage at a low state of charge. Replacement batteries must be of the same manufacturer and part number as approved by the FAA.

Note 2 to paragraph (10): Maintenance requirements include procedures that check battery capacity, charge degradation at manufacturer's recommended inspection intervals, and replace batteries at manufacturer's recommended replacement schedule/time to prevent age-related degradation.

Note 3 to paragraph (10): The term ''sufficiently charged'' means that the battery must retain enough charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by low charge (*i.e.,* below certain level), resulting in a reduction in the ability to charge and retain a full charge. This reduction would be greater than the reduction that may result from normal operational degradation.

Note 4 to paragraph (10): Replacement battery in spares storage may be subject to prolonged storage at a low state of charge.

Issued in Kansas City, Missouri, on April 22, 2019.

William Schinstock,

Acting Manager, Small Airplane Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–08477 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0039; Airspace Docket No. 19–AGL–4]

RIN 2120–AA66

Amendment of Class E Airspace; Connersville and Richmond, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Mettel Field Airport, Connersville, IN, and Richmond Municipal Airport, Richmond, IN. This action is due to an airspace review caused by the decommissioning of the Richmond VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airports are also being updated to coincide with the FAA's aeronautic database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 5014; February 20, 2019) for Docket No. FAA–2019–0039 to amend Class E airspace extending upward from 700 feet above the surface at Mettel Field Airport, Connersville, IN, and Richmond Municipal Airport, Richmond, IN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received, and the FAA provides the following response.

Class E airspace extending from 700 feet above the surface of an airport is provided for transition to and from the terminal or en route environment within the National Airspace System. The size and design of this airspace is determined by FAA Order 7400.2M, Procedures for Handling Airspace Matters, and takes both instrument and visual flight rules approach and departure procedures at the airports into consideration. The design of the airspace provides the transitional airspace required without absorbing more of the Class G airspace than is required. In the cases of Mettel Field Airport, Connersville, IN, and Richmond Municipal Airport, Richmond, IN, Class E airspace extending upward from 700 feet above the surface already exists at both airports and no additional airspace is included in the proposal. The airspace

radius at these airports is being reduced by 1 mile and 0.5 miles, respectively, due to changes at the airports and in the approach and departure procedures at each airport in compliance with FAA Order 7400.2M while taking the approach and departure procedures at each airport into consideration.

The comment regarding problems in scheduling landings at these airports is not an issue that can be addressed by airspace design but with airport management, and should be addressed with the appropriate airport authority.

Additionally, subsequent to publication, the FAA discovered a typographic error in the geographic coordinates for Reid Municipal Heliport contained within the Richmond, IN, airspace legal description. That error is corrected in this action.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile radius (reduced from a 7.6-mile radius) of Mettel Field Airport, Connersville, IN; updating the geographic coordinates of the airport to coincide with the FAA's aeronautic database; and removing the city from the airport name and the exclusion verbiage to comply with FAA Order 7400.2M, Procedures for Handling Airspace Matters; and

Modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (reduced from a 7-mile radius) of Richmond Municipal Airport, Richmond, IN; updating the geographic coordinates of Richmond Municipal Airport and Reid Hospital Heliport, Richmond, IN, to coincide with the FAA's aeronautic database; and correcting the typographic error for the geographic coordinates for Reid Hospital Heliport.

This action is the result of an airspace review caused by the decommissioning of the Richmond VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

AGL IN E5 Connersville, IN [Amended]

Mettel Field Airport, IN
(Lat. 39°41′54″ N, long. 85°07′52″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Mettel Field Airport.

* * * * *

AGL IN E5 Richmond, IN [Amended]

Richmond Municipal Airport, IN
(Lat. 39°45′22″ N, long. 84°50′34″ W)
Reid Hospital Heliport, IN, Point In Space Coordinates
(Lat. 39°51′51″ N, long. 84°52′58″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Richmond Municipal Airport, and within a 6-mile radius of the Point in Space serving Reid Hospital Heliport.

Issued in Fort Worth, Texas, on April 22, 2019.

John A. Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–08473 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0040; Airspace Docket No. 19–AGL–5]

RIN 2120–AA66

Amendment of Class E Airspace; Hamilton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Butler County Regional Airport-Hogan Field, Hamilton, OH. This action is due to an airspace review caused by the decommissioning of the Richmond VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. Airspace

redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 5019; February 20, 2019) for Docket No. FAA–2019–0040 to amend Class E airspace extending upward from 700 feet above the surface at Butler County Regional Airport-Hogan Field, Hamilton, OH. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (reduced from a 6.9-mile radius) of Butler County Regional Airport-Hogan Field, Hamilton, OH.

This action is necessary due to an airspace review caused by the decommissioning of the Richmond VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

AGL OH E5 Hamilton, OH [Amended]

Butler County Regional Airport-Hogan Field, OH

(Lat. 39°21′50″ N., long. 84°31′19″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Butler County Regional Airport-Hogan Field.

Issued in Fort Worth, Texas, on April 22, 2019.

John A. Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–08474 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 260, and 284

[Docket Nos. RM18–11–001, RP18–415–001; Order No. 849–A]

Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate; American Forest & Paper Association

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule; order denying rehearing.

SUMMARY: The Federal Energy Commission (Commission) denies rehearing and reaffirms its determinations in Order No. 849. Order No. 849 adopted procedures for determining which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of the income tax reductions provided by the Tax Cuts and Jobs Act and the Commission's revised policy and precedent concerning tax allowances to address the double recovery issue identified by *United Airlines, Inc.* v. *FERC*. These procedures also allowed interstate natural gas pipelines to voluntarily reduce their rates.

DATES: The order denying rehearing was approved by the Commission on April 18, 2019.

FOR FURTHER INFORMATION CONTACT: Adam Eldean (Legal Information), Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502–8047, *Adam.Eldean@ferc.gov*.

Seong-Kook Berry (Technical Information), Office of Energy Market Regulation, 888 First Street NE, Washington, DC 20426, (202) 502–6544, *Seong-Kook.Berry@ferc.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction

1. On July 18, 2018, the Commission issued a final rule [1] (Order No. 849) adopting procedures for determining which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of the income tax reductions provided by the Tax Cuts and Jobs Act [2] and the Commission's Revised Policy Statement [3] and precedent [4] concerning tax allowances to address the double recovery issue identified by *United Airlines, Inc.* v. *FERC*.[5] These procedures also allow interstate natural gas pipelines to voluntarily reduce their rates.

2. As discussed below, we deny the requests for rehearing and reaffirm the Commission's determinations in Order No. 849.

A. Background

3. Order No. 849 established a requirement, pursuant to sections 10 and 14(a) of the Natural Gas Act (NGA),[6] that all interstate natural gas companies with cost-based stated rates that filed a 2017 FERC Form No. 2 or 2–A must file the FERC Form No. 501–G informational filing for the purpose of evaluating the impact of the Tax Cuts and Jobs Act and the *United Airlines* Issuances on interstate natural gas pipelines' revenue requirements. In addition to the FERC Form No. 501–G filing requirement, the Commission provided four options for each interstate natural gas pipeline to make a filing to address the changes to the pipeline's recovery of tax costs or explain why no action is needed: (1) A

[1] *Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate,* Order No. 849, 83 FR 36672, 164 FERC ¶ 61,031 (2018).

[2] An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Public Law 115–97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

[3] *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs,* 162 FERC ¶ 61,227 (2018) (Revised Policy Statement), *order on reh'g,* 164 FERC ¶ 61,030 (2018) (Revised Policy Statement Rehearing).

[4] *SFPP, L.P.,* Opinion No. 511–C, 162 FERC ¶ 61,228, at P 9 (2018).

[5] 827 F.3d 122 (D.C. Cir. 2016) (*United Airlines*). For purposes of this order, the Revised Policy Statement, *United Airlines,* and Opinion No. 511–C will collectively be referred to as ''*United Airlines* Issuances.''

[6] 15 U.S.C. 717i(a), 717m(a) (2012).

limited NGA section 4 [7] rate reduction filing (Option 1), (2) a commitment to file a general section 4 rate case or prepackaged settlement in the near future (Option 2), (3) an explanation why no rate change is needed (Option 3), and (4) no action (Option 4). These procedures were intended to encourage natural gas pipelines to voluntarily reduce their rates to the extent the tax changes result in their over-recovering their cost of service, while also providing the Commission and stakeholders information necessary to take targeted actions under NGA section 5 [8] where necessary to achieve just and reasonable rates.

4. In Order No. 849, the Commission identified 129 interstate natural gas pipelines with cost-based rates that were required to file the FERC Form No. 501–G. As of the date of this order, the Commission has received 129 interstate natural gas pipeline filings. One pipeline still has an extension of time and eight have been granted a waiver of filing the FERC Form No. 501–G. Of the remaining 120 pipelines, nine pipelines filed limited NGA section 4 rate reduction filings under Option 1,[9] 22 pipelines filed general NGA section 4 cases or prepackaged settlements revising their rates under Option 2, 84 pipelines filed statements as to why no change in their rates is necessary under Option 3, and five pipelines filed the FERC Form No. 501–G without taking any other action under Option 4. Additionally, the Commission has initiated six NGA section 5 rate investigations.

B. Requests for Rehearing

5. The following entities filed timely requests for rehearing of Order No. 849: Process Gas Consumers Group and American Forest and Paper Association (Process Gas); Enable Mississippi River Transmission, LLC and Enable Gas Transmission, LLC (together, Enable); and the Kinder Morgan Entities,[10] Spectra Energy Partners, LP, and Enable (collectively, Pipeline Group). We deny rehearing, as discussed below.

II. Discussion

A. Legal Authority

1. Final Rule

6. As stated above, the final rule established a requirement, pursuant to sections 10 and 14(a) of the NGA, that all interstate natural gas companies, with cost-based stated rates, that filed a 2017 FERC Form No. 2 or 2–A must file the FERC Form No. 501–G informational filing for the purpose of evaluating the impact of the Tax Cuts and Jobs Act and the *United Airlines* Issuances on interstate natural gas pipelines' revenue requirements.[11] Using the data in the pipelines' 2017 FERC Form Nos. 2 and 2–A, these studies estimate (1) the percentage reduction in the pipeline's cost of service resulting from the Tax Cuts and Jobs Act and the Revised Policy Statement, and (2) the pipeline's current Returns on Equity (ROE) before and after the reduction in corporate income taxes and the elimination of income tax allowances for master limited partnership (MLP) pipelines. Recognizing that the 2017 calendar year data reported in the pipeline's FERC Form No. 2 or 2–A may not be fully representative of the pipeline's current situation when it files the FERC Form No. 501–G, the Commission provided pipelines the opportunity to file an Addendum to the FERC Form No. 501–G.[12] The Commission emphasized the informational nature of the FERC Form No. 501–G filing and explained that ''the [f]inal [r]ule contains no requirement that an interstate pipeline make any form of rate filing.'' [13] Regarding the Addendum to the FERC Form No. 501–G, the Commission stated that the filing of such an Addendum is ''purely voluntary.'' [14]

7. The final rule also permitted pipelines to use the indicated cost of service reduction calculated in the FERC Form No. 501–G as the basis for the limited NGA section 4 rate reduction filings, which the final rule allowed pipelines to make to reduce their maximum rates to reflect the reduced corporate income tax rates provided by the Tax Cuts and Jobs Act or the elimination of MLP tax allowances by the Revised Policy Statement. However, the final rule also clarified that a pipeline could base the rate reduction on the reduction calculated in its Addendum.[15]

8. The final rule found that NGA sections 10 and 14(a) provided the Commission authority to require pipelines to file the FERC Form No. 501–G. The Commission stated that it routinely initiates NGA section 5 investigations ''based upon our review of publicly available information on file with the Commission'' [16] and that the primary purpose of the FERC Form No. 501–G is to ''provide information relevant to determining whether the Commission should exercise its discretion to initiate an investigation under NGA section 5.'' [17] The Commission rejected the argument that the court's decision in *Consumers Energy* v. *FERC* reversing a Commission order requiring Hinshaw pipelines to file a petition for rate change prohibited the Commission from requiring pipelines to file the FERC Form No. 501–G. The Commission found that, to the contrary, *Consumers Energy* v. *FERC* condoned information collection as long as the Commission acts '' 'with clarity and precision' so as to ensure that any directive for the pipeline to make 'informational filings' is just that, and not an NGA section 4 filing to 'justify its current rate.' '' [18] The Commission also found in the final rule that providing pipelines with the option to submit an Addendum, which may require the pipeline to exercise some degree of judgment, does not transform the proceeding into an NGA section 4 rate filing or improperly shift to the pipeline the burden of justifying its existing rates in violation of NGA section 5.[19] The Commission explained that the D.C. Circuit rejected a similar contention in *INGAA* v. *FERC* and found that the Commission ''has authority . . . under [NGA section] 10 and [NGA section] 14 to require pipelines to submit needed information for making its [NGA section] 5 decisions.'' [20]

2. Request for Rehearing

9. Pipeline Group argues that the Commission exceeded its statutory

[7] 15 U.S.C. 717c.

[8] 15 U.S.C. 717d.

[9] Tuscarora Gas Transmission Company (Tuscarora) and Northern Border Pipeline Company (Northern Border) filed under Option 1 and Option 2. Here we have chosen to categorize Tuscarora's and Northern Border's filings under Option 2.

[10] For purposes of this pleading, the Kinder Morgan Entities are Natural Gas Pipeline Company of America LLC; Tennessee Gas Pipeline Company, L.L.C.; Southern Natural Gas Company, L.L.C.; Colorado Interstate Gas Company, L.L.C.; Wyoming Interstate Company, L.L.C.; El Paso Natural Gas Company, L.L.C.; Mojave Pipeline Company, L.L.C.; Bear Creek Storage Company, L.L.C.; Cheyenne Plains Gas Pipeline Company, L.L.C.; Elba Express Company, L.L.C.; Kinder Morgan Louisiana Pipeline LLC; Southern LNG Company, L.L.C.; TransColorado Gas Transmission Company LLC.

[11] Order No. 849, 164 FERC ¶ 61,031 at P 30.

[12] *Id.* PP 73–74.

[13] *Id.* PP 69, 72.

[14] *Id.* P 73.

[15] *Id.* P 204.

[16] *Id.* P 69 (citing *Natural Gas Pipeline Co. of America LLC,* 158 FERC ¶ 61,044, at P 1 (2017); *Wyoming Interstate Co., L.L.C.,* 158 FERC ¶ 61,040, at P 1 (2017); *Tuscarora Gas Transmission Co.,* 154 FERC ¶ 61,030, at P 1, *reh'g denied,* 154 FERC ¶ 61,273 (2016)).

[17] *Id.* PP 69–70.

[18] *Id.* P 70 (citing *Consumers Energy Co.* v. *FERC,* 226 F.3d 777, 777 (6th Cir. 2000) (*Consumers Energy* v. *FERC*)).

[19] *Id.* P 74.

[20] *Id.* PP 74–75 (citing *Interstate Nat. Gas Ass'n of Am.* v. *FERC,* 285 F.3d 18, 38 (D.C. Cir. 2002) (*INGAA* v. *FERC*)).

authority under NGA sections 10 and 14 and disregarded the requirements of NGA sections 4 and 5 by requiring pipelines to complete and file the FERC Form No. 501–G.[21] Pipeline Group argues that the rate assumptions pipelines are required to make in the FERC Form No. 501–G are not merely informational and are in fact rate determinations that produce a distorted view as to whether the pipelines' rates remain just and reasonable and generate an indicated rate reduction, which the Commission later referred to as an ''indicated cost of service reduction'' in the final rule. Pipeline Group argues that the indicated cost of service reduction generated by the FERC Form No. 501–G is an implied rate and that only a pipeline is empowered to propose such a change in its rates, under its own terms, pursuant to NGA section 4.[22] Pipeline Group argues that the Commission may only propose such a reduction in a pipeline's cost of service and resulting rates pursuant to NGA section 5. Pipeline Group also argues that the Commission is shifting the burden of proof by requiring pipelines to file a form that compels a statement of an indicated rate reduction that ''can be used as evidence to the exact same extent that any other Commission form can be used as evidence.'' [23] Pipeline Group contends that the courts have been vigilant in maintaining the boundary between NGA sections 4 and 5 [24] and that, to comply with the NGA, the Commission should abandon or substantially amend the FERC Form No. 501–G requirement. Pipeline Group also points out that the Commission already collects information through FERC Form Nos. 2 [25] and 3–Q,[26] which Pipeline Group argues is evidence that the FERC Form No. 501–G is not merely an information collection requirement. Additionally, Pipeline Group argues that the option of providing an addendum to the FERC Form No. 501–G forces a pipeline to defend an existing just and reasonable rate, which is a step reserved to pipelines in an NGA section 4 or 5 proceeding.

10. Pipeline Group argues that the Commission's comparison of the final rule to Order No. 637's requirements that pipelines provide information concerning the operational feasibility of segmentation is misplaced.[27] Pipeline Group contends that the Order No. 637 informational requirement concerned pipeline operational matters, not rate matters. Pipeline Group argues that the *INGAA* v. *FERC* [28] court agreed that the Commission has authority under NGA sections 10 and 14 to require a pipeline to submit needed information for making its NGA section 5 decisions but that this agreement was limited to the specific issues of Order No. 637. Pipeline Group also argues that the comparison of the FERC Form No. 501–G to reporting requirements of Hinshaw pipelines is inaccurate.[29] Pipeline Group contends that, because the FERC Form No. 501–G runs data through a formula that produces an indicated cost of service reduction among other things, FERC Form No. 501–G is akin to the Commission's required petition for rate approval for Hinshaw pipelines that was invalidated the Sixth Circuit in *Consumers Energy* v. *FERC.*[30]

3. Commission Determination

11. We disagree with Pipeline Group's characterization of the FERC Form No. 501–G. We find that the requirement to file the FERC Form No. 501–G is a permissible collection of information pursuant to NGA sections 10 and 14(a), rather than an impermissible requirement that pipelines file a rate pursuant to NGA section 4, as argued by Pipeline Group.

12. As the Commission stated in the final rule, the FERC Form No. 501–G serves two purposes. The first purpose is to provide information relevant to determining whether the Commission should exercise its discretion to initiate an investigation under NGA section 5 as to whether the subject interstate natural gas pipeline may be collecting unjust and unreasonable rates in light of the recent reduction in the corporate income tax rate and change in the Commission's income tax allowance policies. The second purpose is to support any limited NGA section 4 filings pipelines may choose to make to reduce their maximum rates to reflect the Tax Cuts and Jobs Act or the *United Airlines* Issuances. The Commission's authority to require information for both these purposes is provided in NGA sections 10(a) and 14(a).[31]

13. With regard to the first purpose, the D.C. Circuit expressly held in *INGAA* v. *FERC* that ''[t]he Commission has authority under [section] 5 of the NGA to order hearings to determine whether a given pipeline is in compliance with FERC's rules, . . . and *under [NGA section] 10 and [section] 14 to require pipelines to submit needed information for making its [section] 5 decisions.*'' [32] In *INGAA* v. *FERC,* the court affirmed the Commission's exercise of this authority to direct each pipeline to file *pro forma* tariff sheets showing how it intended to comply with a regulation requiring pipelines to permit segmentation [33] or to explain why its system's configuration justified not acting under NGA section 5 to require full segmentation rights. In affirming this requirement, the court stated, ''As to the Commission's determination to extract information from pipelines relevant to the practical issues, we see no violation of the NGA.'' [34]

14. The FERC Form No. 501–G requires pipelines to calculate their ''Total Estimated ROE (excluding fuel)'' before and after the reduction in corporate income taxes and the elimination of income tax allowances for MLP pipelines.[35] The final rule

[21] Pipeline Group Request for Rehearing at 4–10.

[22] *Id.* at 3 (citing *Consumers Energy* v. *FERC,* 226 F.3d 777; *Pub. Serv. Comm'n of New York* v. *FERC,* 866 F.2d 487 (D.C. Cir. 1989) (*New York PSC*)).

[23] *Id.* (citing Order No. 849, 164 FERC ¶ 61,031 at P 78).

[24] *Id.* at 5–6 (citing *United Gas Pipe Line Co.* v. *Mobile Gas Serv. Corp.,* 350 U.S. 332, 343 (1956) (explaining that the Commission's authority under NGA section 5(a) is ''to set aside and modify any rate or contract which it determines, after a hearing, to be 'unjust and unreasonable, unduly discriminatory, or preferential''' and that ''[t]his is neither a 'rate-making' nor a 'rate-changing' procedure.''); *Western Resources* v. *FERC,* 9 F.3d 1568, 1578 (D.C. Cir. 1993) (''This court has consistently disallowed attempts to blur the line between §§ 4 and 5.''); *Sea Robin Pipeline Co.* v. *FERC,* 795 F.2d 182, 183 (D.C. Cir. 1986) (''The Commission is not free to blend, or pick and choose at will between, its section 4 and 5 authority.'')).

[25] Annual report for Major natural gas companies. 18 CFR 206.1 (2018).

[26] Quarterly financial report of electric utilities, licensees, and natural gas companies. 18 CFR 206.300.

[27] Pipeline Group Request for Rehearing at 8–9. *See Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, FERC Stats. & Regs. ¶ 31,091, at 31,301–4 (cross-referenced at 90 FERC ¶ 61,109), *order on reh'g,* Order No. 637–A, FERC Stats. & Regs. ¶ 31,099, at 31,590–96 (cross-referenced at 91 FERC ¶ 61,169), *order denying reh'g,* Order No. 637–B, 92 FERC ¶ 61,062 (2000).

[28] Pipeline Group Request for Rehearing at 8 (citing *INGAA* v. *FERC,* 285 F.3d at 38–39).

[29] *Id.* at 9–10.

[30] *Id.* (citing *Consumers Energy* v. *FERC,* 226 F.3d at 781 (rejecting a requirement that a Hinshaw pipeline file periodic rate petitions)).

[31] 15 U.S.C. 717i(a) (''Every natural-gas company shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this act.''); 15 U.S.C. 717m(a) (''The Commission may permit any person to file with it a statement in writing . . . as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation.''). *See also Tuscarora Gas Transmission Co.,* 154 FERC ¶ 61,273, at PP 4–14 (2016) (requiring a pipeline to submit a more detailed cost and revenue study).

[32] *INGAA* v. *FERC,* 285 F.3d at 38–39 (emphasis supplied).

[33] 18 CFR 284.7(d) (2018).

[34] *INGAA* v. *FERC,* 285 F.3d at 38.

[35] FERC Form No. 501–G, page 3, line 26.

found that information concerning the pipeline's ROE was relevant to the issue of whether the Commission should exercise its discretion to initiate an investigation of the pipeline's rate pursuant to NGA section 5, and therefore the court's decision in *INGAA* v. *FERC* supported the Commission's authority to collect this information.

15. Pipeline Group suggests that the court's holding in *INGAA* v. *FERC* was limited to providing information on operational issues of the type at issue in that case, rather than rate issues. We disagree. NGA section 10 expressly provides that the Commission may require pipelines to report information relevant to rates including ''among other things, full information as to assets and liabilities, capitalization, investment and reduction thereof, gross receipts, interest due and paid, depreciation, amortization, and other reserves, cost of facilities, cost of maintenance and operation of facilities for the [. . .] transportation [. . .] of natural gas, cost of renewal and replacement of such facilities, transportation, delivery, uses, and sale of natural gas.'' This is exactly the type of cost and revenue information the FERC Form No. 501–G collects in order to calculate the pipeline's total estimated ROE for purposes of deciding whether to initiate a NGA section 5 investigation.

16. The FERC Form No. 501–G also calculates an ''Indicated Cost of Service Reduction'' [36] for use in conjunction with the limited NGA section 4 rate reduction filings that pipelines can elect to file under Option 1 of the final rule. Pipeline Group contends that the requirement to calculate an Indicated Cost of Service Reduction effectively requires the pipeline to make a NGA section 4 rate filing. This contention is wrong. Although Pipeline Group is correct that the form includes equations that calculate certain values, including the indicated cost of service reduction, the inclusion of these equations and calculated values does not transform the informational filing into a NGA section 4 rate filing. The FERC Form No. 501–G is limited to requesting cost and revenue information as permitted by NGA sections 10 and 14(a). It does not require pipelines to file any change in their existing rate schedules as is contemplated by NGA section 4. It is true that the final rule gives pipelines the option to submit a separate limited NGA section 4 filing reducing their maximum rates based on the indicated cost of service reduction calculated in the FERC Form No. 501–G. However, that is simply one option among the four options the final rule provides pipelines, including the option to take no action at all other than filing the FERC Form No. 501–G. There is no requirement that pipelines make any such limited NGA section 4 rate reduction filing, and if a pipeline does make such a filing it may base the rate reduction on data in its Addendum rather than the indicated cost of service reduction calculated in the FERC Form No. 501–G.[37] In fact, only 11 of the 129 pipelines subject to the requirement to file a FERC Form No. 501–G have thus far chosen the option of filing a limited NGA section 4 rate reduction pursuant to § 154.404 adopted pursuant to the final rule,[38] thereby demonstrating the voluntary nature of this option. This rulemaking proceeding is thus unlike *New York PSC,*[39] relied on by Pipeline Group, in which the Commission ordered a pipeline to file an actual NGA section 4 rate case every three years, with revised rate schedules setting forth proposed rates for each customer class.

17. Additionally, the Commission's decision to allow pipelines to include an addendum to their FERC Form No. 501–G does not transform the proceeding into an NGA section 4 proceeding. The Commission understood that the standardized FERC Form No. 501–G may not provide a complete cost and revenue profile for each pipeline and provided an opportunity for pipelines to voluntarily submit additional information to the Commission. The Commission did not determine in the final rule that the information provided in the FERC Form No. 501–G, with or without an addendum, would constitute a rate filing.

18. In both *Consumers Energy* v. *FERC* and *INGAA* v. *FERC,* the courts considered the Commission's intent when deciding whether an information collection requirement constituted an impermissible requirement for a pipeline to justify its existing rates under NGA section 4, *i.e.,* was the Commission's intent (1) only to collect information for use in satisfying its burdens under NGA section 5 or (2) instead to require the pipeline to modify its rates under NGA section 4. Thus, in *Consumers Energy* v. *FERC,* reversing a Commission information collection requirement, the court stated, ''If all FERC had really wanted to do was require Consumers to make periodic 'informational filings,' then it is difficult to understand why, for example, FERC's initial order provides that . . . Consumers shall file '*a petition for rate approval to justify its current rate* or to establish a new maximum rate.' '' [40] The court also pointed to the fact that the Commission did not use the term ''informational filings'' nor any obvious synonym to describe the petition in either of its orders.[41] By contrast, in *INGAA* v. *FERC,* the court affirmed an information collection requirement, finding that ''the orders contain some express language supporting the position of the Commission's counsel at oral argument that FERC will indeed shoulder the burden under [section] 5 of the NGA to show the requisite operational feasibility,'' [42] and the court cited, among other things, the Commission's statement in Order No. 637–B that the Commission ''will be acting under section 5 to implement changes.'' [43]

19. Consistent with the Commission orders at issue in *INGAA* v. *FERC,* and contrary to the orders at issue in *Consumers Energy* v. *FERC,* the final rule consistently treats the FERC Form No. 501–G as simply an informational filing, and the final rule recognizes that the Commission must proceed under NGA section 5 in order to require any pipeline to reduce its rates to reflect the income tax reduction in the Tax Cuts and Jobs Act or the elimination of the MLP tax allowance in the Revised Policy Statement. For example, the final rule states, ''The primary purpose of the One-time Report . . . is to provide information relevant to determining whether the Commission should exercise its discretion to initiate an investigation under NGA section 5 as to whether the subject interstate natural gas pipeline may be collecting unjust and unreasonable rates in light of the recent reduction in the corporate income tax rate and change in the Commission's income tax allowance policies.'' [44] The final rule also

[36] FERC Form No. 501–G, page 1, line 34.

[37] Order No. 849, 164 FERC ¶ 61,031 at P 204.

[38] East Tennessee Natural Gas, LLC in Docket No. RP19–64–000; Millennium Pipeline Co., LLC in Docket No. RP19–66–000; North Baja Pipeline, LLC in Docket No. RP19–72–000; Vector Pipeline L.P. in Docket No. RP19–61–000; Central Kentucky Transmission Co. in Docket No. RP19–156–000; Gulf Shore Energy Partners, LP in Docket No. RP19–252–000; Southeast Supply Header, LLC in Docket No. RP19–267–000; Great Lakes Gas Transmission Limited Partnership in Docket No. RP19–409–000; Nautilus Pipeline Co., L.L.C. in Docket No. RP19–401–000; Northern Border Pipeline Company in Docket No. RP19–414–000; Tuscarora Gas Transmission Co. in Docket No. RP19–419–000.

[39] 866 F.2d at 489.

[40] *Consumers Energy* v. *FERC,* 226 F.3d at 781 (emphasis in court decision).

[41] *See id.*

[42] *INGAA* v. *FERC,* 285 F.3d at 38.

[43] *Id.* (quoting Order No. 637–B, 92 FERC at 61,165).

[44] Order No. 849, 164 FERC ¶ 61,031 at P 69. *See also id.* P 104 (''[A]ny rates determined in an NGA section 5 investigation, including ROE, will be based on the record developed in any hearing

expressly states that ''[i]f we decide based on the information in the One-time Report to initiate a section 5 investigation, we will, as in the Order No. 637 compliance filings addressed in *INGAA,* 'shoulder the burden under [section] 5 of the NGA.' '' [45] Moreover, unlike the Commission orders addressed in *Consumers Energy* v. *FERC,* the final rule consistently described the FERC Form No. 501–G as an ''informational filing.'' [46]

20. Pipeline Group points out that, on remand of the court's decision in *Consumers Energy* v. *FERC,* the Commission established a policy of requiring Hinshaw Pipelines to make periodic informational filings in the form specified by § 154.313 of the Commission's regulations for minor rate changes, instead of requiring them to file a petition for rate change.[47] Pipeline Group asserts that, although NGA sections 10 and 14(a) may permit the Commission to require pipelines to file the information contained in § 154.313, the FERC Form No. 501–G is different from § 154.313. Pipeline Group asserts that the FERC Form No. 501–G does not simply require pipelines to file the data listed in § 154.313, but instead it runs the data through a formula that produces an indicated cost of service reduction, among other things. Therefore, Pipeline Group argues, the FERC Form No. 501–G is akin to the impermissible requirement to file a petition for rate change invalidated by *Consumers Energy* v. *FERC,* ''because it produces an output, requiring the pipeline to justify whether its rates remain just and unreasonable.'' [48]

21. We disagree. First, Pipeline Group's attempt to distinguish the FERC Form No. 501–G from § 154.313 is factually incorrect. For example, § 154.313(b) requires the pipeline to file the Statements I–1 through I–4 and Statement J required by § 154.312. Statement I–1 through I–4 require the pipeline to functionalize, classify, and allocate its cost of service and provide the formulae used in the allocation of the cost of service. Schedule J requires the pipeline to compare total revenue by rate schedule to the allocated cost of service, and Schedule J–2 requires the pipeline to show the derivation of each rate component of each rate schedule. Thus, § 154.313, similar to the FERC Form No. 501–G, requires the pipeline to run data through formulas that produce ''an output.'' Moreover, in the case of § 154.313, the ''output'' is not simply an overall indicated reduction in cost of service, but specific rates for each rate schedule. Thus, § 154.313 requires the pipeline to provide substantially more detailed information concerning its costs, revenues, and rates than the five-page FERC Form No. 501–G, which does not require any allocation of costs among rate schedules or derivation of rates for each service.

22. In any event, as discussed above, the key question in determining whether the FERC Form No. 501–G is a permissible information collection requirement is whether the Commission intended only to collect information for use in satisfying its burdens under NGA section 5 or whether the FERC Form No. 501–G actually requires the pipeline to modify its rates. As with our requirement for Hinshaw pipelines to file a cost and revenue study consistent with § 154.313, our intent in requiring the FERC Form No. 501–G is only to collect information for use in satisfying our burdens under NGA section 5. Aside from the express language in Order No. 849 summarized above stating this intent, the Commission has in fact used the FERC Form No. 501–G in precisely the manner it said it would—to determine whether to exercise its discretion to initiate an NGA section 5 rate investigation of each pipeline.

23. A common outcome following the filing of the FERC Form No. 501–G has been a Commission order explaining that the Commission has determined not to exercise its discretion to initiate a NGA section 5 rate investigation and the closure of the docket without further Commission action.[49] In the cases in which the Commission has initiated an NGA section 5 investigation and established a hearing, it has done so based upon the FERC Form No. 501–G, comments to the form, and publicly available information on file with the Commission,[50] and has expressly recognized that the pipeline does not have an NGA section 4 burden to justify its existing rates.[51] Moreover, the Commission has required the pipeline to submit a cost and revenue study based on the latest 12-month period available, and authorized use of an abbreviated six-month adjustment period following the 12-month base period used in the cost and revenue study.[52] Thus, any rate change that may be required in the NGA section 5 proceeding is likely to be based on cost and revenue data from 2018 and early 2019, rather than the 2017 Form Nos. 2 and 2–A data reflected in the FERC Form No. 501–G or the indicated cost of service reduction calculated based on that data.

24. In summary, contrary to Pipeline Group's arguments, requiring the informational FERC Form No. 501–G filing is squarely within the Commission's authority and it has not served as a rate filing. Pipeline Group suggests that the Commission may only propose a reduction in a pipeline's cost of service and resulting rates pursuant to NGA section 5, and that is in fact what has occurred following the final rule. The FERC Form No. 501–G is not an NGA section 4 filing and the pipeline is not required to show that its rates are just and reasonable. The pipeline need only provide accurate information in its FERC Form No. 501–G filing, as required by NGA section 10(a).[53] Pipeline Group is also incorrect in its assertion that, because the Commission already collects information through FERC Form Nos. 2 and 3–Q, the FERC Form No. 501–G is somehow more than an information collection requirement. The FERC Form No. 501–G collects information that is not required in FERC Form Nos. 2 and 3–Q, specifically the effect of the recent reduction in the corporate income tax rate and change in the Commission's income tax allowance policies on a pipeline's cost of service. Pursuant to NGA sections 10(a) and 14(a), the Commission is permitted to

established by the Commission, and in such a hearing the Commission will have the burden of persuasion under NGA section 5 on all issues, including ROE.'').

[45] *Id.* P 76.

[46] *See, e.g., id.* PP 2, 21, 30, 59, 103, and 111.

[47] *See Consumers Energy Co.,* 94 FERC ¶ 61,287 (2001).

[48] Pipeline Group Request for Rehearing at 10.

[49] *See, e.g., ETC Tiger Pipeline, LLC,* 166 FERC ¶ 61,028 (2019); *American Midstream (AlaTenn), LLC,* 166 FERC ¶ 61,118 (2019); *Cheniere Creole Trail Pipeline, L.P.,* 166 FERC ¶ 61,198 (2019); *Dominion Energy Transmission, Inc.,* 166 FERC ¶ 61,178 (2019); *Enable Gas Transmission, LLC,* 166 FERC ¶ 61,176 (2019); *High Point Gas Transmission, LLC,* 166 FERC ¶ 61,153 (2019); *Kern River Gas Transmission Co.,* 166 FERC ¶ 61,154 (2019); *Southern Star Central Gas Pipeline, Inc.,* 166 FERC ¶ 61,155 (2019); *Trunkline Gas Co., LLC,* 166 FERC ¶ 61,215 (2019).

[50] *See East Tennessee Natural Gas, LLC,* 165 FERC ¶ 61,198 (2018); *Bear Creek,* 166 FERC ¶ 61,034; *Northern Natural Gas Co.,* 166 FERC ¶ 61,033 (2019); *Panhandle Eastern Pipe Line Co., LP,* 166 FERC ¶ 61,032 (2019); *Southwest Gas Storage Co.,* 166 FERC ¶ 61,117; *Stagecoach Pipeline & Storage Co. LLC,* 166 FERC ¶ 61,199 (2019).

[51] *East Tennessee,* 165 FERC ¶ 61,198 at P 27; *Bear Creek,* 166 FERC ¶ 61,034 at P 15; *Northern Natural Gas Co.,* 166 FERC ¶ 61,033 at P 24; *Panhandle Eastern,* 166 FERC ¶ 61,032 at P 16; *Southwest Gas Storage,* 166 FERC ¶ 61,117 at P 11; *Stagecoach,* 166 FERC ¶ 61,199 at P 13.

[52] *East Tennessee,* 165 FERC ¶ 61,198 at PP 27–28; *Bear Creek,* 166 FERC ¶ 61,034 at PP 15–16; *Northern Natural Gas Co.,* 166 FERC ¶ 61,033 at PP 24–25; *Panhandle Eastern,* 166 FERC ¶ 61,032 at PP 16–17; *Southwest Gas Storage,* 166 FERC ¶ 61,117 at PP 11–12; *Stagecoach,* 166 FERC ¶ 61,199 at PP 13–14.

[53] 15 U.S.C. 717i(a) (''Such reports shall be made under oath unless the Commission otherwise specifies.'').

collect information to assist in the proper administration of the NGA, and the Commission is not limited to the information required in FERC Form Nos. 2 and 3–Q.

B. ROE and Capital Structure Used in FERC Form No. 501–G

1. Final Rule

25. In the final rule, the Commission required that each pipeline's FERC Form No. 501–G be completed using an indicative ROE of 10.55 percent, consistent with the ROE determined in *El Paso,*[54] the last rate case where that issue was fully litigated.[55] The final rule also revised the originally proposed FERC Form No. 501–G to ask respondents a series of factual questions about their actual capital structure in order to elicit the information necessary to apply the Commission's capital structure policy set forth in *Transcontinental Gas Pipe Line Corp.*[56] Under that policy, a pipeline may use its own capital structure, if its debt is issued in its own name and publicly traded, the debt is rated by a rating agency, and the equity portion of the capital structure is not excessive.[57] If the pipeline's own debt does not satisfy these standards, it can use its parent's capital structure, if the parent satisfies the same standards. Otherwise, the pipeline must use a hypothetical capital structure. Based on the FERC Form No. 501–G's questions as to whether the pipeline or its parent satisfies these standards, the form automatically uses either the reported capital structure of the pipeline or its parent or a hypothetical capital structure.[58] The final rule also held that, if a hypothetical capital structure was used, it would be 57 percent equity and 43 percent debt, consistent with the average capital structures of the proxy companies used to determine the 10.55 percent ROE in *El Paso.*[59]

2. Request for Rehearing

26. Pipeline Group argues that the inputs to the FERC Form No. 501–G, such as the Indicative ROE and the Hypothetical Capital Structure, are not supported by the record or justified, and are arbitrary and capricious.[60] Pipeline Group contends that the Commission did not sufficiently respond to its comments to the Notice of Proposed Rulemaking that the criteria pipelines are directed to utilize in the FERC Form No. 501–G (such as the Indicative ROE of 10.55 percent and the specified Hypothetical Capital Structure) are misplaced, unlawful, and should be deleted from the form and left for each individual pipeline to determine. Pipeline Group argues that the Commission made no showing that the proxy group in the *El Paso* proceeding used to calculate the 10.55 percent indicative ROE in the FERC Form No. 501–G would produce the same ROE six years later. Pipeline Group argues that the Commission did not make a showing pursuant to NGA section 5 that such an ROE is appropriate for a different pipeline serving different markets.

27. Pipeline Group also argues that the Commission departed from prior practice in its review of pipeline Form Nos. 2 and 2–A reports for purposes of deciding whether to initiate NGA section 5 rate investigations when it required pipelines to propose a capital structure and make a legal determination as to whether that proposed structure and debt cost meets the requirements of Opinion No. 414. Pipeline Group asserts that the Commission has not previously imposed such a requirement on pipelines.[61]

28. Additionally, Pipeline Group argues that pipelines' current rates may be established pursuant to settlements of NGA section 4 or 5 proceedings on a ''black box'' basis without specifying individual components used to calculate rates including ROE and capital structure. Pipeline Group contends that, by requiring certain ROE and capital structure inputs, the Commission is expanding the review of pipeline's existing rates from reductions in light of the Tax Cuts and Jobs Act to the overall costs and revenues of the pipeline akin to a traditional NGA section 5 proceeding.

3. Commission Determination

29. The Commission addressed many of the same arguments in the final rule that Pipeline Group raises on rehearing. As explained in the final rule, a cost and revenue study requires an indicative ROE and, consistent with Commission practice in other contexts, the final rule used the last litigated ROE determined by Commission. For example, the Commission has used the last litigated ROE in developing initial rates for existing facilities being acquired by a new pipeline.[62] Here, the last litigated ROE was in *El Paso* wherein the Commission adopted an ROE of 10.55 percent.

30. The Commission recognized that the 10.55 percent ROE determined in *El Paso* was based on financial data from 2011. However, no commenter provided any updated ROE analysis using current financial data that the Commission could use in the FERC Form No. 501–G. The Commission considered pipeline commenters' suggestion that they be permitted to use their own ROEs or ROEs derived in a rate proceeding or established pursuant to approved settlements, but the Commission determined that the last rate cases of many pipelines occurred as long ago as, or even before, the *El Paso* rate case. The Commission also determined that many settlements are ''black box'' settlements that do not have an ROE and, therefore, using the *El Paso* 10.55 percent ROE as the indicative ROE in all pipelines' FERC Form No. 501–G is preferable to pipelines' using a variety of ROEs, which in almost all cases were not fully litigated.[63]

31. The Commission also rejects Pipeline Group's contention that the Commission failed to support the hypothetical capital structure mandated by the FERC Form No. 501–G where the capital structure of the pipeline or its parent is deemed unacceptable for ratemaking purposes. Pipeline Group argues that the Commission has not previously in its NGA section 5 rate investigations required a pipeline to propose a capital structure and make a

[54] *El Paso Natural Gas Co.,* Opinion No. 528, 145 FERC ¶ 61,040, at P 642 (2013), *reh'g denied,* Opinion No. 528–A, 154 FERC ¶ 61,120 (2016) (*El Paso*).

[55] Order No. 849, 164 FERC ¶ 61,031 at PP 103–106.

[56] *Transcontinental Gas Pipe Line Corp.,* Opinion No. 414, 80 FERC ¶ 61,157 (1997), *reh'g,* Opinion No. 414–A, 84 FERC ¶ 61,084 (1998) (*Transco*).

[57] The FERC Form No. 501–G treats the equity portion of a pipeline's capital structure as excessive if it is above 65 percent.

[58] Order No. 849, 164 FERC ¶ 61,031 at PP 111, 114.

[59] *Id.* P 115.

[60] Pipeline Group Request for Rehearing at 10–12.

[61] *Id.* at 11 (citing *Natural Gas Pipeline Co. of America LLC,* 129 FERC ¶ 61,158 (2009); *Northern Natural Gas Co.,* 129 FERC ¶ 61,159 (2009); *Great Lakes Gas Transmission Limited Partnership,* 129 FERC ¶ 61,160 (2009); *Kinder Morgan Interstate Gas Transmission LLC,* 133 FERC ¶ 61,157 (2010); *Ozark Gas Transmission, L.L.C.,* 133 FERC ¶ 61,158 (2010); *Bear Creek Storage Co.,* 137 FERC ¶ 61,134 (2011); *MIGC LLC,* 137 FERC ¶ 61,135 (2011); *ANR Storage Co.,* 137 FERC ¶ 61,136 (2011); *Wyoming Interstate Co.,* 141 FERC ¶ 61,117 (2012); *Viking Gas Transmission Co.,* 141 FERC ¶ 61,118 (2012); *Tuscarora Gas Transmission Co.,* 154 FERC ¶ 61,030; *Empire Pipeline, Inc.,* 154 FERC ¶ 61,029 (2016); *Iroquois Gas Transmission System, L.P.,* 154 FERC ¶ 61,028 (2016); *Columbia Gulf Transmission, LLC,* 154 FERC ¶ 61,027 (2016); *Wyoming Interstate Co.,* 158 FERC ¶ 61,040; *Natural Gas Pipeline Co. of America LLC,* 158 FERC ¶ 61,044; *Dominion Energy Overthrust Pipeline, LLC,* 162 FERC ¶ 61,218 (2018); *Midwestern Gas Transmission Co.,* 162 FERC ¶ 61,219 (2018)).

[62] *See, e.g., Southern Natural Gas Co. L.L.C.,* 139 FERC ¶ 61,237, at P 154 (2012); *High Point Gas Transmission, LLC,* 139 FERC ¶ 61,237 (2012); *Northern Natural Gas Co.,* 119 FERC ¶ 61,035, at P 37 (2007).

[63] Order No. 849, 164 FERC ¶ 61,031 at PP 103–106.

legal determination as to whether that capital structure satisfies the *Transco* requirements. As the final rule explained, the Commission modified the FERC Form No. 501–G so that it would not require a pipeline to make a legal determination as to whether its capital structure is consistent with Commission policy or propose a capital structure. Rather, the FERC Form No. 501–G requires the pipeline to answer three questions concerning facts relevant to determining what capital structure should be used to determine the pipeline's rates.[64] Then, based on the pipeline's answers to these questions, the FERC Form No. 501–G automatically chooses a capital structure consistent with the pipeline's answers to the questions. Thus, the pipeline is not asked to make any legal determination concerning what capital structure is consistent with Commission policy.

32. The use of an indicative ROE and stated capital structure in FERC Form No. 501–G is necessary to estimate a pipeline's return on equity and achieve the Commission's goal of developing a form that serves two purposes: (1) To help determine whether to initiate NGA section 5 investigations of interstate natural gas pipelines' rates and (2) provide support for limited NGA section 4 filings pipelines may choose to make to reduce their rates to reflect the Tax Cuts and Jobs Act or the *United Airlines* Issuances. As stated in the final rule, for purposes of helping determine whether to initiate NGA section 5 investigations of interstate natural gas pipelines' rates, the FERC Form No. 501–G is only intended to produce a rough estimate of the pipeline's ROE before and after the Tax Cuts and Jobs Act or the *United Airlines* Issuances. Pipeline Group contends that the Commission has not met its NGA section 5 burden to show that a pipeline's existing ROE is unjust and unreasonable or that the *El Paso* 10.55 percent ROE or hypothetical capital structure would be just and reasonable for a different pipeline today. However, as explained in the final rule, the Commission is not using the FERC Form No. 501–G, including its indicative ROE and capital structure, to satisfy its burden under NGA section 5 to show that any pipeline's existing rates are unjust and unreasonable. Rather, the FERC Form No. 501–G is simply intended to provide a rough estimate of the pipeline's current return on equity for purposes of deciding whether the Commission should exercise its discretion to initiate a rate investigation pursuant to NGA section 5. The data in the FERC Form No. 501–G will not be used to actually establish rates in any NGA section 5 investigation that the Commission may initiate. If the Commission does initiate an investigation pursuant to NGA section 5, any rates determined in that proceeding, including the capital structure and ROE, will be based on the record developed in the hearing, and in such a hearing, the Commission will have the burden of persuasion under NGA section 5 on all issues, including ROE. Indeed, in our orders establishing NGA rate investigations based on the information in a pipeline's FERC Form No. 501–G, the Commission has stated that it makes no finding as to what would constitute a just and reasonable ROE for the company and, if the FERC Form No. 501–G required a hypothetical capital structure, the Commission has also stated that it makes no finding as to a just and reasonable capital structure. Those are among the issues set for hearing.[65]

33. Regarding the second purpose of the FERC Form No. 501–G (providing support for limited NGA section 4 filings pipelines may choose to make to reduce their rates), the Commission explained that a pipeline may submit an Addendum with its FERC Form No. 501–G setting forth an alternative ROE, along with full support for its proposed ROE, and use that ROE in calculating its proposed percentage rate reduction in its limited NGA section 4 rate filing. Similarly, pipelines are permitted to use a capital structure other than those used in its FERC Form No. 501–G in its limited NGA section 4 rate filing by submitting an Addendum to their FERC Form No. 501–G if they believe that the form inaccurately represents their financial situation. But, as previously stated, the limited NGA section 4 filing is voluntary and a pipeline is not required to submit additional information regarding its capital structure in an Addendum.

34. Finally, Pipeline Group contends that by requiring an indicative ROE and capital structure the Commission is expanding its review of pipeline rates from reductions in light of the Tax Cuts and Jobs Act to the overall costs and revenue of the pipeline—a review traditionally done in an NGA section 5 proceeding. The Commission is properly considering all the pipelines' cost and revenues in deciding whether to initiate NGA section 5 rate investigations. As explained in the final rule,[66] despite the reduction in the corporate income tax and the change in policy concerning MLP tax allowances, a rate reduction may not be justified for a significant number of pipelines, because the pipeline's existing rates may not fully recover its cost of service. The Commission must consider all the pipeline's costs and revenues to determine whether this is true. By the same token, the FERC Form No. 501–G may suggest that a pipeline is over-recovering its cost of service for reasons that go beyond the Tax Cuts and Jobs Act and the revised MLP tax allowance policy. It is consistent with our responsibilities under the NGA to investigate those possible cost over-recoveries as well.

C. Order No. 849 Rate Moratorium

1. Final Rule

35. In the final rule, the Commission granted in part commenters' request for a moratorium on NGA section 5 investigations in the event a pipeline chooses the limited NGA section 4 option. The Commission determined that it is ''reasonable to provide pipelines an incentive to make [] limited NGA section 4 rate reduction filings'' in the form of a three-year moratorium on NGA section 5 investigations, noting that such a filing is an ''efficient and expeditious method of passing along to ratepayers the benefit of the reduction in the corporate income tax rate or the elimination of the MLP income tax allowance, without the need for the costly and time-consuming litigation entailed in an NGA section 5 rate investigation.'' [67] Recognizing that a pipeline could make a limited NGA section 4 rate reduction filing and yet still have a significantly excessive ROE, the Commission outlined the following requirements to qualify for the three-year moratorium on NGA section 5 rate investigations: (1) The Commission accepts the pipeline's limited NGA section 4 filing and (2) the pipeline's Total Estimated ROE after the filing, as calculated on page 3, line 26, column (E) of its FERC Form No. 501–G, is 12 percent or less.[68]

2. Request for Rehearing

36. Pipeline Group argues that the 12 percent ROE test to qualify for the rate moratorium for limited NGA section 4

[64] The questions are: ''(1) Is the debt issued in the entity's name and traded? (2) Is the debt rated by a rating agency) (3) Is the equity ratio less than 65%?''

[65] *East Tennessee,* 165 FERC ¶ 61,198 at P 24 n 43; *Bear Creek,* 166 FERC ¶ 61,034 at P 14 n 22; *Northern Natural Gas Co.,* 166 FERC ¶ 61,033 at P 20 n 41; *Panhandle Eastern,* 166 FERC ¶ 61,032 at P 15 n 16; *Southwest Gas Storage,* 166 FERC ¶ 61,117 at P 10 n 14; *Stagecoach,* 166 FERC ¶ 61,199 at P 12 n 20.

[66] Order No. 849, 164 FERC ¶ 61,031 at P 222.

[67] *Id.* P 199.

[68] *Id.*

filings is not supported by the record or justified, and is arbitrary and capricious.[69] Pipeline Group states that it supports a rate moratorium for pipelines voluntarily participating in the limited NGA section 4 process but that establishing an arbitrary threshold to qualify for such moratorium limits any incentive that the Commission intended to provide pipelines and expands the terms of a limited NGA section 4 proceeding that the Commission intended to be limited. Pipeline Group argues the voluntary reduction alone should be sufficient to entitle the pipeline to a moratorium. Pipeline Group argues that the Commission did not provide the reasoned decision making required to justify the Commission's 12 percent threshold policy. Pipeline Group contends that the Commission has not attempted to tie the 12 percent ROE threshold to evidence in the record or to show that the threshold is representative of an appropriate ROE for pipelines across the country that operate in different markets and face differing risks. Pipeline Group claims that, over the last five years, the average ROE estimated by the Commission when instituting NGA section 5 proceedings was 18.6 percent and the lowest ROE estimated by the Commission was 15.7 percent. Pipeline Group argues that the Commission ''must supply a reasoned analysis indicating that prior policies standards are being deliberately changed, not casually ignored'' when it departs from an established policy, precedent, or standard.[70]

3. Commission Determination

37. We reject Pipeline Group's argument that the 12 percent ROE test to qualify for the three-year rate moratorium for limited NGA section 4 filings is not supported by the record or justified, and is arbitrary and capricious. The terms the Commission established for qualifying for the three-year moratorium on rate investigations are a reasonable exercise of the Commission's discretion in deciding whether to initiate an NGA section 5 investigation.[71] Pipeline Group is correct that the threshold to qualify for the moratorium limits the incentive provided by the moratorium, but only for pipelines that still may have a significantly excessive ROE even after choosing the limited NGA section 4 filing option. Based on comments and other record evidence, the Commission chose a threshold that would create an appropriate balance between incentivizing the limited NGA section 4 filing and preventing a pipeline that may have a significantly excessive ROE from shielding its rate from Commission scrutiny.

38. While Pipeline Group points out that the Commission has not initiated an NGA section 5 investigation against a pipeline with an estimated ROE below 15.7 percent in the last five years, our discretion to initiate such investigations is not restricted to pipelines with ROEs that exceed any particular level of ROE. In any event, Pipeline Group inappropriately conflates the Commission's past decisions concerning when to exercise its discretion to initiate an NGA section 5 investigation with the final rule's moratorium incentive to make the limited NGA section 4 filing. In establishing the 12 percent ROE threshold for qualifying for the moratorium, the Commission has not departed from an established policy as Pipeline Group claims. The final rule addressed a new situation not previously faced by the Commission: Whether and how to modify the stated rates of natural gas pipelines as a result of the substantial reduction in the corporate income tax by the Tax Cuts and Jobs Act and the elimination of MLP tax allowances by the *United Airlines* Issuances. Among other things, the Commission adopted a new rule permitting pipelines to reduce their rates to reflect these actions in limited NGA section 4 rate filings as an exception to the Commission's general policy prohibiting such limited NGA section rate reductions. In conjunction with this action, the Commission chose to agree to a three-year moratorium on rate investigations if the pipeline's ROE as calculated in the FERC Form No. 501–G was reduced to 12 percent or less. The Commission has not previously provided any such moratorium on NGA section 5 rate investigations. Thus, the Commission was adopting a new policy to address a new situation—there was no established policy from which to depart. Instead, the moratorium described in the final rule is an incentive created by the Commission to encourage pipelines to make a limited NGA section 4 filing, and the moratorium incentive is specific to that rulemaking.

D. Accumulated Deferred Income Taxes

1. Final Rule

39. As the Commission explained in the final rule, Accumulated Deferred Income Taxes (ADIT) balances are accumulated on the regulated books and records of interstate natural gas pipelines based on the requirements of the Commission's Uniform System of Accounts.[72] ADIT balances arise from differences between the method of computing taxable income for reporting to the Internal Revenue Service (IRS) and the method of computing income for regulatory accounting purposes. The Commission's regulatory accounting requirements then serve to inform the development of a natural gas pipeline's rates, including the depreciation and ADIT ratemaking components. The Commission stated that ADIT generally affects regulated natural gas pipelines' ratemaking either by decreasing rate base, in the case of an ADIT liability, or increasing rate base, in the case of an ADIT asset. As a result of the reduction in the federal corporate income tax rate, taxes that have been previously deferred and reflected in ADIT will be owed to the IRS based on the 21 percent tax rate, rather than the 35 percent tax rate used to recognize the ADIT initially. The difference between the already recognized ADIT based on a 35 percent tax rate and the recomputed deferred taxes, which will actually be owed to the IRS, at a 21 percent tax rate requires an adjustment to ADIT balances for the excess or deficiency.[73]

40. The Commission explained that the FERC Form No. 501–G would require pipelines to use calendar year 2017 ADIT balances as reported in their 2017 FERC Form Nos. 2 and 2–A in calculating rate base. The Commission stated that FERC Form No. 501–G would also require the pipelines to reduce their income tax allowance by an amount reflecting the first year's amortization of excess ADIT resulting from the reduced income tax rates under the Tax Cuts and Jobs Act. The Commission also set forth a policy concerning the treatment of ADIT when the tax allowances of pass-through pipelines (including MLP pipelines) are eliminated. The Commission modified FERC Form No. 501–G so that, if a pass-through entity states that it does not pay taxes, the form would not only eliminate its income tax allowance, but would also eliminate ADIT.[74] The Commission noted that the modification only applies to the FERC Form No. 501–G (and the

[69] Pipeline Group Request for Rehearing at 12–16.

[70] *Id.* at 16 (citing *Greater Boston Television Corp.* v. *FCC,* 444 F.2d 841, at 852 (D.C. Cir. 1970); *West Deptford Energy, LLC* v. *FERC,* 766 F.3d 10, at 20 (D.C. Cir. 2014); *Williams Gas Processing-Gulf Coast Co., L.P.* v. *FERC,* 475 F.3d 319, at 322 (D.C. Cir. 2006)).

[71] *See General Motors Corp* v. *FERC,* 613 F.2d at 944 (''[A]n administrative agency's decision to conduct or not to conduct an investigation is committed to the agency's discretion'') (citations omitted).

[72] 18 CFR part 201 (2018).

[73] Order No. 849, 164 FERC ¶ 61,031 at PP 63–65.

[74] *Id.* PP 130–132.

optional limited NGA section 4 filings pursuant to § 154.404(a)) of the Commission's regulations, and that it does not establish a broader rule.[75]

2. Requests for Rehearing

41. Process Gas argues that the Commission erred by allowing the elimination of ADIT balances for pass-through pipelines without a reduction to the pipeline's rate base contrary to the Commission's normalization policy.[76] Process Gas contends that the Commission's normalization policy, as affirmed by the D.C. Circuit,[77] allows all ratepayers who take service from a utility throughout its depreciable life to receive the benefit of a tax deduction that the utility enjoys in the early years of operation. Process Gas states that, as a result of normalization, the pipeline's rates include a higher tax allowance in the early years than what the utility actually pays and a lower tax allowance in the later years than what it actually pays. Process Gas argues that the Commission's elimination of ADIT for pass-through pipelines that remove the allowance for income taxes from current rates without adjusting rate base violated the principle that normalization will not result in any permanent tax savings by the pipeline that are not reversed in subsequent periods. Process Gas also argues that, contrary to the D.C. Circuit's finding regarding Order No. 144,[78] the benefits of the deferred taxes will accrue to the utility's stockholders because they will retain the benefits that ADIT represents under normalization and will not be required to pass them on to future ratepayers through lower rates.

42. Process Gas also argues that the Commission incorrectly relied upon *Public Utilities Commission of State of California* v. *FERC*[79] for the proposition that continuing to deduct ADIT from rate base would constitute retroactive ratemaking.[80] Process Gas contends that an important aspect of the Court's reasoning that the Commission had no legal right to adjust rates to reflect ADIT in *CPUC* was the removal of transportation assets from the pass-through entity's rate base. Process Gas argues that *CPUC* is inapposite because the Commission only asserts that the pipeline's double recovery of tax costs associated with those assets has been removed, not the actual transportation assets. Process Gas also contends that the removal of the tax allowance from an MLP pipeline's cost of service is not a change from cost-based rate regulation to non-cost based rate regulation, as was the case in *CPUC*. Additionally, Process Gas argues that, unlike *CPUC,* the pipeline assets to which ADIT directly relates have not been removed from the pipelines' jurisdictional rates.

43. Process Gas also contends that the Commission's failure to apply ADIT as a credit retroactively increases the pipeline's returns in violation of the rule against retroactive ratemaking.[81] Process Gas argues that, while the rule against retroactive ratemaking prohibits the Commission from adjusting current rates to make up for a utility's over-collection or under-collection in prior periods, the rule does not apply when the parties are on notice that the rates may be changed.[82] Process Gas argues that, in allowing normalization, the Commission placed parties on notice that any tax savings in the early years of a pipeline's useful life would be offset by reductions to rate base in subsequent years. Process Gas also argues that parties were on notice that the account balances for the timing differences are expected to offset costs reflected in rate charges to customers in future periods and that the balance of the account is not to be transferred to earnings. Process Gas notes that ADIT is booked under the Commission's accounting regulations in Account Nos. 281 and 282, which both indicate that ''[t]he utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without the prior approval of the Commission.'' [83] Process Gas also argues that the Commission has previously found that disregarding prior treatment of specific expenses over the life of the facilities is unjust and unreasonable [84] and that there are no retroactive ratemaking concerns with requiring a pipeline to continue to account for prepaid costs on a going forward basis.[85]

44. Process Gas also argues that the Commission misconstrued prior precedent regarding whether deferred taxes can be analogized to a loan.[86] Process Gas contends that the Commission held in Order No. 849 that deferred taxes are not loans from customers and, thus, customers have no right to future rate reductions relying on its determinations in Order No. 144. Process Gas argues that, in fact, the Commission held in Order No. 144 that the loan analogy was illustrative and rejected the proposition that today's customers pay tomorrow's customer's tax costs under normalization. Process Gas argues that the Commission made clear that each generation of customers pays its own costs, and that the flow-through method gives current customers tax benefits that belong to future customers. Therefore, Process Gas argues, the Commission's determination in Order No. 849 takes away the future tax benefits from future period customers and gives them to the pipeline, which is inconsistent with Order No. 144 and its finding that deferred taxes represent a benefit owed to future customers.

3. Commission Determination

45. We reject Process Gas' argument that Order No. 849 erred by requiring that pass-through entities that eliminate the income tax allowance also eliminate ADIT on the FERC Form No. 501–G. Rather, the treatment of ADIT in Order No. 849 is consistent with both Commission policy [87] and relevant court precedent. While the Commission can make changes to rates on a prospective basis, if an income tax allowance is removed from cost of service, continuing to deduct ADIT from rate

[75] *Id.* P 136.

[76] Process Gas Request for Rehearing at 4–9.

[77] *Id.* at 4 (citing *Public Systems* v. *FERC,* 709 F.2d 73 (D.C. Cir. 1983) (*Public Systems*)).

[78] *Id.* at 7 (citing *Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes,* Order No. 144, FERC Stats. & Regs. ¶ 30,254, at PP 86–89 (1981), *order on reh'g,* Order No. 144–A, FERC Stats. & Regs. ¶ 30,340 (1982); *Public Systems,* 709 F.2d at 83 (''Fourth, the Commission found that the rate of return earned on common equity is the same under either flow-through or normalization. Deferred taxes do not accrue to the benefit of utility stockholders.'')).

[79] 894 F.2d 1372 (D.C. Cir. 1990) (*CPUC*).

[80] Process Gas Request for Rehearing at 7–9.

[81] *Id.* at 10–13.

[82] *Id.* at 10 (citing *Towns of Concord* v. *FERC,* 955 F.2d 67, 71 n.2 (D.C. Cir. 1992); *Columbia Gas Transmission Corp.* v. *FERC,* 895 F.2d 791, 797 (D.C. Cir. 1990)).

[83] *Id.* at 11 (citing USOA Accounts 281.D and 282.D, 18 CFR part 101 (2018)).

[84] *Id.* (citing *Williams Natural Gas Co.,* 60 FERC ¶ 61,140, at 61,506 (1992) (''[t]o disregard depreciation expenses already paid by transportation customers with respect to service on particular gathering facilities would mean that those transportation customers would have to pay more over the life of the facilities than they would have to pay if the reserve for depreciation appropriately reflected the depreciation expenses already paid.'')).

[85] *Id.* at 11–12 (citing *BP Pipelines Alaska Inc.,* 119 FERC ¶ 63,007, at P 168 (2007), *aff'd,* Opinion No. 502, 123 FERC ¶ 61,287, at P 163 (2008)).

[86] *Id.* at 13–14.

[87] *See* Revised Policy Statement Rehearing, 164 FERC ¶ 61,030 (providing non-binding guidance that where an MLP or other pass-through pipeline eliminates its income tax allowance from its cost of service pursuant to the Commission's post-*United Airlines* policy, the Commission anticipates that ADIT will similarly be removed from cost of service); *SFPP, L.P.,* Opinion No. 511–D, 166 FERC ¶ 61,142 (2019) (holding that an MLP oil pipeline appropriately eliminated ADIT where its income tax allowance was eliminated from cost of service).

base or crediting ratepayers the excess ADIT balance would constitute impermissible retroactive ratemaking.[88] We conclude that this precedent compels the approach adopted by the Commission in Order No. 849.

46. Contrary to Process Gas' arguments, the elimination of ADIT does not violate the Commission's normalization policy.[89] As the Commission explained in Order No. 849, the Commission's normalization policies only apply to entities with an income tax allowance component in their regulated cost-of-service rates.[90] In contrast, where a pipeline's income tax allowance is eliminated on the FERC Form No. 501–G under the Commission's post-*United Airlines* policy, there is no rationale for requiring the pipeline to record current or deferred income taxes. The Commission in Order No. 849 explained that the purpose of normalization is matching the pipeline's cost-of-service expenses in rates with the tax effects of those same cost-of-service expenses.[91] If there is no income tax allowance in Commission rates, there is no basis for the matching function of normalization and no liability for the deferred taxes reflected in ADIT.

47. We also reject Process Gas' argument that Order No. 849 deprives future customers of the benefit of deferred taxes that they are owed. Process Gas concedes that under normalization ''each generation of customers pays its own [income tax] costs.'' [92] As such, future customers have no equitable right to the sums accumulated in ADIT that were paid by prior customers for prior period service.[93] ADIT is not money owed to past or future ratepayers, but rather deferred taxes that are ultimately owed to the government.[94] Moreover, because future customers are not paying tax costs in rates where a pass-through pipeline's income tax allowance has been eliminated, such customers are not owed the associated ''benefits'' resulting from deferred taxes under the Commission's normalization policy.

48. Similarly, contrary to Process Gas' arguments, we reaffirm that it comports with retroactive ratemaking principles to require pipelines that eliminate the income tax allowance on FERC Form No. 501–G to also eliminate ADIT on the FERC Form No. 501–G.[95] As Process Gas recognizes, normalization merely requires customers to pay their properly allocated share of the pipeline's tax expenses for the period of their service.[96]

49. As the Commission explained in Order No. 849, requiring pipelines to return ADIT amounts collected in prior rates for this prior period service would constitute impermissible retroactive ratemaking.[97] Although Process Gas attempts to distinguish the *CPUC* decision discussed in Order No. 849, in both *CPUC* and the scenario addressed by Order No. 849 where a pipeline's income tax is eliminated pursuant to the Commission's post-*United Airlines* policy, the income tax allowance is removed from cost of service and, accordingly, the basis for tax normalization in a pipeline's cost-of-service rates is no longer applicable.[98] Therefore, notwithstanding the various arguments raised by Process Gas, we continue to find that the D.C. Circuit's holding in *CPUC* is controlling here. As the D.C. Circuit stated, ADIT ''is composed entirely of rate revenue that [the pipeline] has already collected. Refund of such property, or its earnings, would effectively force [the pipeline] to return a portion of rates approved by FERC, and collected by [the pipeline].'' [99] The D.C. Circuit elaborated that, to the extent any basis for requiring the pipeline to credit ratepayers for earnings on previously accumulated ADIT sums rested on the view that the pipeline's prior cost-of-

[88] *CPUC,* 894 F.2d 1371; *see also SFPP, L.P.,* Opinion No. 511–D, 166 FERC ¶ 61,142 at PP 93–95.

[89] Process Gas Request for Rehearing at 3–7.

[90] Order No. 849, 164 FERC ¶ 61,031 at P 132. Commission and IRS regulations regarding normalization (including ADIT) only apply to entities with an income tax allowance component in their regulated cost-of-service rates. *See* 18 CFR 154.305(a) (2018) (''An interstate pipeline must compute *the income tax component* of its cost-of-service by using tax normalization for all transactions''); 18 CFR 154.305(b)(1) (''Tax normalization means *computing the income tax component* as if transactions recognized in each period for ratemaking purposes are also recognized in the same amount and in the same period for income tax purposes''); 18 CFR 154.305(b)(4) (''*Income tax component* means that part of the cost-of-service that covers income tax expenses allowable by the Commission''); 26 U.S.C. 168(i)(9)(A) (''the taxpayer must, in computing its *tax expense for purposes of establishing its cost of service for rate-making purposes* . . . use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes. . . . '') (emphasis added). *See also Algonquin Gas Transmission Co.,* 76 FERC ¶ 61,075, at 61,449 (1996); 18 CFR 154.305(c)(2) (''rate base reductions or additions'' for ADIT ''must be limited to deferred taxes related to rate base, construction, or other *costs and revenues affecting jurisdictional cost-of-service*'') (emphasis added); 18 CFR 154.305(d)(1) (requirements relating to excess or deficient ADIT balances apply where the discrepancy is ''a result of changes in tax rates'' or where ''the rate applicant has not provided deferred taxes in the same amount that would have accrued had tax normalization always been applied'').

[91] Order No. 849, 164 FERC ¶ 61,031 at P 132 (citing Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,522 (''The primary rationale for normalization is matching: the recognition in rates of the tax effects of expenses and revenues with the expenses and revenues themselves'')); *see also Public Systems,* 709 F.2d at 80 (The Commission's primary justification for its decision to adopt tax normalization was ''the matching principle: as a matter of fairness, customers who pay an expense should get the tax benefit that accompanies the expense . . . .'').

[92] Process Gas Request for Rehearing at 13.

[93] Judicial and Commission precedent establish that customers have no equitable interest or ownership claim in ADIT. *See Public Systems,* 709 F.2d at 85 (rejecting the notion ''that ratepayers have an ownership claim'' to the ADIT balance); *CPUC,* 894 F.2d at 1381 (''The Commission and this Court have both rejected'' ''the notion that under normalization accounting customers enjoy an equitable interest in a utility's deferred tax account''); Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,539 (addressing the ''erroneous premise that a loan is being made by ratepayers to utilities'' through the normalization process and stating that ratepayers do not ''have an ownership claim or equitable entitlement to the 'loaned monies'''); *id.* at 31,539 n.75 (''This is not to say that customers do not pay rates that recover deferred taxes. They do. But paying deferred taxes in rates does not convey an ownership or creditor's right''); Opinion No. 511–D, 166 FERC ¶ 61,142 at P 92 (''ratepayers have no equitable interest or ownership claim in ADIT''); *id.* P 100 (''the Commission and D.C. Circuit have consistently held that shippers do not have an equitable interest in ADIT'').

[94] Opinion No. 511–D, 166 FERC ¶ 61,142 at P 100. The Commission has also explained that ADIT is not a true-up or tracker of money owed to shippers. *Lakehead Pipe Line Co. L.P.,* Opinion No. 397–A, 75 FERC ¶ 61,181, at 61,594 (1996). In any case, as explained elsewhere in this order, FERC Form No. 501–G is merely an informational filing. Although FERC Form No. 501–G includes certain assumptions based on Commission ratemaking policy in order to produce a rough estimate of the pipeline's ROE before and after the Tax Cuts and Jobs Act or the *United Airlines* Issuances for informational purposes, the data in the FERC Form No. 501–G will not be used to actually establish rates in any NGA section 5 investigation that the Commission may initiate.

[95] Order No. 849, 164 FERC ¶ 61,031 at PP 133–134; *see also SFPP, L.P.,* Opinion No. 511–D, 166 FERC ¶ 61,142 at PP 93–95.

[96] Process Gas Request for Rehearing at 13 (stating that under the Commission's income tax allowance policies, ''each generation pays its own costs'').

[97] Order No. 849, 164 FERC ¶ 61,031 at P 133 (citing *CPUC,* 894 F.2d 1371).

[98] In *CPUC* the pipeline switched to statutory, proscribed rate ceilings from cost-of-service rates. *CPUC,* 894 F.2d at 1379 (the switch ''wiped out the premise of tax normalization'' and hence the matching principle ''ceased to operate as an explicit guide''); *id.* at 1382 (''Tax normalization sought to 'match' the timing of a customer's contribution toward a cost with enjoyment of any offsetting tax benefit. . . . Enactment of the NGPA, however, mooted the whole question to which normalization was an answer.''). This contrasts to situations in which the income tax allowance and the required normalization remains in cost of service. *Public Systems,* 709 F.2d at 80 (the Commission's primary justification for its decision to adopt tax normalization was ''the matching principle: as a matter of fairness, customers who pay an expense should get the tax benefit that accompanies the expense. . . . To do otherwise would subsidize present customers at the expense of future ones.'').

[99] *CPUC,* 894 F.2d at 1383; *see also id.* at 1382 (''[t]his kind of post hoc tinkering would undermine the predictability which the [retroactive ratemaking] doctrine seeks to protect.'').

service rates were ''in retrospect too high'' or ''unjust and unreasonable,'' then the credit violated the rule against retroactive ratemaking.[100] In sum, we find that Order No. 849 correctly applied the D.C. Circuit's reasoning in *CPUC* in determining that requiring a pass-through pipeline whose income tax allowance has been eliminated to apply ADIT as a credit to rate base on the Form No. 501–G would be inconsistent with the rule against retroactive ratemaking.[101]

50. We also reject Process Gas' argument that applying ADIT as a credit to rate base on the FERC Form No. 501–G does not constitute retroactive ratemaking because pipelines were on notice based on the Commission's normalization regulations. As explained above, the Commission's normalization policy does not apply in the context of a complete elimination of a pipeline's income tax allowance from cost of service.[102]

51. We also dismiss Process Gas' argument that this case is analogous to *BP Pipelines Alaska,* where the Commission found that requiring a pipeline to account for prepaid costs for Dismantlement Removal and Restoration (DR&R) on a going-forward basis did not constitute retroactive ratemaking.[103] In that case, the DR&R continued to be recoverable in rates, but had merely been over-collected. In contrast, the adjustment to the FERC Form No. 501–G to remove ADIT reflects a situation where a pass-through entity's income tax allowance has been removed from cost of service, and there is thus no justification for tax normalization in going-forward rates. In these circumstances, the Commission has ''no legal right to reduce [the pipeline's going forward] rates . . . below levels found to be just and reasonable'' as this would constitute ''in substance a retroactive adjustment of prior rates based on normalization.'' [104]

52. Finally, to the extent Process Gas or any other entity objects to the treatment of ADIT for purposes of the FERC Form 501–G, as set forth in Order No. 849, we reiterate that the treatment of a pass-through entity's ADIT for purposes of the FERC Form No. 501–G does not establish a broader rule, nor does Order No. 849 itself preclude shippers and pipelines from advocating for a different treatment of ADIT in any future rate litigation.[105] Rather, as explained elsewhere in this order, the FERC Form No. 501–G serves a limited informational purpose to assist the Commission in determining whether to exercise its discretion to initiate NGA section 5 investigations of interstate natural gas pipelines' rates.[106] In Order No. 849, the Commission determined that the informational FERC Form No. 501–G is likely to be the most useful if it removes ADIT whenever the income tax allowance is eliminated.[107] However, if Process Gas or another entity seeks to take a different position in a litigated rate proceeding, Order No. 849 does not preclude them from doing so.

E. Tax Allowance for Pass-Through Entities

1. Final Rule

53. For purposes of FERC Form No. 501–G, if a pipeline states that it is not a taxpaying entity, the form will automatically enter a federal and state income tax of zero.[108] The Commission stated in the final rule that a natural gas company organized as a pass-through entity, all of whose income or losses are consolidated on the federal income tax return of its corporate parent, is considered to be subject to the federal corporate income tax, and is thus eligible for a tax allowance for purposes of the final rule.[109] The Commission reasoned that an income tax allowance is appropriate in the cost of service of a pass-through subsidiary of a corporation ''when such a subsidiary does not itself incur a tax liability but generates one that might appear on a consolidated return of the corporate group.'' [110]

2. Requests for Rehearing

54. Process Gas contends that the Commission erred by assuming that all subsidiaries of corporations that appear on the consolidated parent's tax return are generating actual income taxes for the corporation.[111] Process Gas also contends that the Commission eliminated the burden of proof for a pass-through entity claiming such a tax allowance. Process Gas argues that the determination in Order No. 849 that a natural gas company organized as a pass-through entity whose income or losses are consolidated on the federal income tax return of its corporate parent is considered to be subject to federal income taxes for the purpose of filing the limited NGA section 4 filing is not supported by the precedent cited by the Commission.[112] Process Gas argues that the *BP West Coast Products, LLC* precedent can be distinguished because the court appeared to require proof that a subsidiary actually generated a tax liability for the parent corporation to justify an allowance for income tax for a corporate subsidiary. Process Gas contends that the Commission may be awarding an income tax allowance based upon phantom taxes.

55. Enable argues that the Commission erred in determining that a pipeline with an MLP in its organizational structure that is owned in part indirectly by corporate unitholders should not receive an income tax allowance, yet a pass-through entity that is a wholly owned subsidiary of a corporation should be eligible for an income tax allowance.[113] Enable contends that the Commission failed to explain the purported distinction between the two pass-through structures and that the distinction is not supported by precedent. Enable argues that the Commission has inverted the logic of *BP West Coast Products, LLC,* and asserts that the case actually criticizes the Commission for limiting an income tax allowance to corporate unitholders (not just those consolidating on a federal return the entirety of income from an affiliate in which the corporation owed an interest). Enable also argues that the Commission ignored the fact that *United Airlines* did not validate a distinction between a pass-through entity wholly owned by corporate unitholders and an MLP owned in part by corporate unitholders for purposes of assessing income tax allowance eligibility.

[100] *Id.* at 1380, 1382.

[101] *See also* Opinion No. 511–D, 166 FERC ¶ 61,142 at PP 93–95, 101–105.

[102] *Id.* PP 97, 104–105. We are similarly unpersuaded by Process Gas' argument that removing ADIT from the FERC Form No. 501–G is itself retroactive ratemaking. Process Gas Request for Rehearing at 12. As explained above, ADIT consists of the tax costs collected by the pipeline from prior shippers' rates and paid for the prior shippers' service.

[103] Process Gas Request for Rehearing at 12 (citing *BP Pipelines Alaska Inc.,* 119 FERC ¶ 63,007 at P 168, *aff'd,* Opinion No. 502, 123 FERC ¶ 61,287 at P 163).

[104] *CPUC,* 894 F.2d at 1383–1384.

[105] Order No. 849, 164 FERC ¶ 61,031 at P 135.

[106] FERC Form No. 501–G's only other potential use was as part of a pipeline's discretionary limited NGA section 4 filings pursuant to § 154.404(a). However, Order No. 849 permitted these limited NGA section 4 filings to be based upon an Appendix to the FERC Form No. 501–G. Thus, had Order No. 849 not permitted the removal of ADIT on FERC Form No. 501–G itself, the pipeline could have nonetheless removed ADIT in the Appendix to the FERC Form No. 501–G. In such a scenario, the removal of ADIT would have been reflected in any discretionary limited NGA section 4 rate reduction filed by the pipeline.

[107] Order No. 849, 164 FERC ¶ 61,031 at P 135.

[108] *Id.* P 3.

[109] *Id.*

[110] *Id.* P 56 (citing *BP West Coast Products, LLC* v. *FERC,* 374 F.3d 1263, at 1289 (D.C. Cir. 2004) (*BP West Coast Products, LLC*)).

[111] Process Gas Request for Rehearing at 14–16.

[112] *Id.* at 14 (citing Order No. 849, 164 FERC ¶ 61,031 at P 57 (citing *BP West Coast Products, LLC,* 374 F.3d at 1289).

[113] Enable Request for Rehearing at 4–8.

3. Commission Determination

56. We deny both Process Gas' and Enable's rehearing requests. Commission policy supports the position adopted by Order No. 849.

57. Specifically, we reject Process Gas' argument that Order No. 849 incorrectly permitted the wholly owned subsidiary of a corporation to claim an income tax allowance on FERC Form No. 501–G.[114] Rather, the Commission's standalone income tax policies have long permitted a wholly owned pipeline subsidiary to recover the income tax costs of its corporate parent that arise from jurisdictional service.[115] Moreover, under the stand-alone methodology, it is not relevant that the income from the subsidiary allocated to the corporate parent may be offset by other deductions or losses of the parent or affiliates.[116] Rather, as the D.C. Circuit has explained, under the stand-alone methodology, ''pipeline ratepayers may be assessed with a tax expense when the consolidated company in fact pays *no* taxes.'' [117]

58. Enable's arguments are also unpersuasive. The Commission addressed similar arguments in its July 30, 2018 *Enable MRT* decision, which addressed Enable's own NGA section 4 rate proceeding where Enable argued that an income tax allowance should be permitted for the income tax costs of its corporate MLP unitholders.[118] In the *Enable MRT* decision, the Commission explained that *United Airlines'* double-recovery concern precludes an income tax allowance for the income tax costs of corporate MLP unitholders as well as other MLP unitholders. The *Enable MRT* decision emphasized the distinction between (a) a pipeline organized as a pass-through entity that is owned by an MLP that has corporate unitholders; and (b) a pipeline organized as a pass-through entity that is a wholly owned subsidiary of a corporation. The Commission explained that an MLP incurs no tax liability prior to making the distribution to its unitholders that is reflected in the DCF model's determination of the MLP's ROE.[119] Thus, the MLP's distribution includes funds that the corporate and individual unitholders may use to pay taxes on their share of the MLP's income.[120] In contrast, a corporation that wholly owns a pass-through pipeline pays the corporate income tax prior to the investor-level dividend reflected in the DCF model's calculation of the pipeline's ROE.[121] Although a double-recovery results from granting a pipeline an income tax allowance to reflect the tax liability of corporate or other MLP unitholders, no double-recovery results from granting an income tax allowance to the wholly owned subsidiary of a corporation.[122] Consistent with this logic, Order No. 849 permitted an income tax allowance for the wholly owned subsidiary of a corporation while denying an income tax allowance for the tax costs of an MLP's corporate unitholders.

59. In any case, in regard to both Enable's and Process Gas' concerns, we reiterate that the FERC Form No. 501–G serves a limited informational purpose involving the Commission's exercise of its discretion to initiate NGA section 5 investigations of interstate natural gas pipelines' rates [123] and the holdings of Order No. 849 do not establish a broader rule constraining pipelines or shippers from adopting contrary positions in other proceedings.[124]

[114] Order No. 849, 164 FERC ¶ 61,031 at P 57 (citing *BP West Coast Products, LLC,* 374 F.3d at 1289).

[115] Under the stand-alone policy, a regulated entity is permitted an income tax allowance notwithstanding the fact that it is the corporate parent that pays the income tax on behalf of the regulated entity. *City of Charlottesville* v. *FERC,* 774 F.2d 1205, 1207–1208 (D.C. Cir. 1985). *See also BP West Coast Products, LLC,* 374 F.3d at 1289 (explaining that an income tax allowance is appropriate in the cost of service of a pass-through subsidiary of a corporation ''when such a subsidiary does not itself incur a tax liability but generates one that might appear on a consolidated return of the corporate group'').

[116] *City of Charlottesville,* 774 F.2d at 1215.

[117] *Id.* (emphasis original).

[118] *Enable Mississippi River Transmission, LLC,* 164 FERC ¶ 61,075, at PP 29–40 (2018) (*Enable MRT*). Enable MRT was a wholly owned subsidiary of an MLP. Because 86 percent of the MLPs unitholders were corporations, Enable MRT claimed that it should receive an income tax allowance based upon the corporate income tax rate as applied to this 86 percent corporate ownership share.

[119] *Id.* P 35.

[120] *Id.*

[121] *Id.*

[122] *Id.*

[123] As noted elsewhere in this order, the pipeline may also use FERC Form No. 501–G and an Appendix to FERC Form No. 501–G in any discretionary limited NGA section 4 rate reduction pursuant to Order No. 849. *See supra* note 106. However, regardless of the tax treatment of wholly owned corporate subsidiaries on the FERC Form No. 501–G, the pipeline in the Appendix could claim that as a subsidiary of a corporation it incurs a corporate income tax allowance. This Appendix could then serve as the basis for any rate adjustment pursuant to the limited NGA section 4 rate filings permitted by Order No. 849.

[124] *See* Order No. 849, 164 FERC ¶ 61,031 at P 135. The electronic version of FERC Form No. 501–G filed by a pipeline can easily be modified by any shipper to change the taxpaying status of the regulated entity and the shipper could attempt to use this as the basis of its own NGA section 5 complaint (as opposed to relying upon the Commission's discretionary unilateral action).

III. Document Availability

60. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page *www.ferc.gov* and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

61. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits in the docket number field.

62. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

By the Commission. Commissioner McNamee is not participating.

Issued: April 18, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08241 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Docket No. OAG 161; AG Order No. 4443–2019]

Updating the Description of Functions for the Executive Office for United States Attorneys

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the organizational regulations of the Department of Justice to make ministerial changes to the description of the organization and functions of the Executive Office for United States Attorneys (EOUSA).

DATES: Effective April 26, 2019.

FOR FURTHER INFORMATION CONTACT: Jay Macklin, General Counsel, Executive

Office for United States Attorneys, Department of Justice, Washington, DC 20530; (202) 252–1600.

SUPPLEMENTARY INFORMATION: 28 CFR part 0 provides for the organization of the Department of Justice. As part of that regulation, 28 CFR 0.22, subpart D–1, Executive Office for U.S. Attorneys, describes the general functions of EOUSA. The current regulation provides that EOUSA shall publish and maintain a U.S. Attorneys' Manual. Recently, however, the name of the U.S. Attorneys' Manual was changed to the Justice Manual. This final rule makes ministerial revisions to 28 CFR 0.22 to reflect that name change. It also makes minor revisions to reflect the current functions of EOUSA's Office of Legal Education. The proposed changes are ministerial in nature rather than substantive.

Regulatory Certifications

Administrative Procedure Act

This rule relates to a matter of agency management or personnel, is a rule of agency organization, procedure, or practice, and is not a substantive rule. As such, this rule is exempt from the usual requirements for prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(b) & (d).

Regulatory Flexibility Act

This rule will not have an impact on small entities because it pertains to agency personnel and administrative matters and, therefore, is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* A Regulatory Flexibility Act analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter. *See* 5 U.S.C. 603(a).

Executive Orders 12866 and 13563—Regulatory Review

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), The Principles of Regulation, and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1, General Principles of Regulation.

This action is ''limited to agency organization, management, or personnel matters'' and thus is not a ''rule'' for purposes of review by the Office of Management and Budget. *See* Executive Order 12866, ''Regulatory Planning and Review,'' section 3(d)(3).

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not a regulatory action under Executive Order 13771 because this rule imposes no costs and is not a significant regulatory action under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132—Federalism

This rule 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. Therefore, in accordance with Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Congressional Review Act

This action is not a major rule as defined by the Congressional Review Act. *See* 5 U.S.C. 804. This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is defined by the Congressional Review Act. Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE [AMENDED]

■ 1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. Amend § 0.22 by revising paragraphs (a)(1), (b), and (c), to read as follows:

§ 0.22 General functions.

* * * * *

(a) * * *

(1) Evaluating the performance of the offices of the U.S. Attorneys, making appropriate reports and inspections and taking corrective action where indicated.

* * * * *

(b) Publish and maintain the Justice Manual and other guidance for the U.S. Attorneys' offices and those other organizational units of the Department concerned with litigation.

(c) Supervise the operation of the Office of Legal Education, which shall provide training to all Department of Justice attorney and non-attorney legal personnel and publish the Department of Justice Journal of Federal Law and Practice.

* * * * *

Dated: April 22, 2019.

William P. Barr,

Attorney General.

[FR Doc. 2019–08467 Filed 4–25–19; 8:45 am]

BILLING CODE 4410–07–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0058]

RIN 1625–AA08

Special Local Regulation; Lake Pontchartrain, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain navigable waters of Lake Pontchartrain in New Orleans, LA. This action is necessary to protect persons and vessels from potential hazards created by the Kenner Super Boat Grand Prix Race. Entry of vessels

or persons into this zone would be prohibited unless authorized by the Captain of the Port Sector New Orleans or a designated representative.

DATES: This rule is effective from 10 a.m. through 5 p.m. on June 23, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0058 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Commander Benjamin Morgan, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email *Benjamin.P.Morgan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On January 19, 2019, Super Boat International Productions (SBIP) notified the Coast Guard that it would be conducting the Kenner Super Boat Grand Prix boat race from 10 a.m. to 5 p.m. on June 23, 2019. In response, on March 1, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulation; Lake Pontchartrain, New Orleans, LA'' (89 FR 6989). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this special local regulation. During the comment period that ended April 1, 2019, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041(a). The Captain of the Port New Orleans (COTP) has determined that potential hazards associated with the boat race will be a safety concern for anyone within the established race zone. The race zone would cover all navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30°03.056′ N/090°15.489′ W to 30°02.500′ N/090°13.547′ W to 30°02.717′ N/090°13.460′ W to 30°03.252′ N/090°15.374′ W. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 1, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary special regulation in the specified area from 10 a.m. to 5 p.m. on June 23, 2019. The race zone would cover all navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30°03.056′ N/090°15.489′ W to 30°02.500′ N/090°13.547′ W to 30°02.717′ N/090°13.460′ W to 30°03.252′ N/090°15.374′ W. The duration of the area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled marine event. Only predesignated vessel(s) or person(s) would be permitted within the safety zone. The sponsor would designate a spectator zone on the north side of the race zone, as defined by the aforementioned coordinates, for vessels. No additional vessel(s) or person(s) would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. No spectator vessel would be allowed to anchor, block, loiter, or impede the through transit of participants or a designated patrol vessel in the regulated area during the effective dates and times, unless cleared for entry by the COTP or the designated representative. Any spectator vessel may anchor outside the regulated area. Spectator vessels might be moored to a waterfront facility within the regulated area in such a way that they would not interfere with the progress of the event. Such mooring would have to be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

The COTP or a designated representative might forbid and control the movement of all vessels in the regulated area. When hailed or signaled by a designated patrol vessel, a vessel would come to an immediate stop and comply with the directions given. Failure to do so might result in expulsion from the area, citation for failure to comply, or both. The COTP or a designated representative might terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative would terminate enforcement of the special local regulations at the conclusion of the event.

The COTP or a designated representative would inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and duration of the temporary special local regulation. The regulated area would cover a small area of the navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30°03.056′ N/090°15.489′ W to 30°02.500′ N/090°13.547′ W to 30°02.717′ N/090°13.460′ W to 30°03.252′ N/090°15.374′ W. The duration of the regulated area would be seven hours on one day and would not

be expected to significantly affect the vessel traffic on Lake Pontchartrain. The COTP would allow entry into the area on a case-by-case basis. Moreover, the Coast Guard would issue a Local Notice to Mariners (LNM), Marine Safety Information Bulletins (MSIBs), and/or Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone. This would allow waterway users to plan accordingly for transits during this restriction.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 00 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary specially regulated area lasting seven hours that would prohibit entry into the area within the following coordinates: 30°03.056′ N/090°15.489′ W to 30°02.500′ N/090°13.547′ W to 30°02.717′ N/090°13.460′ W to 30°03.252′ N/090°15.374′ W. This action is categorically excluded from further review under L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T08–0058 to read as follows:

§ 100.T08–0058 Special Local Regulation; Lake Pontchartrain, New Orleans, LA.

(a) *Location.* The following area is a special local regulation: 30°03.056′ N/090°15.489′ W to 30°02.500′ N/090°13.547′ W to 30°02.717′ N/090°13.460′ W to 30°03.252′ N/090°15.374′ W.

(b) *Effective period.* This section is effective from 10 a.m. through 5 p.m. on June 23, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35, entry into or remaining within this regulated area is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted

on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200.

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

(4) No spectator vessel is allowed to anchor, block, loiter, or impede the through transit of participants or a designated patrol vessel in the regulated area during the effective dates and times, unless cleared for entry by the COTP or the designated representative.

(5) Any spectator vessel may anchor outside the regulated area. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they do not interfere with the progress of the event. Such mooring have to be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(6) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by a designated patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(7) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

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

Dated: April 10, 2019.

K.M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2019–08405 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0236]

Safety Zone; Pittsburgh Pirates Fireworks, Allegheny River, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones for the Pittsburgh Pirates Fireworks on the Allegheny River, extending the entire width of the river, from mile 0.2 to 0.9 in Pittsburgh, PA. The safety zones are necessary to protect vessels transiting the area and event spectators from the hazards associated with the Pittsburgh Pirates barge-based firework displays following certain home games throughout the season. During the enforcement period, entry into, transiting, or anchoring in the safety zones is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Line 1 will be enforced from 8 p.m. through 11:59 p.m. on May 4, 2019, unless the firework displays are postponed because of adverse weather, in which case, this rule will be enforced within 48 hours of the scheduled date.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones for the annual Pittsburgh Pirates Fireworks listed in 33 CFR 165.801, Table 1, line 1 from 8 p.m. through 11:59 p.m. on May 4, 2019. Should inclement weather require rescheduling, the safety zone will be effective following the game on a rain date to occur within 48 hours of the scheduled date. Entry into the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via Local Notice to Mariners and updates via Marine Information Broadcasts.

Dated: April 22, 2019.

A.W. Demo,

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

[FR Doc. 2019–08403 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181210999–9239–02]

RIN 0648–XG998

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; 2019 Closure of the Northern Gulf of Maine Scallop Management Area to the Limited Access General Category Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the Northern Gulf of Maine Scallop Management Area for the remainder of the 2019 fishing year for Limited Access General Category vessels. Regulations require this action once NMFS projects that 100 percent of the Limited Access General Category total allowable catch for the Northern Gulf of Maine Scallop Management Area will be harvested. This action is intended to prevent the overharvest of the 2019 total allowable catch allocated to the Limited Access General Category Fishery.

DATES: Effective 0001 hr local time, April 25, 2019, through March 31, 2020.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, (978) 282–8456.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing fishing

activity in the Northern Gulf of Maine (NGOM) Scallop Management Area in 50 CFR 648.54 and 648.62. These regulations authorize vessels issued a valid federal scallop permit to fish in the NGOM Scallop Management Area under specific conditions, including a total allowable catch (TAC) of 137,500 lb (62,369 kg) for the Limited Access General Category (LAGC) fleet for the 2019 fishing year, and a State Waters Exemption Program for the State of Maine and Commonwealth of Massachusetts. Section 648.62(b)(2) requires the NGOM Scallop Management Area to be closed to scallop vessels issued federal LAGC scallop permits, except as provided below, for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the LAGC TAC for the fishing year is projected to be harvested. Any vessel that holds a federal NGOM (category LAGC B) or Individual Fishing Quota (IFQ) (LAGC A) permit may continue to fish in the Maine or Massachusetts state waters portion of the NGOM Scallop Management Area under the State Waters Exemption Program found in § 648.54 provided it has a valid Maine or Massachusetts state scallop permit and fishes only in that state's respective waters.

Based on trip declarations by federally permitted LAGC scallop vessels fishing in the NGOM Scallop Management Area and analysis of fishing effort, we project that the 2019 LAGC TAC will be harvested as of April 25, 2019. Therefore, in accordance with § 648.62(b)(2), the NGOM Scallop Management Area is closed to all federally permitted LAGC scallop vessels as of April 25, 2019. As of this date, no vessel issued a federal LAGC scallop permit may fish for, possess, or land scallops in or from the NGOM Scallop Management Area after 0001 local time, April 25, 2019, unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54. Any federally permitted LAGC scallop vessel that has declared into the NGOM Scallop Management Area, complied with all trip notification and observer requirements, and crossed the VMS demarcation line on the way to the area before 0001, April 25, 2019, may complete its trip and land scallops. This closure is in effect until the end of the 2019 scallop fishing year, through March 31, 2020. This closure does not apply to the Limited Access (LA) scallop fleet, which was allocated a separate TAC of 67,500 lb (30,617 kg) for the 2019 fishing year under Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan. Vessels that are participating in the 2019 scallop Research Set-Aside Program and have been issued letters of authorization to conduct compensation fishing activities will harvest the 2019 LA TAC.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. NMFS also finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons noted below. The NGOM Scallop Management Area opened for the 2019 fishing year on April 1, 2019. The regulations at § 648.60(b)(2) require this closure to ensure that federally permitted scallop vessels do not harvest more than the allocated LAGC TAC for the NGOM Scallop Management Area. NMFS can only make projections for the NGOM closure date as trips into the area occur on a real-time basis and as activity trends appear. As a result, NMFS can typically make an accurate projection only shortly before the TAC is harvested. A rapid harvest rate, that has occurred in the last 2 weeks, makes it more difficult to project a closure well in advance. To allow federally permitted LAGC scallop vessels to continue to take trips in the NGOM Scallop Management Area during the period necessary to publish and receive comments on a proposed rule would result in vessels harvesting more than the 2019 LAGC TAC for the NGOM Scallop Management Area. This would result in excessive fishing effort in the area thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures to make up for the excessive harvest. Also, the public had prior notice and full opportunity to comment on this closure process when we put the NGOM management provisions in place on March 27, 2019 (84 FR 11436).

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

Dated: April 23, 2019.

Karen H. Abrams,

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

[FR Doc. 2019–08444 Filed 4–23–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 81
Friday, April 26, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0121]

RIN 1625–AA00

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its safety zones regulation for Annual Events in the Captain of the Port Buffalo Zone. This proposed amendment adds eight new permanent safety zones. These amendments and additions are necessary to protect spectators, participants, and vessels from the hazards associated with annual maritime events, including fireworks displays, boat races, and air shows. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 28, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0121 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Sean Dolan, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1.

The purpose of this rulemaking is to update the safety zones in § 165.939 to ensure accuracy of times, dates, and dimensions for various triggering and marine events that are expected to be conducted within the Captain of the Port Buffalo Zone throughout the year. The purpose of the rulemaking is also to protect vessels and persons from the specific hazards related to the aforementioned events. These specific hazards include obstructions in the waterway that may cause marine casualties; collisions among vessels maneuvering at a high speed within a channel; the explosive dangers involved in pyrotechnics and hazardous cargo; and flaming/falling debris into the water that may cause injuries.

III. Discussion of Proposed Rule

This proposed rule adds eight new safety zones to Table 165.939 within § 165.939 for annually reoccurring events in the Captain of the Port Buffalo Zone. These eight zones were approved and published in the **Federal Register** as temporary safety zones and were added in order to protect the public from the safety hazards previously described. A list of additions are available in the attachments within this Docket.

The Captain of the Port Buffalo has determined that the safety zones in this proposed rule are necessary to protect the safety of vessels and people during annual marine or triggering events in the Captain of the Port Buffalo zone. Although this proposed rule will be effective year-round, the safety zones in this proposed rule will be enforced only immediately before, during, and after events that pose a hazard to the public and only upon notice by the Captain of the Port Buffalo.

The Captain of the Port Buffalo will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Buffalo or his or her designated representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16 or at 716–843–9525.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zones. The safety zones created by this rule will be relatively small and effective only during the time necessary to protect safety of spectators, participants, vessels, and property for the listed triggering or marine events. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone,

and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment yearly triggering and marine events on and around Lake Erie. Normally such actions are categorically excluded from further review under paragraph L[60](a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.939, amend Table 165.939 by adding the entries (a)(7) and (9), (b)(30) through (33), and (c)(5) and (6) to read as follows:

§ 165.939 Safety Zones; Annual Events in the Captain of the Port Buffalo Zone.

* * * * *

Event	Location [1]	Enforcement date and time [2]
(a) June Safety Zones		
* *	* * * * *	*
(7) Blazing Paddles	Cleveland, OH—All waters of the Cuyahoga River in Cleveland OH, beginning at position 41°29′36″ N, 081°42′13″ W to the turnaround point at position 41°27′53″ N,081°40′38″ W.	On or around the 3rd weekend of June.
(8) Boaters Against Cancer Fireworks.	Kendall, NY—All waters of Lake Ontario contained within a 210 foot radius of the fireworks launch site located at 43°22′02.04″ N, 078°01′48.06″ W in Kendall, NY.	On or around the last weekend of June.
(b) July Safety Zones		
(30) Wine and Walleye Festival Fireworks.	Ashtabula, OH—All waters within a 280 foot radius of the fireworks launch site located at position 41°54′06″ N, 080°47′49″ W, Ashtabula, OH.	On or around the last weekend of July.
(31) City of Erie 4th of July Fireworks.	Erie, PA—All waters of Lake Erie contained within a 280 foot radius of the fireworks launch site located at 42°08′17.13″ N, 080°05′30.17″ W in Erie, PA.	On or around the 4th of July.
(32) Buffalo Italian Fest	Buffalo, NY—All waters of Lake Erie contained within a 420 foot radius of 42°52′04.23″ N, 078°53′00.67″ W in Buffalo, NY.	On or around 2nd or 3rd weekend of July.
(33) Hamburg Beach Blast	Hamburg, NY—All waters of Lake Erie contained within a 280 foot radius of 42°45′59.21″ N, 078°52′41.51″ W in Hamburg, NY.	On or around the last weekend of July.
(c) August Safety Zones		
* *	* * * * *	*
(5) Ski Show Sylvan Beach	Sylvan Beach, NY—All waters where Fish Creek meets Oneida Lake starting at position 43°11′36.6″ N, 75°43′53.8″ W then South to 43°11′33.7″ N, 75°43′51.2″ W then East to 43°11′42.4″ N, 75°43′38.6″ W then North to 43°11′44.5″ N, 75°43′39.7″ W then returning to the point of origin.	On or around the 2nd or 3rd weekend of August.
(6) Great Lakes Offshore Grand Prix.	Dunkirk, NY—All waters of Lake Erie starting at position 42°29′37.7″ N, 079°21′17.7″ W then Northwest to 42°29′45.2″ N, 079°21′28.2″ W then Northeast to 42°30′15.0″ N, 079°21′20.0″ W then Northeast to 42°30′39.0″ N, 079°19′46.0″ W then Southeast to 42°30′09.3″ N, 079°19′03.1″ W.	On or around the 2nd or 3rd weekend of August.
* *	* * * * *	*

[1] All coordinates listed in Table 165.929 reference Datum NAD 1983.
[2] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change, and will be published in a Notice of Enforcement prior to the event.

Dated: April 22, 2019.

Kenneth E. Blair,

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

[FR Doc. 2019–08416 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0183]

RIN 1625–AA00

Safety Zone; Upper Mississippi River MM 486 to 491.1, Riverdale, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for the navigable waters of the Upper Mississippi River between mile markers (MM) 486 through MM 491.1 in the vicinity of Riverdale, IA. This action is necessary to provide for the safety of life on these waters during a large scale paddle event. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 28, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0183 using the Federal eRulemaking Portal at *https://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On November 19, 2018, River Action notified the Coast Guard that it will be conducting a paddle event taking place on the Upper Mississippi River between MM 486 through MM 491.1 in the vicinity of Riverdale, IA on August 17, 2019 from 5:30 a.m. to 4:30 p.m. Participants will link their canoes and kayaks, and float down the channel with reduced maneuverability. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the marine event would be a safety concern for anyone within the vicinity of this event.

The purpose of this rulemaking is to ensure the safety of persons and vessels in the navigable waters of the Upper Mississippi River between MM 486 through MM 491.1 during the event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a temporary safety zone on the Upper Mississippi River between MM 486 through MM 491.1 in the vicinity of Riverdale, IA on August 17, 2019 from 5:30 a.m. to 4:30 p.m. The duration of the zone is intended to ensure the safety of persons and vessels during the event. No person or vessel would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and duration of the safety zone and the fact that this is a reoccurring marine event that has had historical approval with no objection. This zone will be in effect for less than one day. There is a preexisting recurring safety zone listed in 33 CFR 165.801 for this event, this regulatory document expands the size of the safety zone by five miles. Additionally, persons and vessels may request permission to enter the zone from the COTP or a designed representative.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary safety zone lasting approximately eleven hours that would prohibit entry into the Upper

Mississippi River between MM 486 through MM 491.1. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0183 to read as follows:

§ 165.T08–0183 Safety Zone; Upper Mississippi River MM 486 to 491.1, Riverdale, IA

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River between mile markers (MM) 486 through MM 491.1 in the vicinity of Riverdale, IA

(b) *Period of enforcement.* This section will be effective and enforced on August 17, 2019 from 5:30 a.m. through 4:30 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted by telephone at 314–269–2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners, Local Notices to Mariners, and/or actual notice.

Dated: April 19, 2019.

S.A. Stoermer,

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

[FR Doc. 2019–08404 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0211]

RIN 1625–AA00

Safety Zone; Cuyahoga 50th Parade of Lights; Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a moving safety zone for certain waters of the Cuyahoga River. This action is necessary to provide for the safety of life on the navigable waters in the Cuyahoga River, Cleveland, OH, during the Cleveland Parade of Lights on June 22, 2019. This temporary safety zone is necessary to protect personnel, vessels, and the marine environment from the potential hazards created by 125 vessels transiting in the river with lights not normally used for marine traffic navigation lights. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Buffalo. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 28, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0211 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email *ryan.s.junod@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register

NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On January 30, 2019, the Lake Erie Marine Trades Association notified the Coast Guard that it will be conducting a Boat Parade from 9:30 to 11:00 p.m. on June 22, 2019, to commemorate the 50th Anniversary of the Burning River. The boat parade is to begin in Cleveland Harbor west basin and proceed upriver to Merwin's Wharf where they will turn around and head back down river to Lake Erie. The Captain of the Port Buffalo (COTP) has determined that potential hazards associated with 125 vessels displaying lights that are not used for navigation will be a safety concern for other vessels underway. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the Cleveland Parade of Lights. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 9:15 p.m. through 11:15 p.m. on June 22, 2019. The moving safety zone will encompass all waters within 25 feet of the vessels participating in the Cleveland 50th Parade of Lights in the Cuyahoga River. The safety zone will move with participating vessels as they transit from the mouth of the Cuyahoga River in the vicinity of position 41°29′59″ N, 081°43′31″ W, to Merwin's Wharf in the vicinity of 41°29′23″ N, 081°42′16″ W (NAD 83), and returning to the mouth of the Cuyahoga River. The duration of the zone is intended to protect the safety of vessels and these navigable waters before, during, and after the scheduled boat parade. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16 or at 716–843–9525. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on this rule not being a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting less than 2 hours that would prohibit entry within 25 yards of the participants in the boat parade. Normally such actions are categorically excluded from further review under paragraph L[60](a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0211 to read as follows:

§ 165.T09–0211 Safety Zone; Cuyahoga 50th Parade of Lights; Cuyahoga River, Cleveland, OH.

(a) Location. The moving safety zone will encompass all waters within 25 feet of the vessels participating in the Cleveland 50th Parade of Lights in the Cuyahoga River. The safety zone will move with participating vessels as they transit from the mouth of the Cuyahoga River in the vicinity of position 41°29′59″ N, 081°43′31″ W, to Merwin's Wharf in the vicinity of 41°29′23″ N, 081°42′16″ W, and returning to the mouth of the Cuyahoga River in the vicinity of 41°29′59″ N, 081°43′31″ W (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective and will be enforced on June 22, 2019 from 9:15 p.m. until 11:15 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16 or at 716–843–9525. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: April 22, 2019.

Kenneth E. Blair,

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

[FR Doc. 2019–08402 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0144; FRL–9992–63—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Removal of Allegheny County Requirements Applicable to Motor Gasoline Volatility in the Allegheny County Portion of the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania, on behalf of the Allegheny County Health Department (ACHD), on March 19, 2019. This revision seeks removal from the Pennsylvania SIP of Allegheny County requirements limiting summertime gasoline volatility to 7.8 pounds per square inch (psi) Reid Vapor Pressure (RVP), which were originally adopted to

reduce ozone precursor pollution to address nonattainment of the 1-hour ozone national ambient air quality standard (NAAQS) in the Allegheny County portion of the Pittsburgh-Beavery Valley ozone nonattainment area (hereafter referred to as the Pittsburgh-Beaver Valley Area). In December 2018, EPA issued a final approval of the Pennsylvania Department of Environmental Protection's (PA DEP) request to remove from the SIP the PA DEP requirements limiting the summer RVP of gasoline in the Pittsburgh-Beaver Valley Area. As part of that action, EPA also approved the accompanying demonstration prepared by Pennsylvania that shows that the emission impacts from removal of the program will not interfere with the area's ability to attain or maintain any NAAQS. EPA is proposing that this prior approved noninterference demonstration also serves to support Pennsylvania's request to remove the separate program imposed by Allegheny County requiring summer 7.8 psi RVP gasoline and that removal of this substantially similar, local low-RVP program will not interfere with the area's ability to attain or maintain the NAAQS. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 28, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0144 to *http://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 *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, Planning and Implementation Branch (3AD30), Air and Radiation Division, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2176. Mr. Rehn can also be reached via electronic mail at *rehn.brian@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer to EPA. This supplementary information section of this action is arranged as follows:

I. Background
A. Federal Gasoline Volatility Controls Under the CAA
B. History of State and Local Gasoline Volatility Controls Applicable to the Pittsburgh-Beaver Valley Area
II. What Prompted ACHD to suspend gasoline locally adopted volatility requirements applicable to Allegheny County?
A. Pennsylvania Legislature Directs PA DEP To Suspend State Gasoline Volatility Controls Applicable to the Pittsburgh-Beaver Valley Area
B. ACHD Amendment of Allegheny County Gasoline Volatility Requirements Rule To Suspend Local RVP Requirements Applicable to Allegheny County
III. What is the Historic Reason for Adoption of Gasoline Volatility Control and the Status of Air Quality in the Pittsburgh-Beaver Valley Area?
A. The Status of the Pittsburgh-Beaver Valley Area With Respect to the Ozone NAAQS
B. The Status of the Pittsburgh-Beaver Valley Area With Respect to the Fine Particulate Matter NAAQS
IV. What is EPA's analysis of the Commonwealth's submittal?
V. Impacts on the Boutique Fuels List
VI. What Action is EPA taking?
VII. Statutory and Executive Order Reviews

I. Background

A. Federal Gasoline Volatility Controls Under the CAA

Under section 211(c) of the CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum Federal limits for the RVP of gasoline sold during regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods applied during the summer months when peak ozone concentrations were expected. That rule, referred to as Federal Phase I RVP standards, constituted the first phase of a two-phase nationwide program that was designed to reduce the volatility of commercial gasoline during the high ozone season. Depending on the state and month, Federal Phase I gasoline RVP was not to exceed 10.5 psi, 9.5 psi, or 9.0 psi between calendar years 1989 through 1991. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent Phase II Federal gasoline volatility standards. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi, depending on the state location and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS. Phase II was applicable starting in 1992 and remains in effect, except in areas that have more stringent SIP-approved RVP control programs in place. These Federal volatility regulations are codified at 40 CFR 80.27, with the delineation between areas designated as Federal 9.0 psi RVP volatility attainment areas codified at 40 CFR 80.27(a)(2)(i), and those areas designated as Federal 7.8 psi RVP volatility nonattainment areas at 40 CFR 80.27(a)(2)(ii).

The 1990 amendments to the CAA established a new section, 211(h), to address fuel volatility. Section 211(h)(1) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h)(2) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

Under Federal Phase II gasoline volatility requirements, which were promulgated December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to make them consistent with section 211(h). The modified regulations prohibited the sale of gasoline, beginning in 1992, with RVP above 9.0 psi in all areas designated attainment for ozone. Under the revised Phase II standards published on June 11, 1990 (55 FR 23658), areas are subject to either a 9.0 psi RVP standard, or to a newly added 7.8 psi ozone season limitation applicable to some states.

Under these Federal Phase II RVP requirements, the Commonwealth of Pennsylvania was required to meet a Federal 9.0 psi RVP standard during the summer RVP control period—except for the Philadelphia Area, which was at that time was designated as severe ozone nonattainment and as such was subject to more stringent gasoline requirements of the reformulated gasoline program established under CAA section 211(k).

However, Pennsylvania and Allegheny County were later granted a Federal ''preemption waiver'' under authority of CAA section 211(c)(4)(C), which allows a state to adopt their own more stringent, state-specific fuel program (or ''boutique'' fuel program) as part of the Federally-approved SIP. It was this Federal fuel preemption waiver that enabled Pennsylvania (and Allegheny County) to adopt a more stringent gasoline volatility program in the Pittsburgh-Beaver Valley area, as described in more detail in this rulemaking action.

B. History of State and Local Gasoline Volatility Controls Applicable to the Pittsburgh-Beaver Valley Area

On November 15, 1990, the CAA amendments of 1990 were signed into law. On November 6, 1991, EPA designated and classified the Pittsburgh-Beaver Valley Area as moderate nonattainment for the 1979 1-hour ozone NAAQS, which included: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties. As one of a number of measures aimed to bring the Pittsburgh-Beaver Valley Area into ozone attainment, Pennsylvania adopted (among other measures) gasoline RVP limits, through separate but substantially similar PA DEP and ACHD rules limiting summertime gasoline volatility in the Pittsburgh-Beaver Valley Area to 7.8 psi RVP. PA DEP initially adopted a gasoline RVP limit rule in the November 1, 1997 *Pennsylvania Bulletin* (27 Pa.B. 5601, effective November 1, 1997), which is codified in Subchapter C of Chapter 126 of the Pennsylvania Code of Regulations (25 Pa. Code Chapter 126, Subchapter C). On April 17, 1998, Pennsylvania submitted this state-adopted rule to EPA as a formal revision to its approved SIP. EPA approved Pennsylvania's RVP SIP revision in the June 8, 1998 **Federal Register** (63 FR 31116) and codified in the *Code of Federal Regulations* at 40 CFR 52.2020(c)(1).

As the local air pollution control agency for Allegheny County, the ACHD subsequently adopted a substantially similar summertime gasoline volatility limit rule (Allegheny County Order No. 16782, Article XXI, sections 2102.40, 2105.90, and 2107.15; effective May 15, 1998, amended August 12, 1999). On March 23, 2000, PA DEP formally submitted a SIP revision to EPA (on behalf of ACHD) to incorporate ACHD's gasoline RVP summertime requirements identified above into the Pennsylvania SIP. EPA approved that SIP revision, establishing an independent ACHD gasoline RVP limit, on April 17, 2001 (66 FR 19724), effective June 18, 2001.

PA DEP amended its RVP limit rule in April 2017 to suspend summertime gasoline RVP limits, formerly applicable to all seven counties in the Pittsburgh-Beaver Valley Area.[1] ACHD subsequently revised its own RVP limit rule (Article XXI, §§ 2105.90, and 2107.15 of the Rules and Regulations of the Allegheny County Health Department; amended February 21, 2019, effective March 3, 2019), suspending applicability of ACHD's RVP requirements upon the effective date of EPA's removal of the revised Article XXI sections from the Allegheny County portion of the Pennsylvania SIP. On March 19, 2019, PA DEP submitted this SIP revision (on behalf of ACHD) to EPA to request removal of the ACHD's RVP rule requirements from the Pennsylvania SIP. This request to remove the ACHD RVP program requirements from the SIP is the subject of EPA's current rulemaking action.

II. What prompted ACHD to suspend locally adopted gasoline volatility requirements applicable to Allegheny County?

A. Pennsylvania Legislature Directs PA DEP To Suspend State Gasoline Volatility Controls Applicable to the Pittsburgh-Beaver Valley Area

In the 2013–14 session, the Pennsylvania General Assembly passed, and Governor Corbett signed into law, Act 50 (Pub. L. 674, No. 50 of May 14, 2014), that amended the Pennsylvania Air Pollution Control Act to direct PA DEP to initiate a process to repeal PA DEP's Pittsburgh-Beaver Valley Area gasoline RVP requirements. That process culminated with PA DEP's submission on May 2, 2018 of a SIP revision requesting that EPA remove from the Pennsylvania portion of the SIP the Pa. Code RVP provisions of Chapter 126, Subchapter C gasoline RVP limits and also approve PA DEP's CAA 110(l)-required noninterference demonstration showing that repeal of PA DEP's RVP requirements would not interfere with the Pittsburgh-Beaver Valley Area's attainment of any NAAQS. Pennsylvania's analysis showed that the emissions impact from repeal of the 7.8 psi RVP summer limit (to be replaced by the Federal 9.0 psi summertime gasoline RVP requirement) would be fully offset through substitution of commensurate benefits from another enacted emission reduction measure reducing emissions from area sources in the Pittsburgh-Beaver Valley Area, as well as reductions from permanent shutdown of a glass manufacturing facility in Allegheny County. For further information on the Commonwealth's supporting demonstration showing removal of the RVP program from the Pittsburgh-Beaver Valley Area will not interfere with the area's ability to meet Federal NAAQS, as well as EPA's analysis of that demonstration, please refer to EPA's December 20, 2018 (83 FR 65301) final rule approving Pennsylvania's removal of PA DEP's Chapter 126 low-RVP program from the seven counties comprising the Pittsburgh-Beaver Valley Area and the docket for that action.

B. ACHD Amendment of Allegheny County Gasoline Volatility Requirements Rule To Suspend Local RVP Requirements Applicable to Allegheny County

ACHD subsequently revised its own RVP limit rule (Article XXI, §§ 2105.90, and 2107.15 of the Rules and Regulations of the Allegheny County Health Department; amended February 21, 2019, effective March 3, 2019), suspending applicability of ACHD's gasoline RVP requirements upon the effective date of EPA's removal of the revised Article XXI sections from the Allegheny County portion of the Pennsylvania SIP.

The revised ACHD gasoline volatility regulation contains an added provision suspending the requirements that ban the sale or transfer of gasoline in Allegheny County non-compliant with a 7.8 psi RVP limit (between May 1 through September 15). Per ACHD's revised rule (as amended February 21, 2019), the County's 7.8 psi summer limit and related requirements (at Article XXI, §§ 2105.90 and 2107.15) will no longer be applicable upon the effective date of EPA's final action approving removal of the RVP program from the Allegheny County portion of the Pennsylvania SIP. Upon the effective date of EPA final action to approve the Commonwealth's request to remove the Allegheny County 7.8 psi RVP program requirements from the SIP, all state and local RVP limits for the Pittsburgh-Beaver Valley would be rescinded, reverting the entire

[1] *See* Pa Code, Title 26, Chapter 126, Subchapter C (relating to motor vehicle and fuels programs, gasoline volatility requirements), effective January 22, 2019. (Pa Bulletin, Vol. 48, No. 14; April 7, 2018). This rule amended § 126.301 (relating to compliant fuel requirement) to make Chapter 126, Subchapter C no longer applicable to the Pittsburgh-Beaver Valley Area upon the effective date of approval by EPA of the removal of Chapter 126, Subchapter C as a Federally-enforceable control measure in the Commonwealth's SIP. EPA approved Pennsylvania's SIP request to remove the PA DEP RVP requirements of Chapter 126 in a final rule published December 20, 2018 (83 FR 65301).

Pittsburgh-Beaver Valley Area to the applicable Federal Phase II RVP requirements.[2]

III. What is the historic reason for adoption of gasoline volatility control and the status of air quality in the Pittsburgh-Beaver Valley Area?

The gasoline volatility limit was originally adopted by Pennsylvania as part of a suite of measures to address ground level ozone pollution in the Pittsburgh-Beaver Valley Area, which has historically been designated nonattainment for the ozone NAAQS. Since passage of the CAA in 1990, portions of the Pittsburgh-Beaver Valley Area have also been designated nonattainment for the daily and annual averaging period fine particulate matter ($PM_{2.5}$) NAAQS. Since the low-RVP gasoline program affects primarily volatile organic compounds (VOCs) and nitrogen oxides (NO_X) emissions, and to some degree directly emitted $PM_{2.5}$ emissions, our consideration of the impact of removal of this rule on air quality focuses primarily on those NAAQS to which emission from this program contribute (either directly or as NAAQS precursor emissions).

A. The Status of the Pittsburgh-Beaver Valley Area With Respect to the Ozone NAAQS

On November 6, 1991 (56 FR 56694), EPA designated and classified the Pittsburgh counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties as nonattainment for the 1-hour ozone NAAQS promulgated by EPA in 1979. On April 9, 2001, Pennsylvania submitted a request to redesignate the Pittsburgh-Beaver Valley Area to attainment of the 1979 1-hour ozone NAAQS, along with a maintenance plan to demonstrate that the area would continue to attain for a 10-year period—a plan which relied, in part, on emissions reductions attributable to the 7.8 psi RVP summertime gasoline volatility control program. Subsequently, EPA determined that the Pittsburgh-Beaver Valley Area had attained the 1979 1-hour ozone NAAQS by its extended attainment date and approved the Commonwealth's 1-hour redesignation request and maintenance plan SIP revision on November 19, 2001 (66 FR 53094).

On July 18, 1997 (62 FR 38856), EPA issued a revised NAAQS for ozone, strengthening the primary and secondary standards to 0.080 parts per million (ppm) and changing the averaging time from 1-hour to 8-hours. In May of 2012, EPA classified the Pittsburgh-Beaver Valley Area as moderate nonattainment under section 181 of the CAA.[3] On April 4, 2013, EPA determined that the Pittsburgh-Beaver Valley Area had attained the 1997 8-hour ozone NAAQS by its applicable attainment date (based on air monitoring data for the 2007–2009 period) and warranted a clean data determination. This latter determination suspended certain CAA planning requirements for the Area, including requirements for an attainment demonstration, associated reasonable further progress plan, contingency measures, reasonably available control measure (RACM) analysis, and other CAA part D planning requirements for moderate ozone nonattainment areas, for as long as the area continued to monitor attainment of the NAAQS.

On March 27, 2008 (73 FR 16436), EPA strengthened the 8-hour NAAQS from 0.080 to 0.075 ppm. On May 21, 2012 (77 FR 30088), EPA designated and classified the Pittsburgh-Beaver Valley Area as marginal nonattainment for the 2008 8-hour ozone NAAQS. On March 6, 2015 (80 FR 12264), EPA published its ozone implementation rule for the 2008 ozone NAAQS, which established the date of July 20, 2016 as the deadline for marginal areas to attain the 2008 8-hour ozone NAAQS. On December 6, 2016 (81 FR 87819), EPA determined that the Pittsburgh-Beaver Valley Area had attained the 2008 ozone NAAQS by that July 20, 2016 deadline.[4] The Pittsburgh-Beaver Valley Area continues to attain the 2008 ozone NAAQS for the most recent 2016–2018 three-year monitoring period.

On October 1, 2015 (80 FR 65291), EPA promulgated a revised ozone NAAQS of 0.070 ppm. On November 6, 2017 (82 FR 54232), EPA issued final 2015 ozone NAAQS designations for most U.S. counties, designating all seven Pittsburgh-Beaver Valley Area counties as ''attainment/unclassifiable.''

Pennsylvania's April 19, 2019 SIP submittal for removal of the RVP program in Allegheny County relies upon a demonstration of noninterference, per the requirements of CAA section 110(l), that was originally submitted by PA DEP as part of its May 2, 2018 SIP revision for removal of the state RVP program in the larger Pittsburgh-Beaver Valley Area—a substantially similar state RVP requirements rule that geographically overlaps Allegheny County's rule. EPA approved Pennsylvania's May 2, 2018 SIP noninterference demonstration as part of our December 20, 2018 approval of that SIP revision (83 FR 65301). This SIP-approved 110(l) demonstration includes EPA updated photochemical grid modeling results for the 2008 ozone NAAQS (*See* Appendix H of Pennsylvania's May 2, 2018 SIP revision, which is also appended for reference as Appendix H to the March 19, 2019 SIP requesting removal of Allegheny County's RVP program), based on updated electric generating unit data for 2017.[5] This forecast data predicts that the Pittsburgh-Beaver Valley Area will continue to attain the 2008 ozone NAAQS and will remain in attainment of the 2015 ozone NAAQS by 2023.

B. The Status of the Pittsburgh-Beaver Valley Area With Respect to the Fine Particulate Matter NAAQS

On October 17, 2006, EPA published a revised 24-hour $PM_{2.5}$ NAAQS (71 FR 61144). On November 3, 2009, EPA

[2] *See* EPA's Phase II Volatility Regulations published June 11, 1990 (55 FR 23658), as amended December 12, 1991 (56 FR 64704). EPA amended Federal Phase II volatility regulations to make them consistent with CAA section 211(h), prohibiting the sale of gasoline (beginning in 1992) with RVP above 9.0 psi in all areas designated attainment for ozone. For areas designated nonattainment, the regulations retained the original Phase II standards established by the June 1990 Phase II rule.

[3] In 2012, EPA finalized revisions to the 2004 Phase 1 Implementation Rule for the 1997 8-hour ozone NAAQS that specified requirements to meet the 1997 ozone NAAQS. (77 FR 28424, May 14, 2012). The revisions were EPA's response to a December 22, 2006 decision in *South Coast Air Quality Management District* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006), directing EPA to classify areas under Part D of the CAA. As a result, EPA reclassified the former subpart 1 nonattainment areas, like the Pittsburgh Beaver Valley Area, under subpart 2. The 1997 8-Hour Ozone NAAQS was eventually revoked on April 6, 2015.

[4] On February 16, 2018, the D.C. Circuit Court issued an opinion on the EPA's regulations implementing the 2008 ozone NAAQS, known as 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. Circuit Court found certain provisions from the 2008 Ozone SIP Requirements rule unreasonable including EPA's provision for a ''redesignation substitute.'' The D.C. Circuit Court vacated these provisions and found redesignations must comply with all required elements in CAA section 107(d)(3) and thus found the ''redesignation substitute'' which did not require all items in CAA section 107(d)(3)(E) violated the CAA and was thus unreasonable. The D.C. Circuit Court also vacated other provisions relating to anti-backsliding in the 2008 Ozone SIP Requirements Rule as the Court found them unreasonable. *Id.* The D.C. Circuit Court found other parts of the 2008 Ozone SIP Requirements Rule unrelated to anti-backsliding and this action reasonable and denied the petition for appeal on those. *Id.*

[5] EPA Projected 2023 Ozone Design Values for the Pittsburgh—Beaver Valley Area.

Source: Notice of Availability—Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone NAAQS. Data Spreadsheet is available at: *https://www.epa.gov/sites/production/files/2016-12/2015_o3_naaqs_preliminary_transport_assessment_design_values_contributions.xlsx.*

designated the Pittsburgh-Beaver Valley Area as nonattainment for the 2006 $PM_{2.5}$ NAAQS (74 FR 58688) under CAA part D, subpart 1. On June 2, 2014, EPA reclassified the Pittsburgh-Beaver Valley Area as moderate nonattainment under CAA part D, subpart 4 (79 FR 31566), including all of Beaver, Butler, Washington, and Westmoreland Counties and portions of Allegheny, Armstrong, Greene, and Lawrence Counties. On May 2, 2014, EPA determined that the Pittsburgh-Beaver Valley Area was in attainment of the 2006 annual and 24-hour $PM_{2.5}$ NAAQS based on 2010–2012 ambient monitoring data (79 FR 25014). On October 2, 2015 (80 FR 59624), EPA approved a request from Pennsylvania to redesignate the Pittsburgh-Beaver County Area to attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

On January 15, 2013, EPA published revised annual and 24-hour $PM_{2.5}$ NAAQS (78 FR 3086). On April 7, 2015, EPA designated Allegheny County as moderate nonattainment of the 2012 annual $PM_{2.5}$ NAAQS (80 FR 18535).[6] Allegheny County continues to be nonattainment for the 2012 annual $PM_{2.5}$ NAAQS.

IV. What is EPA's analysis of the Commonwealth's submittal?

State/local control of motor gasoline is preempted by CAA section 211(c)(4)(A), except in cases where EPA has granted a preemption waiver under 211(c)(4)(B) or (C) as part of a SIP approval. As such a SIP-approved, Federally preempted CAA 211(c)(4) ''boutique fuel'' program, Allegheny County's RVP control program is not a mandatory measure required to address nonattainment under Part D of Subchapter 1 of the CAA. Nor are boutique fuels subject to ''anti-backsliding'' as it relates to a revoked NAAQS (*e.g.,* the 1979 1-hour or 1997 ozone NAAQS) in the case where EPA adopts a more stringent NAAQS (*e.g.,* the 2015 ozone NAAQS), since state/locally-adopted boutique fuels are not an ''applicable requirement'' that must be retained as a SIP obligation (in certain situations) where a NAAQS has been revoked by EPA.[7] Nor does section CAA section 193, applicable to pre-1990 implemented or required rules, apply because this boutique fuel rule was neither required or enacted prior to that date.

Therefore, EPA's primary consideration for determining the approvability of Pennsylvania's request to rescind the requirements for a gasoline volatility control program is whether this requested action complies with section 110 of the CAA, specifically section 110(l).[8] Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA evaluates each SIP revision for CAA 110(l) noninterference compliance on an individual basis. EPA interprets CAA section 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated, but for which EPA has not yet made designations.

In the absence of an attainment demonstration that shows no interference with any applicable NAAQS or requirement of the CAA under section 110(l), EPA believes it is appropriate to allow states to substitute equivalent emissions reductions to compensate for any potential emission increases caused by a change to a SIP-approved program, so long as net actual emissions to the air do not increase. ''Equivalent'' emission reductions mean reductions which are equal to or greater than those reductions achieved by the control measure approved in the SIP, which in this case is 7.8 psi RVP gasoline. To show that compensating emission reductions are equivalent, modeling or adequate justification must be provided. The compensating, equivalent or greater reductions must represent real, new emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure, in order to preserve the status quo level of emissions in the air. In addition to being contemporaneous, the equivalent emissions reductions must also be permanent, enforceable, quantifiable, and surplus to be approved into the SIP.

In its May 2, 2018 SIP revision, PA DEP submitted a section 110(l) demonstration that relies upon emission reductions from another emission control measure (and a permanently shutdown stationary source) to fully offset any potential increase in emissions that would otherwise result from removal of the SIP approved 7.8 psi RVP summertime gasoline requirement in the Pittsburgh-Beaver Valley Area. Specifically, PA DEP demonstrated that emission reductions in the Pittsburgh-Beaver Valley Area from the 7.8 psi RVP program are fully offset by: (1) Reductions from an adopted, implemented Pennsylvania regulation relating to the use and application of adhesives, sealants, primers, and solvents at 25 Pa. Code Section 129.77 and (2) the permanent shutdown of a facility in the Pittsburgh-Beaver Valley Area. The substitute emissions reduction measures were demonstrated to be quantifiable, permanent, surplus, enforceable, and contemporaneous (*i.e.* occurring at approximately the same time as cessation of the low-RVP fuel program). Upon removal of the state 7.8 psi summertime RVP program, the Federal 9.0 psi RVP limit becomes the applicable fuel volatility control program in the Area.

EPA approved the Commonwealth's CAA 110(l) noninterference demonstration supporting removal of the 7.8 psi RVP gasoline program in the Pittsburgh-Beaver Valley Area on December 20, 2018 (83 FR 65301). The PA DEP's 7.8 psi RVP control program for the entire Pittsburgh-Beaver Valley Area (under Pa Code Chapter 126) is similar in legal substance to that of Allegheny County's 7.8 psi RVP program (under Article XXI of the County's Rules and Regulations). Because of the similarity of the two programs, the March 19, 2019 SIP revision requesting removal of ACHD's 7.8 psi RVP program from the SIP relies upon the Commonwealth's prior approved noninterference demonstration to show that removal of the ACHD program will not interfere with attainment (or other CAA applicable requirements) of any NAAQS in the Pittsburgh-Beaver Valley Area. The March 19, 2018 SIP revision contains a copy of the PA DEP's earlier demonstration, for reference, without changing the substance of that prior demonstration. Because of the similarity between the ACHD county low-RVP rule and the areawide PA DEP low-RVP rule, EPA agrees with this approach to demonstrating that removal of ACHD's 7.8 psi RVP program for Allegheny County will not require additional evaluation for CAA 110(l) noninterference beyond the showing made by PA DEP for the 7.8. psi RVP program suspension in the Pittsburgh-Beaver Valley Area.

[6] This action corrects an initial final designations action for the 2012 $PM_{2.5}$ NAAQS, which was signed by EPA on December 18, 2014 and published January 15, 2015 (80 FR 2206). This correction included more recently available data for use in designating certain areas of the country.

[7] For instance, in the case of the 2008 Ozone Implementation Rule (40 CFR part 51, subpart AA), applicable requirements for purposes of anti-backsliding are defined at 40 CFR 51.1100(o).

[8] CAA section 193, with respect to removal of requirements in place prior to enactment of the 1990 CAA Amendments, is not relevant because Pennsylvania's RVP control requirements in the Pittsburgh-Beaver Valley Area were not included in the SIP prior to enactment of the 1990 CAA amendments.

V. Impacts on the Boutique Fuels List

Section 1541(b) of the Energy Policy Act of 2005 required EPA, in consultation with the U.S. Department of Energy, to determine the number of fuels programs approved into all SIPs as of September 1, 2004 and to publish a list of such fuels. On December 28, 2006 (71 FR 78192), EPA published the list of boutique fuels, as it existed at that time. EPA maintains the current list of boutique fuels on its website at: *https://www.epa.gov/gasoline-standards/state-fuels*. The final list of boutique fuels was based on a fuel type approach. CAA section 211(c)(4)(C)(v)(III) requires that EPA remove a fuel from the published list if it is either identical to a Federal fuel or is removed from the SIP in which it is approved. Under the adopted fuel type approach, EPA interpreted this requirement to mean that a fuel would have to be removed from all SIPs in which it was approved prior to being removed from the list (71 FR 78195).

The 7.8 psi RVP fuel program (as required by Allegheny County Article XXI), as approved into Pennsylvania's SIP, is a fuel type that is included in EPA's boutique fuel list, as shown in a state-by-state listing of boutique fuels (71 FR 78198–99). The list of states and areas where federal 7.8 psi and 9.0 psi low-RVP gasoline are currently required can also be referenced on EPA's Gasoline Reid Vapor Pressure web page (*https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure*). On that list, Allegheny County, Pennsylvania is currently listed as a partial area boutique fuel program for Pittsburgh, Pennsylvania. Subsequent to the final effective date of EPA's approval of Pennsylvania's March 19, 2019 SIP revision to remove Allegheny County's Rules and Regulations, Article XXI RVP requirement from the SIP, EPA will update the State Fuels and Gasoline Reid Vapor Pressure web pages with the effective date of the SIP removal. After the effective date of the final action on the March 19, 2019 SIP revision, EPA will remove the 7.8 psi RVP fuel type for Pennsylvania from the list of boutique fuels.

VI. What Action is EPA taking?

EPA has reviewed Pennsylvania's March 19, 2019 SIP revision requesting removal of the Allegheny County low-RVP rule and related requirements from the Pennsylvania SIP. EPA is proposing to approve Pennsylvania's March 19, 2019 SIP revision request to remove gasoline RVP-related provisions of Article XXI of the ACHD's Rules and Regulations from the Allegheny County portion of the Commonwealth's SIP—including Part E, Subpart 9, section 2105.90 (related to gasoline volatility) and Part G, section 2107.15 (related to test methods for gasoline RVP).

EPA is proposing to remove Allegheny County's 7.8 psi RVP requirements from the approved SIP, as codified at 40 CFR 52.2020(c)(2). This proposed removal from the approved Pennsylvania SIP is supported by a CAA noninterference demonstration prepared by PA DEP in support of the May 2018 SIP revision that requested removal of the Commonwealth's 7.8 psi RVP program in the larger Pittsburgh-Beaver Valley Area—the removal of which EPA approved in the final rule published December 20, 2018 (83 FR 65301). In the March 19, 2019 SIP revision submitted by PA DEP on behalf of ACHD, ACHD references this demonstration, which analyzes the suspension of 7.8 psi gasoline for the entire Pittsburgh-Beaver Valley Area, including Allegheny County. With this action, EPA is also proposing to approve the Commonwealth's use of the previously approved CAA 110(l) demonstration from its May 2, 2018 submission to demonstrate that removal of the Allegheny County low-RVP gasoline program does not interfere with the Commonwealth's ability to attain or maintain any NAAQS in the Pittsburgh-Beaver Valley Area. Our approval of the May 2, 2018 SIP submittal is in accordance with requirements for SIP actions under CAA section 110.

EPA is soliciting public comments on the issues discussed in this document. Since EPA already approved the Commonwealth's technical demonstration considering the emissions impact of the removal of 7.8 psi RVP programs from the Pittsburgh-Beaver Valley Area (as part of its December 2018 approval of Pennsylvania's request to remove the PA DEP RVP requirements in the same area), EPA is not soliciting public comment on the technical merits of that approved demonstration. Any comments received will be considered by the Agency before EPA takes final action.

VII. 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 to approve Pennsylvania's request to remove ACHD's gasoline volatility regulatory requirements from the Pennsylvania SIP does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference,

Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

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

Dated: April 12, 2019.

Cosmo Servidio.

Regional Administrator, Region III.

[FR Doc. 2019–08156 Filed 4–25–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 303, 307, and 309

RIN 0970–AC75

Child Support Program Technical Corrections Notice of Proposed Rulemaking; Correction

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects the regulatory identification number (RIN) that appeared in the heading of a notice of proposed rulemaking published in the **Federal Register** of December 18, 2018. Through that document, OCSE proposed to eliminate regulations rendered outdated or unnecessary and make technical amendments to the Flexibility, Efficiency, and Modernization in Child Support Enforcement final rule, published on December 20, 2016, including proposing to amend the compliance date for review and adjustment of child support orders.

DATES: April 26, 2019.

SUPPLEMENTARY INFORMATION: In the notice of proposed rulemaking FR Doc 2018–27224, beginning on page 64803 in the issue of December 18, 2018, the regulatory identification number (RIN) appeared incorrectly in the heading of the document in the second column as RIN 0970–AC50. The RIN is corrected to read ''RIN 0970–AC75''.

Dated: April 18, 2019.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2019–08299 Filed 4–25–19; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Four Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of a status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on four petitions to add species to the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that petitions to list the Arizona eryngo (*Eryngium sparganophyllum*) and giraffe (*Giraffa camelopardalis*) present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate reviews of the statuses of those species to determine if the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding those species. Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether or not the petitioned actions are warranted, in accordance with the Act. We also find that petitions to list the Refugio manzanita (*Arctostaphylos refugioensis*) and San Gabriel chestnut snail (*Glyptostoma gabrielense*) do not present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, we are not initiating status reviews of these species in response to the petitions. We refer to these findings as ''not substantial'' petition findings.

DATES: These findings were made on April 26, 2019. As we commence work on the status reviews, we seek any new information concerning the statuses of, or threats to, the species or their habitats. Any information received during our work on the status reviews will be considered.

ADDRESSES:

Supporting documents: Summaries of the bases for the petition findings contained in this document are available on *http://www.regulations.gov* under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status Reviews: If you have new scientific or commercial data or other information concerning the statuses of, or threats to, the species for which a status review is being initiated, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter the appropriate docket number (see the Table 1 under **SUPPLEMENTARY INFORMATION**). Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard* copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see the Table 1 under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us.

Not-substantial petition findings: Summaries of the bases for the not-substantial petition findings contained in this document are available on *http://www.regulations.gov* under the appropriate docket number (see Table 2 under **SUPPLEMENTARY INFORMATION**). This supporting information is also available for public inspection, by appointment, during normal business hours, by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. If you have new information concerning the status of, or threats to, these species, or their habitats, please submit that information to the appropriate person.

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
Arizona eryngo	Jeff Humphrey, 602–242–0210; *jeff_humphrey@fws.gov*.
giraffe	Don Morgan, 703–358–2444; *don_morgan@fws.gov*.
Refugio manzanita	Catherine Darst, 805–677–3318; *cat_darst@fws.gov*.
San Gabriel chestnut snail	Mendel Stewart, 760–431–9440; *mendel_stewart@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the Lists (*i.e.,* ''list'' a species), remove a species from the Lists (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to ''credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted'' (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*). The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires us to promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

Summaries of Petition Findings

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on *http://www.regulations.gov* under the appropriate docket number.

TABLE 1—STATUS REVIEWS

Common name	Docket No.	URL to Docket on *http://www.regulations.gov*
Arizona eryngo	FWS–R2–ES–2018–0087	*https://www.regulations.gov/docket?D=FWS-R2-ES-2018-0087*.
giraffe	FWS–HQ–ES–2017–0101	*https://www.regulations.gov/docket?D=FWS-HQ-ES-2017-0101*.

TABLE 2—NOT-SUBSTANTIAL PETITION FINDINGS

Common name	Docket No.	URL to Docket on *http://www.regulations.gov*
Refugio manzanita	FWS–R8–ES–2018–0088	*https://www.regulations.gov/docket?D=FWS-R8-ES-2018-0088.*
San Gabriel chestnut snail	FWS–R8–ES–2018–0089	*https://www.regulations.gov/docket?D=FWS-R8-ES-2018-0089.*

Evaluation of a Petition To List Arizona Eryngo as an Endangered or Threatened Species Under the Act

Species and Range

Eryngium sparganophyllum (Arizona eryngo); Arizona and Mexico.

Petition History

On April 9, 2018, we received a petition from the Center for Biological Diversity, requesting that the plant, Arizona eryngo, be listed as endangered or threatened and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Arizona eryngo due to potential threats associated with the following: Groundwater pumping, spring modification, surface water diversion, trespass cattle grazing, and management activities that result in an encroachment of shrubs (Factor A); and climate change (Factor E). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2018–0087 under the Supporting Documents section.

Evaluation of a Petition To List the Giraffe as an Endangered or Threatened Species Under the Act

Species and Range

Giraffe (*Giraffa camelopardalis*): Africa (Angola, Botswana, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Ethiopia, Kenya, Malawi, Mozambique, Namibia, Niger, Rwanda, Somalia, South Africa, South Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe).

Petition History

On April 19, 2017, we received a petition from the Center for Biological Diversity, Humane Society International, Humane Society of the United States, International Fund for Animal Welfare, and Natural Resources Defense Council, requesting that the giraffe be listed as an endangered or threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the giraffe due to potential threats associated with the following: Development, agriculture, and resource harvesting (Factor A); commercial trade and recreational hunting and poaching (Factor B); disease (Factor C); and small population dynamics/genetic isolation (Factor E). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2017–0101 under Supporting Documents.

Evaluation of a Petition To List Refugio Manzanita as an Endangered Species Under the Act

Species and Range

Arctostaphylos refugioensis (Refugio manzanita); Santa Barbara County, California.

Petition History

On November 30, 2017, we received a petition from Los Padres ForestWatch and the California Chaparral Institute, requesting the plant, Refugio manzanita, be listed as endangered and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not present substantial scientific or commercial information indicating the petitioned action may be warranted for the Refugio manzanita. Because the petition does not present substantial information indicating that listing the Refugio manzanita may be warranted, we are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see *Not-substantial petition findings* under **ADDRESSES**, above).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0088 under the Supporting Documents section.

Evaluation of a Petition to List the San Gabriel Chestnut Snail as an Endangered or Threatened Species Under the Act

Species and Range

San Gabriel chestnut snail (*Glyptostoma gabrielense*); Los Angeles County, California.

Petition History

On November 13, 2017, we received a petition from the Center for Biological Diversity, requesting that the San Gabriel chestnut snail be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not present substantial scientific or commercial information indicating the petitioned

action may be warranted for the San Gabriel chestnut snail. Because the petition does not present substantial information indicating that listing the San Gabriel chestnut snail may be warranted, we are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see *Not-substantial petition findings* under **ADDRESSES**, above).

The basis for our finding on this petition, and other information regarding our review of this petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0089 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for the Arizona eryngo and giraffe present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

In addition, we have determined that the petitions summarized above for Refugio manzanita and San Gabriel chestnut snail do not present substantial scientific or commercial information indicating that the requested actions may be warranted. Therefore, we are not initiating status reviews for these species.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 15, 2019.

Margaret E. Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2019–08449 Filed 4–25–19; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 84, No. 81
Friday, April 26, 2019

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

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent To Renew a Currently Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act of 1995, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to request Office of Management and Budget (OMB) approval for the revision and extension of a currently approved information collection for the Expanded Food and Nutrition Education Program (EFNEP).

DATES: To assure consideration, written comments on this notice are due 60 days from the publication of this notice. Comments received after the 60th day may not be considered.

METHOD OF COMMENT SUBMISSION: Applicants may submit written comments concerning this notice or requests for copies of the information collection by *Email: rmartin@nifa.usda.gov;* or *Mail:* Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW, Washington, DC 20250–2216.

AGENCY CONTACT: Robert Martin, e-Government Program Leader; Email: *rmartin@nifa.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Expanded Food and Nutrition Education Program.

OMB Number: 0524–0044.

Expiration Date of Current Approval: April 30, 2019.

Type of Request: Intent to seek revision and extension of a currently approved information collection for three years.

Abstract: NIFA's Expanded Food and Nutrition Education Program (EFNEP) is a unique program that began in 1969 and is designed to reach limited resource audiences, especially youth and families with young children. EFNEP is authorized under section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175 and funded under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)). Extension professionals train and supervise paraprofessionals and volunteers who teach food and nutrition information and skills to limited families and youth. EFNEP operates through the 1862 and 1890 Land Grant Universities (LGU) in all 50 States, the District of Columbia, and in American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands.

The objectives of EFNEP are to assist families and youth with limited resourced in acquiring the knowledge, skills, attitudes, and changed behaviors necessary for nutritionally sound diets, and to contribute to their personal development and the improvement of the total family diet and nutritional well-being.

NIFA sponsors an integrated data collection process that is used at the county, State, and Federal level. The current data collection system, the Web based Nutrition Education Evaluation and Reporting System (WebNEERS), captures EFNEP impacts. Its purpose is to gauge if the Federal assistance provided has had an impact on the target audience. It also enables EFNEP staff to make programmatic improvements in delivering nutrition education. Further, the data collected provide information for program management decisions and diagnostic assessments of participants' needs. In order to capture all of EFNEP's reporting requirements in one place, EFNEP program plans and budgetary data are now submitted, reviewed, and approved through WebNEERS. These specific reporting requirements are tied to release of Federal EFNEP funds.

WebNEERS grew out of EFNEP's long-standing commitment to program evaluation. Since EFNEP's inception in 1969, states have annually reported demographic and dietary behavior change of their EFNEP audience to the federal National Program Leader at NIFA, and its preceding agencies within USDA. Increased rigor and attention to data collection began in 1990 in response to communications with staff from the House Committee on Agriculture, who expressed a need for greater accountability and the ability to show the degree to which EFNEP was meeting its objectives. Representatives from the Economic Research Service, Food and Nutrition Service, USDA Office of Budget and Program analysis, as well as evaluation specialists from the Federal Extension Service and its university partners, identified the most valuable behaviors to measure, which then became the core components of the system. Concurrence was received from staff for the House Committee on Agriculture. Over the years, the system has been upgraded to align with technological advancements, incorporate relevant evidence-based practices and practice-based evidence, and address changes in data collection standards and requirements (*e.g.,* data collection on race/ethnicity, updates to the U.S. dietary guidelines, etc.) Data submission has evolved from paper forms, to discs, to the current web-based system. With each of these evolutionary changes, the data collection system was also reviewed for appropriateness and need for changes to collected content. Development of Web-NEERS began in FY 2011; national implementation of this web-based platform began in FY 2013. Web-NEERS and its predecessor collection systems have been approved by OMB.

Specifications for WebNEERS were developed by a committee of representatives from the EFNEP and Extension community and others with content and audience expertise from across the United States. These specifications are in compliance with Federal Equal Employment Opportunity standards for maintaining, collecting, and presenting data on race and ethnicity, and protecting personally identifiable information. WebNEERS stores information on:

(1) Adult program participants, their family structure, and dietary practices;

(2) Youth group participants;

(3) Staff;

(4) Annual budgets; and

(5) Annual program plans.

WebNEERS is a secure online system designed, hosted, and maintained by

Clemson University. WebNEERS is accessed through the internet via Internet Explorer, Firefox, Google Chrome, and Safari web browsers. It can also be accessed through mobile devices and tablets. The existing system incorporates local, university, and Federal components, the EFNEP 5-Year Plan/Annual Update (program plan), the EFNEP budget and budget justification, and the social ecological framework of the Community Nutrition Education (CNE) logic model. Only approved users can access WebNEERS and each user can only access data based on his/her defined permissions. The system also has the capability to export raw data for external analysis. Data exported from WebNEERS do not include personally identifiable information. Several stakeholder groups provide ongoing input on the system to ensure: (1) That EFNEP only collects data NIFA needs for evaluation and reporting purposes, and (2) to resolve bugs or other concerns experienced users. These stakeholder groups also give feedback to improve user interfaces and to improve functionality and capabilities of the system.

The evaluation processes of EFNEP remain consistent with the requirements of Congressional legislation and OMB. The Government Performance and Results Act (GPRA) of 1993.

WebNEERS is a single web-based system that operates at three levels: Region (County); Institution (university), and Federal. Data is entered at the regional level and is available in aggregated form at the Institution level in real time. University staff are able to generate institutional-level reports to guide program management decisions and to inform State-level stakeholders.[1] In States that have both 1862 and 1890 LGUs, separate reports are generated by each type of institution on the respective audiences served. A permissions process is used to allow data to flow from the Region, to the Institution, to the Federal level. Data is not available at the Federal level until the university staff submits it. This process allows for State and National assessments of the program's impact. National data is used to create National reports, which are made available to the public.

There are revisions to the currently approved collection. WebNEERS uses an agile development process, which allows software developers to work closely with users to operate smoothly, maintain securities, improve efficiencies, and function effectively in the ever changing environment in which EFNEP is administered. It also supports an accelerated incorporation of research-based indicators to appropriately identify behavioral change. Two key developments have been made since the last OMB approval. First was the replacement of the Adult Behavior Checklist—a measurement tool that had been used for more than 25 years—with a new Food and Physical Activity Questionnaire. Prior to implementation, the new tool was tested for feasibility, validity, and reliability with the target audience via a multistate research group with programmatic expertise and experience. Second was the replacement of the evaluation form for youth grades 3–5. Replacement of youth evaluation indicators is an ongoing initiative within EFNEP to ensure that the tools used are valid, reliable, and programmatically and developmentally appropriate. Grades K–2 and 3–5 have been completed. Review and development of indicators to potentially replace the existing tools for grades 6–8 and 9–12 has just begun.

Estimate of Burden: The total annual estimated burden for WebNEERS is 15,440 hours for this data collection process—for participant education and data entry, aggregation, and reporting; and for preparation, review, and submission of EFNEP program plans and budgetary information. The burden for respondents was determined in two parts:

(1) Regional data estimates (14,048.73 hours)—were determined from time stamp averages. All FY 2018 records were analyzed to identify those which involved a time lapse representing data entry and submission. Periodic samples (every 10,000 records) were then used to calculate the average length of time for each type of record. Averages were multiplied by the total number of records to get the final estimate.

(2) Institutional data estimates (421.4 hours)—included program plans and budgetary information. These estimates were based on calculations of the previous survey sent by Clemson University to nine EFNEP Coordinators and their data managers, since the type of data collected remains unchanged and since a time stamp process is not yet in place to determine those calculations.

Overall, burden estimates are considerably lower than previously estimated—particularly at the regional level. This is likely due to the use of a different methodology involving technology to help determine the estimated burden. Although additional reporting requirements were included in the updated system with the implementation of the new food and physical activity questionnaire (*e.g.* the use of 20 rather than 10 questions), the overall burden to the users was reduced.

Respondents: Individuals, households, business or other for-profit or not-for-profit institutions.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done in Washington, DC, this 18th day of April, 2019.

Steve Censky,

Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2019–08438 Filed 4–25–19; 8:45 am]

BILLING CODE 3410–22–P

[1] "States" includes all 50 states, the District of Columbia, and insular areas.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2019–0010]

Notice of Request To Revise an Approved Information Collection: Public Health Information System

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to revise the approved information collection for the FSIS Public Health Information System (PHIS) so that FSIS can make periodic updates to the numbering system on the Meat and Poultry Export Certificate of Wholesomeness (FSIS Form 9060–5). The approval for this information collection will expire on January 31, 2021. FSIS is making no changes to the burden estimate.

DATES: Submit comments on or before June 25, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

• *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

• *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.

• *Hand-or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2019–0010. 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: Public Health Information System.

OMB Control Number: 0583–0153.

Expiration Date: 01/31/2021.

Type of Request: Revision to an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a revision to the approved information collection regarding the FSIS Public Health Information System (PHIS) so that FSIS can make periodic updates to the numbering system on the Meat and Poultry Export Certificate of Wholesomeness (FSIS Form 9060–5). The approval for this information collection will expire on January 31, 2021. FSIS is making no changes to the burden estimate.

FSIS requires the use of FSIS Form 9060–5 ''Meat and Poultry Export Certificate of Wholesomeness'' for all meat and poultry exports (9 CFR 322.2 and 9 CRF 381.106). The numbering system on FSIS Form 9060–5 consists of three letters followed by six numbers. The first two letters, MP, are static and stand for ''Meat and Poultry.'' The third letter rotates to the next sequential letter in the alphabet every 999,999 export certificates. Each series of the 9060–5 repeats the same sequential numbers, from 000001 to 999999. The sequential rotation of the third letter allows for one set of numbers from one series to be distinguished from the same set of numbers of a different series. The frequency of change from one letter to the next sequential letter will vary and is dependent on multiple factors, including the number of meat and poultry exports, as well as which countries are included in the PHIS export module. In general, FSIS will change series to the next sequential letter less frequently as more countries are added to the PHIS export module.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of burden: The public reporting burden for this collection of information is estimated to average .179 hours per response.

Estimated total number of respondents: 6,242.

Estimated average number of responses per respondent: 103.

Estimated annual number of responses: 643,008.

Estimated Total Annual Burden on Respondents: 115,117 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, 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 also will also announce and provide a link to it through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United

States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done in Washington, DC.

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2019–08451 Filed 4–25–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): 2019/2020 Income Eligibility Guidelines

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

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (''Department'') announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

DATES: *Implementation date:* July 1, 2019.

FOR FURTHER INFORMATION CONTACT: Kurtria Watson, Chief, Policy Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 605–4387.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice is exempt from review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

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 this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29100, June 24, 1983, and 49 FR 22675, May 31, 1984).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786(d)(2)(A)), requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income-eligible for the WIC Program if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced-price school meals is 185 percent of the Federal poverty guidelines, as adjusted. Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 2019 was published by the Department of Health and Human Services (HHS) at 84 FR 1167, February 1, 2019. The guidelines published by HHS are referred to as the ''poverty guidelines.''

Program Regulations at 7 CFR 246.7(d)(1) specify that State agencies may prescribe income guidelines either equaling the income guidelines established under Section 9 of the Richard B. Russell National School Lunch Act for reduced-price school meals, or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced-price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time, the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period of July 1, 2019 through June 30, 2020. Consistent with section 17(f)(17) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786(f)(17)), a State agency may implement the revised WIC income eligibility guidelines concurrently with the implementation of income eligibility guidelines under the Medicaid Program established under Title XIX of the Social Security Act (42 U.S.C. 1396, *et seq.*). State agencies may coordinate implementation with the revised Medicaid guidelines, *i.e.,* earlier in the year, but in no case may implementation take place later than July 1, 2019. State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on or before July 1, 2019.

The table in this Notice contains the income limits by household size for the 48 contiguous States, the District of Columbia, and all United States Territories, including Guam. Separate tables for Alaska and Hawaii have been included for the convenience of the State agencies because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States.

Authority: 42 U.S.C. 1786.

Dated: March 28, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 2019 to June 30, 2020]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
48 Contiguous States, D.C., Guam and Territories										
1	$12,490	$1,041	$521	$481	$241	$23,107	$1,926	$963	$889	$445
2	16,910	1,410	705	651	326	31,284	2,607	1,304	1,204	602
3	21,330	1,778	889	821	411	39,461	3,289	1,645	1,518	759
4	25,750	2,146	1,073	991	496	47,638	3,970	1,985	1,833	917
5	30,170	2,515	1,258	1,161	581	55,815	4,652	2,326	2,147	1,074
6	34,590	2,883	1,442	1,331	666	63,992	5,333	2,667	2,462	1,231
7	39,010	3,251	1,626	1,501	751	72,169	6,015	3,008	2,776	1,388
8	43,430	3,620	1,810	1,671	836	80,346	6,696	3,348	3,091	1,546
Each add'l family member add	+$4,420	+ $369	+ $185	+ $170	+ $85	+ $8,177	+ $682	+ $341	+ $315	+ $158
Alaska										
1	$15,600	$1,300	$650	$600	$300	$28,860	$2,405	$1,203	$1,110	$555
2	21,130	1,761	881	813	407	39,091	3,258	1,629	1,504	752
3	26,660	2,222	1,111	1,026	513	49,321	4,111	2,056	1,897	949
4	32,190	2,683	1,342	1,239	620	59,552	4,963	2,482	2,291	1,146
5	37,720	3,144	1,572	1,451	726	69,782	5,816	2,908	2,684	1,342
6	43,250	3,605	1,803	1,664	832	80,013	6,668	3,334	3,078	1,539
7	48,780	4,065	2,033	1,877	939	90,243	7,521	3,761	3,471	1,736
8	54,310	4,526	2,263	2,089	1,045	100,474	8,373	4,187	3,865	1,933
Each add'l family member add	+$5,530	+ $461	+ $231	+ $213	+ $107	+ $10,231	+ $853	+ $427	+ $394	+ $197
Hawaii										
1	$14,380	$1,199	$600	$554	$277	$26,603	$2,217	$1,109	$1,024	$512
2	19,460	1,622	811	749	375	36,001	3,001	1,501	1,385	693
3	24,540	2,045	1,023	944	472	45,399	3,784	1,892	1,747	874
4	29,620	2,469	1,235	1,140	570	54,797	4,567	2,284	2,108	1,054
5	34,700	2,892	1,446	1,335	668	64,195	5,350	2,675	2,470	1,235
6	39,780	3,315	1,658	1,530	765	73,593	6,133	3,067	2,831	1,416
7	44,860	3,739	1,870	1,726	863	82,991	6,916	3,458	3,192	1,596
8	49,940	4,162	2,081	1,921	961	92,389	7,700	3,850	3,554	1,777
Each add'l family member add	+$5,080	+ $424	+ $212	+ $196	+ $98	+ $9,398	+ $784	+ $392	+ $362	+ $181

INCOME ELIGIBILITIY GUIDELINES
SUPPLEMENTAL CHART FOR FAMILY SIZES GREATER THAN EIGHT

[Effective from July 1, 2019 to June 30, 2020]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
48 Contiguous States, D.C., Guam and Territories										
9	$47,850	$3,988	$1,994	$1,841	$921	$88,523	$7,377	$3,689	$3,405	$1,703
10	52,270	4,356	2,178	2,011	1,006	96,700	8,059	4,030	3,720	1,860
11	56,690	4,725	2,363	2,181	1,091	104,877	8,740	4,370	4,034	2,017
12	61,110	5,093	2,547	2,351	1,176	113,054	9,422	4,711	4,349	2,175
13	65,530	5,461	2,731	2,521	1,261	121,231	10,103	5,052	4,663	2,332
14	69,950	5,830	2,915	2,691	1,346	129,408	10,784	5,392	4,978	2,489
15	74,370	6,198	3,099	2,861	1,431	137,585	11,466	5,733	5,292	2,646
16	78,790	6,566	3,283	3,031	1,516	145,762	12,147	6,074	5,607	2,804
Each add'l family member add	+ $4,420	+ $369	+ $185	+ $170	+ $85	+ $8,177	+ $682	+ $341	+ $315	+ $158
Alaska										
9	$59,840	$4,987	$2,494	$2,302	$1,151	$110,704	$9,226	$4,613	$4,258	$2,129
10	65,370	5,448	2,724	2,515	1,258	120,935	10,078	5,039	4,652	2,326
11	70,900	5,909	2,955	2,727	1,364	131,165	10,931	5,466	5,045	2,523
12	76,430	6,370	3,185	2,940	1,470	141,396	11,783	5,892	5,439	2,720
13	81,960	6,830	3,415	3,153	1,577	151,626	12,636	6,318	5,832	2,916
14	87,490	7,291	3,646	3,365	1,683	161,857	13,489	6,745	6,226	3,113
15	93,020	7,752	3,876	3,578	1,789	172,087	14,341	7,171	6,619	3,310
16	98,550	8,213	4,107	3,791	1,896	182,318	15,194	7,597	7,013	3,507
Each add'l family member add	+ $5,530	+ $461	+ $231	+ $213	+ $107	+ $10,231	+ $853	+ $427	+ $394	+ $197
Hawaii										
9	$55,020	$4,585	$2,293	$2,117	$1,059	$101,787	$8,483	$4,242	$3,915	$1,958
10	60,100	5,009	2,505	2,312	1,156	111,185	9,266	4,633	4,277	2,139
11	65,180	5,432	2,716	2,507	1,254	120,583	10,049	5,025	4,638	2,319

INCOME ELIGIBILITIY GUIDELINES—Continued
SUPPLEMENTAL CHART FOR FAMILY SIZES GREATER THAN EIGHT
[Effective from July 1, 2019 to June 30, 2020]

Household size	Federal poverty guidelines—100%					Reduced price meals—185%				
	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly	Annual	Monthly	Twice-monthly	Bi-weekly	Weekly
12	70,260	5,855	2,928	2,703	1,352	129,981	10,832	5,416	5,000	2,500
13	75,340	6,279	3,140	2,898	1,449	139,379	11,615	5,808	5,361	2,681
14	80,420	6,702	3,351	3,094	1,547	148,777	12,399	6,200	5,723	2,862
15	85,500	7,125	3,563	3,289	1,645	158,175	13,182	6,591	6,084	3,042
16	90,580	7,549	3,775	3,484	1,742	167,573	13,965	6,983	6,446	3,223
Each add'l family member add	+ $5,080	+ $424	+ $212	+ $196	+ $98	+ $9,398	+ $784	+ $392	+ $362	+ $181

[FR Doc. 2019–08389 Filed 4–25–19; 8:45 am]
BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Fire & Aviation Management Medical Qualifications Program

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with revisions to the information collection, Fire & Aviation Management Medical Qualifications Program.

With this extension, the Agency has changed the name of the information collection to Fire & Aviation Management Medical Qualifications Program.

DATES: Comments must be received in writing on or before June 25, 2019 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Attention: Dr. Jennifer Symonds, USDA Forest Service, National Interagency Fire Center, 3833 South Development Avenue, Boise, Idaho 83705. Comments also may be submitted via facsimile to 208–387–5735 or by email to *jennifer.symonds@usda.gov.*

The public may inspect comments received at the National Interagency Fire Center, during normal business hours. Visitors are encouraged to call ahead to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Dr. Jennifer Symonds, Forest Service Wildland Fire Medical Qualifications Program Manager, at 208–387–5978.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Fire & Aviation Management Medical Qualifications Program.

OMB Number: 0596–0164.

Expiration Date of Approval: June 30, 2019.

Type of Request: Extension.

Abstract: The Protection Act of 1922 (16 U.S.C. 594) authorizes the Forest Service to fight fires on National Forest System lands. This information collection is an approved Forest Service collection. The collection covers the USDA Forest Service and the Department of the Interior, and contains the information collection activities and burden hours for both agencies.

Wildland firefighters perform long hours of arduous labor in adverse environmental conditions. It is imperative that these firefighters be in sufficient physical condition to avoid injury to themselves or their coworkers. Federal employees and private individuals seeking employment as a firefighter with the Forest Service or the Department of Interior complete the health capability forms. This information collection covers the forms and burden hours associated with the private individuals who apply for firefighter positions with the aforementioned agencies.

Form FS–5100–30, *Work Capacity Test—Informed Consent.* The form is signed by those deemed to be in sufficient health to undergo a Work Capacity Test. The Work Capacity Test determines the level of an individual's aerobic fitness, level of muscular strength, and muscle endurance. The consent form is necessary to ensure the individual taking the test is aware of the various testing levels (arduous, moderate, and light) and the risks involved. The individual indicates the following:

- They have read the information on the form, the brochure ''Work Capacity Test'' and understand the purpose, instructions, and risks of the test;
- They have read the information, understood, and truthfully answered the Health Screen Questionnaire; and
- Test to be taken—pack test (arduous), field test (moderate), or walk test (light).

Failure to collect this data could result in injuries or deaths during the ''Work Capacity Test'' and while working on wildland fires. The information provided by an applicant for Federal employment is stored in secured official files, maintained according to Agency regulations. The information gathered is not available from other sources.

Estimate of Annual Burden: 5.5 Minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 20,504.

Estimated Annual Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 1,845 hours.

Form FS–5100–31, *Health Screening Questionnaire.* Prospective fire personnel must complete this form when seeking employment as new fire personnel with the Forest Service or Department of the Interior. This form collects the following information:

- Name and Unit;
- Medical history;
- Current medical symptoms;
- Other health issues; and
- Cardiovascular risk factors.

The information collected pertains to an individual's health status and health history in an effort to determine if any physical conditions exist that might result in injury or death during fitness testing or when fighting a wildfire. If Federal Agency officials determine, based on the collected information, that an individual may not be physically able to train for or take a Work Capacity Test; the agency will require the individual to undergo a physical examination by a physician.

Failure to collect this data could result in injuries or deaths during the ''Work Capacity Test'' and while working on wildland fires. The

information provided by an applicant for Federal employment is stored in secured official files, maintained according to Agency regulations. The information gathered is not available from other sources.

Estimate of Annual Burden: 3 Minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 20,504.

Estimated Annual Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 1,025 hours.

Form FS–5100–41, *Arduous Duty Medical Exam.* Federal employees and private individuals seeking employment as a firefighter with the Forest Service will complete the form every three years (years 0, 3, 6, etc.). The form collects the following information:

- Name, Federal Employee Number (if applicable), Sex and Date of Birth;
- Address, Email Address, and Telephone Number;
- Physical Activity Level and Fire Experience with Home Unit and Forest;
- Past Medical History;
- Current medical symptoms; and
- Other health issues.

The information collected pertains to an individual's health status and health history in an effort to determine if any medical or physical conditions exist that might result in injury or death during fitness testing or when fighting a wildfire. If Federal Agency officials determine, based on the collected information, that an individual may not be medically or physically able to train for or take a Work Capacity Test or meet the Medical Standards of arduous duty fire positions, the individual may request a waiver.

The information provided by a firefighter for Federal employment is stored in secured official files, maintained according to Agency regulations. The information gathered is not available from other sources.

Estimate of Annual Burden: 30 Minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 10,252.

Estimated Annual Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 5,126 hours.

Form FS–5100–42, *Self-Certification Statement and Blood Pressure Check.* Federal employees and private individuals seeking employment as a firefighter with the Forest Service will complete the form the years in which the individual does not complete an Arduous Duty Examination. The form collects the following information:

- Name and Date of Birth;
- Home Unit and Forest
- Medical history;
- Current medical symptoms; and
- Other health issues.

The information collected pertains to an individual's health status and health history in an effort to determine if any medical or physical conditions exist that might result in injury or death during fitness testing or when fighting a wildfire. If Federal Agency officials determine, based on the collected information, that an individual may not be medically or physically able to train for or take a Work Capacity Test or meet the Medical Standards of arduous duty fire positions, the individual may request a waiver.

The information provided by a firefighter for Federal employment is stored in secured official files, maintained according to Agency regulations. The information gathered is not available from other sources.

Estimate of Annual Burden: 3 Minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 10,252.

Estimated Annual Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 513 hours.

TOTAL Estimate of Annual Burden: 41.5 Minutes.

TOTAL Type of Respondents: Individuals.

TOTAL Estimated Annual Number of Respondents: 20,504.

TOTAL Estimated Annual Number of Responses per Respondents: 1.

TOTAL Estimated Total Annual Burden on Respondents: 8,509 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Dated: April 15, 2019.

Patricia Hirami,

Acting Deputy Chief, State & Private Forestry.

[FR Doc. 2019–08390 Filed 4–25–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Federal Economic Statistics Advisory Committee Meeting

AGENCY: Bureau of the Census, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the Federal Economic Statistics Advisory Committee (FESAC). The Committee advises the Under Secretary for Economic Affairs, the Directors of the Bureau of Economic Analysis (BEA) and the Census Bureau, and the Commissioner of the U.S. Department of Labor's Bureau of Labor Statistics (BLS) on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. If you plan to attend the meeting, please register by Friday, June 7, 2019. You may access the online registration form with the following link: *https://www.eventbrite.com/e/federal-economic-statistics-advisory-committee-fesac-meeting-tickets-59113500070.* Seating is available to the public on a first-come, first-served basis. An agenda will be accessible before the meeting at the following link: *https://www.census.gov/fesac.*

DATES: June 14, 2019. The meeting will begin at approximately 9:00 a.m. and adjourn at approximately 4:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Conference Center, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: James R. Spletzer, Designated Federal Official, Department of Commerce, U.S. Census Bureau, Research and Methodology Directorate, Room 5K175, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–4069, email: *james.r.spletzer@census.gov.* For TTY callers, please call the Federal Relay Service at 1–800–877–8339 and give them the above listed number. This service is free and confidential.

SUPPLEMENTARY INFORMATION: Members of the FESAC are appointed by the Secretary of Commerce. The Committee

advises the Under Secretary for Economic Affairs, the Directors of the BEA and the Census Bureau, and the Commissioner of the Department of Labor's BLS on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. The Committee is established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2).

The meeting is open to the public, and a brief period is set aside for public comments and questions. Persons with extensive questions or statements must submit them in writing at least three days before the meeting to the Designated Federal Official named above.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Designated Federal Official as soon as known, and preferably two weeks prior to the meeting.

Due to security protocols and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo identification must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: April 19, 2019.

Steven D. Dillingham,

Director, Bureau of the Census.

[FR Doc. 2019–08447 Filed 4–25–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–29–2019]

Approval of Expansion of Subzone 279A; Thoma-Sea Marine Constructors, L.L.C., Houma and Lockport, Louisiana

On February 27, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Houma-Terrebonne Airport Commission, grantee of FTZ 279, requesting an expansion of Subzone 279A on behalf of Thoma-Sea Marine Constructors, L.L.C. The expanded subzone would be subject to the existing activation limit of FTZ 279.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 7872, March 5, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 279A was approved on April 23, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 279's 2,000-acre activation limit.

Dated: April 23, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–08452 Filed 4–25–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–835]

Rubber Bands From Thailand: Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty (AD) order on rubber bands from Thailand.

DATES: Applicable April 26, 2019.

FOR FURTHER INFORMATION CONTACT: Stephanie Berger at (202) 482–2483 and Laurel LaCivita at 202–482–4243, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.210(c), on March 7, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of rubber bands from Thailand.[1] On April 22, 2019, the ITC notified Commerce of its final determination, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured by reason of LTFV imports of rubber bands from Thailand, within the meaning of section 735(b)(1)(A)(i) of the Act.[2]

Scope of the Order

The products covered by this order are rubber bands from Thailand. For a complete description of the scope of the order, *see* the Appendix to this notice.

AD Order

On April 22, 2019, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of rubber bands from Thailand that are sold in the United States at LTFV. Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this AD order. Because the ITC determined that imports of rubber bands from Thailand are materially injuring a U.S. industry, unliquidated entries of such merchandise from Thailand entered, or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of rubber bands from Thailand. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determination, as further described below, antidumping duties will be assessed on unliquidated entries of rubber bands from Thailand entered, or withdrawn from warehouse, for consumption on or after September 6, 2018, the date of publication of the *Preliminary Determination.*[3]

Additionally, because the estimated weighted-average dumping margin for Liang Hah Heng International Rubber Co., Ltd and Hah Shung Heng Co. was determined to be zero in the investigation of rubber bands from Thailand, Commerce is directing CBP to not suspend liquidation of entries of subject merchandise produced by Liang Hah Heng or Hah Shung Heng and exported by either of these companies.

[1] *See Rubber Bands from Thailand: Final Determination of Sales at Less Than Fair Value,* 84 FR 8304 (March 7, 2019) (*Final Determination*).

[2] *See* Letter to the Honorable Jeffrey Kessler, Assistant Secretary of Commerce for Enforcement and Compliance, from David S. Johanson, Chairman of the ITC, ''Notification of ITC Final Determinations,'' dated April 22, 2019 (ITC Notification); *see also Rubber Bands from Thailand,* Investigation No. 731–TA–1410 (Final), (USITC Publication 4887).

[3] *See Rubber Bands from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 45220 (September 6, 2018) (*Preliminary Determination*).

However, entries of subject merchandise in any other producer/exporter combination, *e.g.,* merchandise produced by a third party and exported by Liang Hah Heng or Hah Shung Heng, or produced by Liang Hah Heng or Hah Shung Heng and exported by a third party, are subject to the applicable cash deposit rate equal to the estimated weighted-average dumping margin noted below.

Continuation of Suspension of Liquidation

Except as noted above and in the ''Provisional Measures'' section of this notice below, in accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation of all relevant entries of rubber bands from Thailand, effective the date of publication of the ITC's notice of final determination in the **Federal Register**. Because the estimated weighted-average dumping margin for Liang Hah Heng and Hah Shung Heng in the *Final Determination* was zero, entries of subject merchandise produced by Liang Hah Heng or Hah Shung Heng and exported by either of these companies are not subject to suspension of liquidation or cash deposit requirements. Entries of subject merchandise exported to the United States by any other producer/exporter combination, *e.g.,* merchandise produced by a third party and exported by Liang Hah Heng or Hah Shung Heng, or produced by Liang Hah Heng or Hah Shung Heng and exported by a third party, are not entitled to this exclusion from suspension of liquidation and are subject to the applicable cash deposit rates noted below. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. Accordingly, effective on the date of publication in the **Federal Register** of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on the subject merchandise, a cash deposit equal to the estimated weighted-average dumping margin listed below. The all-others rate applies to all other producers or exporters not specifically listed.

The estimated weighted-average dumping margin is as follows:

Exporter/producer	Weighted-average margins (percent)
U. Yong Industry Co., Ltd	5.87
Liang Hah Heng International Rubber Co., Ltd./Hah Shung Heng Co	0.00
All-Others	5.87

Provisional Measures

Section 733(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request Commerce to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of rubber bands from Thailand, we extended the four-month period to six months. Commerce's *Preliminary Determination* was published on September 6, 2018. Therefore, the extended period, beginning on the date of publication of the preliminary determination, ended on March 4, 2019. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of rubber bands from Thailand entered, or withdrawn from warehouse, for consumption after March 4, 2019, the date on which the provisional measures expired, through the day preceding the date of publication of the ITC's final injury determinations in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the AD order with respect to rubber bands from Thailand pursuant to section 736(a) of the Act. Interested parties can find a list of orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is published in accordance with sections 736(a) of the Act and 19 CFR 351.211(b).

Dated: April 22, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The scope of the order covers bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.,* a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product.

Excluded from the scope of the order are vulcanized rubber bands of various sizes with arrow shaped rubber protrusions from the outer diameter that exceeds at the anchor point a wall thickness of 0.125 inches and where the protrusion is used to loop around, secure and lock in place.

Excluded from the scope of the order are yarn/fabric-covered vulcanized rubber hair bands, regardless of size.

Merchandise covered by the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

[FR Doc. 2019–08450 Filed 4–25–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) determines that manufacturers/exporters of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) August 1, 2016, through July 31, 2017.

DATES: Applicable April 26, 2019

FOR FURTHER INFORMATION CONTACT: Toni Page, 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) 482–1398.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review on September 11, 2018.[1] We invited interested parties to comment on the *Preliminary Results.* Subsequent to the *Preliminary Results,* several separate rate entities sought to withdraw their requests for administrative review.[2] Between November 6 and 8, 2018, the petitioner (United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the USW)); Zhaoqing Junhong Co., Ltd (Junhong) (mandatory respondent); and various separate rate entities submitted case briefs.[3] On November 15, 2018, certain separate rate respondents submitted rebuttal briefs.[4]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[5] This extended the deadline for the final results to February 19, 2019. On January 31, 2019, Commerce fully extended the deadline for the final results until April 19, 2019.[6]

Scope of the Order

The scope of the order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation.[7] Merchandise covered by this order is classifiable under subheadings 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, 4011.20.50.10, 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

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[1] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission, in Part; 2016–2017,* 83 FR 45893 (September 11, 2018) and accompanying Preliminary Decision Memorandum (PDM) (*Preliminary Results*).

[2] *See* Winrun's Letter, ''Withdrawal of Request for AD Administrative Review and Request for Rescission Passenger Vehicle and Light Truck Tires from China,'' dated October 2, 2018 (Winrun Withdrawal Request); *see also* (1) Qingdao Sentury Tyre Co.; (2) Shandong Linglong Tyre Co.; (3) Hongkong Tiancheng Investment & Trading Co., Limited; (4) Shandong New Continent Tire Co., Ltd.; (5) YC Rubber Co. (North America) LLC; and (6) Sutong Tire Resources, Inc.'s Letter, ''GDLSK Respondents' Request to Extend Time to File Withdrawal of Review Requests and Request for Rescission of Review in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16–7/31/17),'' dated October 25, 2018 (Sentury *et al.* Withdrawal Requests); Shandong Hengyu's Letter, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal of Request for Administrative Review and Request for Rescission,'' dated November 6, 2018 (Shandong Hengyu Withdrawal Request); Qingdao Odyking Tyre Co., Ltd., Shandong Shuangwang Rubber Co., Ltd., and Shouguang Firemax Tyre Co., Ltd.'s Letter, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal of Request for Administrative Review and Request for Rescission,'' dated November 6, 2018 (Odyking *et al.* Withdrawal Requests); and American Pacific Industries, Inc.'s Letter, ''Passenger Vehicle and Light Truck Tires from People's Republic of China Re: Withdrawal of Request for Administrative Review,'' dated November 9, 2018 (API Withdrawal Request).

[3] *See* Petitioner's Case Brief, ''Case Brief Submitted on Behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC,'' dated November 8, 2018 (Petitioner's Case Brief); *see also* Junhong's Case Brief, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Case Brief of Zhaoqing Junhong Co., Ltd.,'' dated November 8, 2018 (Junhong's Case Brief); Crown International Corporation, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China, 2nd Administrative Review; Comments of Crown International Corporation on the Preliminary Results,'' dated November 8, 2018 (Crown's Comments); Hankook Tire China Co., Ltd., ''Passenger Vehicle and Light Truck Tires from China, Case No. A–570–016: Letter in Lieu of Case Brief,'' dated November 8, 2018 (Hankook's Comments); Hongkong Tiancheng Investment & Trading Co., Limited, ''HK Tiancheng Case Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16–7/31/17),'' dated November 8, 2018 (HK Tiancheng's Case Brief); Shandong Hengyu Science & Technology Co., Ltd., ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China –Case Brief,'' dated November 6, 2018 (Shandong Hengyu's Case Brief); Shandong Anchi Tyres Co., Ltd., Shandong Longyue Rubber Co., Ltd., Shandong Province Sanli Tire Manufactured Co., Ltd., and Mayrun Tyre (Hong Kong) Limited Comments, ''Passenger Vehicle and Light Truck Tires from China Comments in Lieu of Case Brief,'' dated November 8, 2018 (Shandong Anchi *et al.'s* Comments); Shandong Wanda Boto Tyre Co. Ltd. (Boto) and ITG Voma Corporation (ITG Voma) Case Brief, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Case Brief of Shandong Wanda Boto Tyre Co. Ltd. and ITG Voma Corporation,'' dated November 8, 2018 (Boto's & ITG Voma's Case Brief); Qingdao Sentury Tyre Co., Shandong Linglong Tyre Co., Hongkong Tiancheng Investment & Trading Co., Limited, Shandong New Continent Tire Co., Ltd., YC Rubber Co. (North America) LLC, and Sutong Tire Resources, Inc., ''GDLSK Clients' Case Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16–7/31/17),'' dated November 8, 2018 (Sentury *et al.'s* Case Brief); and Winrun Tyre Co., Ltd., ''Winrun's Case Brief: Passenger Vehicle and Light Truck Tires from China,'' dated November 8, 2018 (Winrun's Case Brief).

[4] *See* Winrun's Letter, ''Letter In Lieu Of Rebuttal Brief Passenger Vehicle and Light Truck Tires from China,'' dated November 15, 2018 (Winrun's Rebuttal Comments); *see also* Shandong Anchi *et al.'s* Letter, ''Passenger Vehicle and Light Truck Tires from China-Rebuttal Letter in Lieu of Brief,'' dated November 15, 2018 (Shandong Anchi *et al.'s* Rebuttal Comments); and Sentury *et al.'s* Rebuttal Brief, ''GDLSK Clients' Rebuttal Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16–7/31/17),'' dated November 15, 2018 (Sentury *et al.'s* Rebuttal Brief).

[5] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[6] *See* Memorandum, ''2016–2017 Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated January 31, 2019.

[7] For a complete description of the scope of the order, *see* ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2016–2017 Antidumping Duty Administrative Review,'' (April 19, 2019) (Issues and Decision Memorandum) at ''Scope of the Order.''

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.[8] The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Federal Tire (Jiangxi), Ltd. and Highpoint Trading, Ltd. each had no shipments during the POR.[9] As we have not received any information to contradict our preliminary finding, we determine that these entities did not have any shipments of subject merchandise during the POR. We will issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.[10]

Changes Since the Preliminary Results

Based on our analysis of the comments received and the record, we made certain changes to the *Preliminary Results.* Specifically, we have made adjustments to the calculation of the antidumping margin for Junhong; [11] and granted a separate rate to certain additional companies.[12]

Separate Rates

In the *Preliminary Results,* we found that evidence provided by mandatory respondent, Zhaoqing Junhong Co., Ltd. (Junhong), as well as by other companies, supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies.[13] We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsidering these determinations with respect to the separate rate status of these exporters. Therefore, for the final results, we continue to find that these entities are eligible for separate rates.

In addition, Commerce listed BC Tyre Group Limited/Best Choice International Trade Co., Limited, Crown International Corporation, Hankook Tire China Co., Ltd., and Hong Kong Tiancheng Investment & Trading Co., Limited as not qualifying for separate rate status in the *Preliminary Results.*[14] As discussed in more detail in the accompanying Issues and Decision Memorandum and/or the Final Separate Rate Memorandum, we find that these entities are eligible for separate rates and Appendix II below has been revised for these final results.

Further, Commerce continues to find that certain entities failed to demonstrate an absence of *de jure* and/or *de facto* government control, and, thus, are not eligible for separate rates. A list of entities that are not entitled to separate rate status for this administrative review are included in Appendix 2 of this notice.

Adjustments for Export Subsidies and Double-Remedies

Pursuant to section 772(c)(1)(C) of the Tariff Act of 1930, as amended (the Act), Commerce has adjusted Junhong's U.S. price for export subsidies. In addition, pursuant to sections 777A(f)(1)(A)–(C) of the Act, Commerce has adjusted Junhong's U.S. price for domestic subsidies passed through for these final results. Since Junhong's antidumping duty rate is assigned to the non-examined exporters which qualify for a separate rate, the export subsidy and double-remedy adjustments are also reflected in their rates.

Final Results of Review

Commerce finds that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Zhaoqing Junhong Co., Ltd	64.57
BC Tyre Group Limited/Best Choice International Trade Co., Limited	64.57
Crown International Corporation	64.57
Hankook Tire China Co., Ltd	64.57
Hong Kong Tiancheng Investment & Trading Co., Limited	64.57
Jiangsu Hankook Tire Co., Ltd	64.57
Kenda Rubber (China) Co., Ltd	64.57
Mayrun Tyre (Hong Kong) Limited	64.57
Qingdao Odyking Tyre Co., Ltd	64.57
Qingdao Sentury Tire Co., Ltd./Sentury Tire USA Inc./Sentury (Hong Kong) Trading Co., Limited	64.57
Shandong Anchi Tyres Co., Ltd	64.57
Shandong Hengyu Science & Technology Co., Ltd	64.57
Shandong Linglong Tyre Co., Ltd	64.57
Shandong Longyue Rubber Co., Ltd	64.57
Shandong New Continent Tire Co., Ltd	64.57
Shandong Province Sanli Tire Manufactured Co., Ltd	64.57

[8] *See* Issues and Decision Memorandum at ''Discussion of the Issues.''

[9] *See Preliminary Results* 83 FR 45893, 45894.

[10] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) (*Assessment Notice*); *see also* ''Assessment Rates'' section of this notice.

[11] *See* Issues and Decision Memorandum at comments 5 and 6; and Memorandum, ''Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Analysis Memorandum for Zhaoqing Junhong Co., Ltd.,'' dated concurrently with the instant memorandum (Junhong Final Calculation Memorandum).

[12] *See* Issues and Decision Memorandum at comment 7, *see also* Memorandum, ''Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Separate Rate Status,'' dated concurrently with the instant memorandum (Final Separate Rate Memorandum).

[13] *See Preliminary Results* 83 FR 45893, 45895.

[14] *Id.* at 45897.

Exporter	Weighted-average dumping margin (percent)
Shandong Shuangwang Rubber Co., Ltd	64.57
Shandong Wanda Boto Tyre Co., Ltd	64.57
Shandong Yongsheng Rubber Group Co., Ltd	64.57
Shouguang Firemax Tyre Co., Ltd	64.57
Winrun Tyre Co., Ltd	64.57

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).[15] Where the respondent reported reliable entered values, Commerce intends to calculate importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer, and dividing this amount by the total entered value of the sales to the importer.[16] Where the importer did not report entered values, Commerce intends to calculate an importer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[17] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the China-wide entity at the China-wide rate.

Pursuant to Commerce practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.[18] Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the China-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on POR entries, and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which NV exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed China and non- China exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all China exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 76.46 percent)[19] and (4) for all non-China exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non- China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notifications to Interested Parties

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

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[15] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[16] *See* 19 CFR 351.212(b)(1).

[17] *See Final Modification,* 77 FR 8101, 8103.

[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

[19] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 47902, 47904 at note 19 (August 10, 2015).

Dated: April 19, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix 1

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues:
Comment 1: Whether Commerce should allow certain separate rate respondents to withdraw from this administrative review after the 90-day deadline.
Comment 2: Whether Commerce should base the margin assigned to separate rate respondents solely on Junhong's margin.
Comment 3: Whether Commerce should have selected a third mandatory respondent.
Comment 4: Whether Commerce should exclude certain information from countries that maintain generally available export subsidies.
Comment 5: Whether Commerce should offset Junhong's AD margin for the Export Buyer's Credit program.
Comment 6: Whether Commerce properly valued Junhong's energy inputs.
Comment 7: Whether to grant Crown, Hankook, and HK Tiancheng a separate rate for the Final Results.
VI. Recommendation

Appendix 2

List of Companies Not Receiving Separate Rate Status

1. Cheng Shin Tire & Rubber (China) Co., Ltd.
2. Hebei Tianrui Rubber Co., Ltd.
3. Hong Kong Tri-Ace Tire Co., Limited
4. Hwa Fong Rubber (Hong Kong) Ltd.
5. Hwa Fong Rubber (Suzhou) Ltd.
6. Qingdao Fullrun Tyre Corp. Ltd.
7. Qingdao Fullrun Tyre Tech Corp. Ltd.
8. Qingdao Nexen Tire Corporation
9. Qingdao Qianzhen Tyre Co., Ltd.
10. Qingdao Qihang Tyre Co., Ltd.
11. Qingdao Qizhou Rubber Co., Ltd.
12. Shandong Haohua Tire Co., Ltd.
13. Shandong Haolong Rubber Tire Co., Ltd.
14. Shandong Haolong Rubber Co., Ltd.
15. Shandong Province Sanli Tire
16. Shifeng Juxing Tire Co., Ltd.
17. Southeast Mariner International Co., Ltd.
18. Toyo Tire (Zhangjiagang) Co., Ltd.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG817

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts

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

ACTION: Notice; issuance of an incidental harassment authorization Renewal.

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) Renewal to the Partnership for Interdisciplinary Study of Coastal Oceans (PISCO) at the University of California Santa Cruz (UCSC) to harass marine mammals incidental to rocky intertidal monitoring surveys along the Oregon and California Coasts.

DATES: This IHA Renewal is valid from April 12, 2019 through April 11, 2020.

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal IHA under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation

showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

• Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

History of Request

On March 8, 2018, NMFS issued an IHA to PISCO to take marine mammals incidental to rocky intertidal monitoring surveys at multiple locations on the coasts of Oregon and California (83 FR 11696; March 16, 2018), effective from March 12, 2018 through March 11, 2019. This multiyear annual survey involves surveying rocky intertidal zones at a number of coastal locations. On January 8, 2019, NMFS received an application for a Renewal of the initial IHA. As described in the application for Renewal, the activities for which incidental take has been requested are nearly identical to those covered in the initial IHA. As required, the applicant also provided a preliminary monitoring report (available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized occurred as a result of the activities conducted. Notice of the proposed IHA Renewal was published in the **Federal Register** on March 7, 2019 (84 FR 8316).

Description of the Specified Activities and Anticipated Impacts

PISCO plans to continue rocky intertidal monitoring work that has been ongoing for 20 years. PISCO focuses on understanding the nearshore ecosystems of the U.S. west coast through a number of interdisciplinary collaborations. The program integrates long-term monitoring of ecological and oceanographic processes at 154 separate sites with experimental work in the lab and field. Research is conducted throughout the year along the Oregon and California coasts and will continue as long as funding is available. The research being conducted under the Renewal IHA will be nearly identical to that analyzed under the initial IHA. Since the issuance of the initial IHA a new site that had never been surveyed previously (Waddell) was added to the site inventory as part of a study examining ecosystem level effects of sea star wasting syndrome (SSWS). There are six additional biodiversity sites (*i.e.,* Ecola, Roads End, Otter Rock, Seal Rock, Graduation Point and North Head) that were not visited or analyzed as part of the initial IHA. Researchers accessing and conducting research activities on the sites may occasionally cause behavioral disturbance (*i.e.,* Level B harassment) of three pinniped species at 16 of the sites (described in PISCO's application for the 2018 IHA). PISCO's request is for the following instances of take: 90 California sea lion takes (*Zalophus californianus*), 255 harbor seal takes (*Phoca vitulina richardii*), and 50 northern elephant seal takes (*Mirounga angustirostris*). These are the same levels of take that were authorized under the initial IHA. PISCO expects that the disturbance to pinnipeds from the research activities will be minimal and will be limited to Level B harassment, as described in the documents associated with the initial IHA.

Description of the Activity and Specific Geographic Region

A detailed description of the planned intertidal monitoring project was provided in the **Federal Register** Notices of the Proposed IHA (83 FR 3308; January 24, 2018) and Final IHA (83 FR 11696; March 16, 2018) for the initial IHA, along with the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019). Overall, the specified geographic region, the amount of activity, and the nature of the activities are identical to those described in previous notices. The frequency of visits and total visits to a particular site may vary across years, and within an annual plan once submitted, but the description of the action and the marine mammal analysis included in the 2018 IHA were designed to capture such variations. As noted above, 154 sites are visited and surveyed as part of the research, although take of marine mammals does not occur at every site (marine mammals are not present at all sites). A few sites are visited monthly, while many sites are surveyed between 1 and 4 times annually. In 2018, a new site that had never been surveyed previously (Waddell) was added to the site inventory as part of a study examining ecosystem level effects of sea star wasting syndrome (SSWS). There are six additional biodiversity sites *(i.e.,* Ecola, Roads End, Otter Rock, Seal Rock, Graduation Point and North Head) that were not visited or analyzed as part of the initial IHA. This Renewal IHA is effective for a period of one year from the date of issuance.

Description of Marine Mammals

As noted in the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019), a description of the marine mammals in the areas of the activity for which incidental take is authorized may be found in the **Federal Register** Notice of the Proposed IHA (83 FR 3308; January 24, 2018) for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

As noted in the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019), the description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized is found in the **Federal Register** Notice of the Proposed IHA (83 FR 3308; January 24, 2018) for the initial authorization. All of that information and analysis remain applicable and valid. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that no new information affects our initial analysis of potential impacts on marine mammals and their habitat.

Estimated Take

Detailed descriptions of the methods and inputs used to estimate take for the specified activity are found in the **Federal Register** Notices of the Proposed (83 FR 3308; January 24, 2018) and Final IHA (83 FR 11696; March 16,

2018) for the initial authorization, with updated information associated with new sites provided in the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019). As part of the initial IHA, PISCO had estimated that Level B harassment of marine mammals was likely to occur at 16 sites (see 2018 application), conservatively based on the predicted number of visits to the sites and historical observational data (using maximum observations). These same 16 sites will be surveyed under the Renewal IHA. PISCO is requesting and NMFS is authorizing the same level of take for the 16 sites as was authorized under the initial IHA.

PISCO provided a preliminary marine mammal monitoring report covering March 12, 2018 through December 31, 2018 and recorded Level B harassment of 87 harbor seal takes and 1 California sea lion take. No northern elephant seal takes were reported. The total recorded take numbers are well below the take numbers authorized by NMFS in 2018 (255 harbor seal, 90 California sea lion, and 50 northern elephant seal). The preliminary monitoring report indicated that take by Level B harassment was recorded at eight sites in 2018 (of 64 sites visited and 5 of the 16 sites at which take was expected). At one site (Government Point), 20 more harbor seal takes occurred than predicted at that site, however, at other sites fewer marine mammal takes occurred than predicted. PISCO submitted a draft final monitoring report on March 27, 2019. Fifteen survey sites were visited between December 31, 2018 and the effective end date of the IHA on March 11, 2019. No takes were recorded during any of these 15 site visits. Variation in predicted marine mammal presence is expected across sites, and, further, as described in the 2018 application and IHA **Federal Register** notices, the number of predicted visits to a particular site may also vary. However, the conservative take estimate methodology continues to ensure that the total authorized take and effect analysis remains appropriate.

There is one new site, Waddell, which was not addressed in the initial IHA, since PISCO had not secured funding for the SSWS study when the initial authorization was issued. PISCO did, however, monitor and record observations during 12 visits to Waddell between March 12, 2018 and March 11, 2019 after funding had been secured. PISCO recorded one harbor seal take. Seals are known to be rare at the Waddell site, and with only a single observation over a 12 month period at this location, PISCO believes, and NMFS agrees, that take is not likely at this site. Therefore, we are not increasing the total number of authorized takes for harbor seals. There are six biodiversity sites which will be visited in 2019 that were not visited or analyzed as part of the initial IHA. However, based on historical monitoring records the presence of marine mammals is unlikely and take is not authorized for any of these sites.

Accordingly, all methodology and analysis in the **Federal Register** notices for the proposed and final initial IHA remain applicable and accurate, as explained in the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019). We therefore determine that the species and stocks affected, methods of take, and types of take remain unchanged from the initial IHA, as do the number of takes for each species, which are indicated below in Table 1.

TABLE 1—AUTHORIZED TAKE NUMBERS BY LEVEL B HARASSMENT

Species	Authorized take
Harbor seal	255
California sea lion	90
Northern elephant seal	50

Description of Mitigation, Monitoring and Reporting Measures

As explained in the **Federal Register** Notice of the Proposed IHA Renewal (84 FR 8316; March 7, 2019), a complete discussion of mitigation, monitoring, and reporting measures under the MMPA, as well as the specific mitigation, monitoring, and reporting measures appropriate for PISCO's activity at these particular sites, was provided in the **Federal Register** Notices of the Proposed IHA (83 FR 3308; January 24, 2018) and Final IHA (83 FR 11696; March 16, 2018) for the initial IHA. All of that discussion remains applicable and valid for this Renewal IHA. Additionally, the discussion of least practicable adverse impact included in those documents remains accurate. NMFS therefore determined that the mitigation, monitoring, and reporting measures included as requirements in the **Federal Register** Notice announcing the issuance of the initial IHA are appropriate and would be continued in this Renewal IHA. The following measures, which are identical to those in the initial IHA, are included in the Renewal IHA:

- Researchers shall observe a site from a distance, using binoculars if necessary, to detect any marine mammals prior to approach to determine if mitigation is required;
- Researchers shall approach a site with caution (slowly and quietly), keep bodies low to the ground and avoid pinnipeds along access ways to sites, by locating and taking a different access way if possible;
- Researchers shall keep a safe distance from and not approach any marine mammal while conducting research, unless it is absolutely necessary to flush a marine mammal in order to continue conducting research (*i.e.* if a site cannot be accessed or sampled due to the presence of pinnipeds);
- Researchers shall monitor the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters;
- Intentional flushing shall be avoided if pups are present. Staff shall reschedule work at sites where pups are present, unless other means of accomplishing the work can be done without causing disturbance to mothers and dependent pups;
- Any site where Steller sea lions, northern fur seals, or Guadalupe fur seals are present shall not be approached and shall be sampled at a later date;
- Personnel shall vacate the study area as soon as sampling of the site is completed;
- Detailed monitoring information will include species counts, number of disturbances, description of disturbance behaviors, and information regarding physical and biological conditions at a given site;
- Submit a draft monitoring report to NMFS Office of Protected Resources within 60 days after the conclusion of the 2019–2020 field season or 60 days prior to the start of the next field season if a new IHA will be requested; and
- Reporting injured or dead marine mammals to appropriate authorities, including NMFS Office of Protected Resources and NMFS West Coast Regional Stranding Coordinator.

Public Comments

A notice of NMFS' proposal to issue a Renewal IHA to PISCO was published in the **Federal Register** on March 7, 2019 (84 FR 8316). That notice both included information and referenced information from the initial IHA notices on PISCO's activity and the specific geographic region; the marine mammal species that had the potential to be affected by the activity; the potential effects on marine mammals and their habitat; the proposed amount and

manner of take; the proposed mitigation, monitoring and reporting measures; and the preliminary determinations. NMFS received one comment letter, which was from the Marine Mammal Commission (Commission). The Commission provided comments as described below, concurred with NMFS's preliminary determinations, and recommended issuance of the Renewal IHA to PISCO, subject to the inclusion of the mitigation, monitoring, and reporting measures.

Comment: The Commission questioned whether the public notice provisions for IHA Renewals fully satisfy the public notice and comment provision in the MMPA and discussed the potential burden on reviewers to reviewing key documents and developing comments quickly. Therefore the Commission recommended that NMFS use the IHA Renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

Response: NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on IHA Renewals within the limitations of processing IHA applications efficiently. The **Federal Register** notice for the proposed initial IHA had previously identified the conditions under which a one-year Renewal IHA might be appropriate. This information is presented in the *Request for Public Comments* section and thus encourages submission of comments on the potential of a one-year renewal as well as the initial IHA during the 30-day comment period. In addition, when we receive an application for a Renewal IHA, we will publish notice of the proposed IHA Renewal in the **Federal Register** and provide an additional 15 days for public comment, making a total of 45 days of public comment. We will also directly contact all commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them the opportunity to submit any additional comments on the proposed Renewal IHA.

NMFS also strives to ensure the public has access to key information needed to submit comments on a proposed IHA, whether an initial IHA or a Renewal IHA. The agency's website includes information for all projects under consideration, including the application, references, and other supporting documents. Each **Federal Register** notice also includes the name and contact information of the lead agency staff in the event a commenter has questions or cannot find the information they seek.

Regarding the Commission's comment that Renewal IHAs should be limited to certain types of projects, NMFS has explained on its website and in individual **Federal Register** notices that Renewal IHAs are appropriate where the continuing activities are identical, nearly identical, or a subset of the activities for which the initial 30-day comment period applied. Where the commenter has likely already reviewed and commented on the proposed initial IHA for these activities, the abbreviated additional comment period should be sufficient for consideration of the results of the preliminary monitoring report and new information from the past year.

Comment: In order to increase efficiencies, the Commission recommended that NMFS authorize the incidental taking of marine mammals for future PISCO activities via an MMPA rulemaking rather than individual IHAs and IHA Renewals.

Response: We appreciate the interest that the Commission has shown in our efforts to streamline the MMPA authorization process. NMFS will discuss with the applicant the option of entering into a rulemaking for future incidental take authorizations.

Findings and Determinations

In the context of the activities that are likely to result in incidental take of marine mammals, the rocky intertidal monitoring surveys planned by PISCO for 2019 are nearly identical to those conducted under the initial IHA in 2018. The only changes are that a new SSWS site, and six biodiversity sites described in the **Federal Register** Notice of the Proposed IHA Renewal, would be visited under the Renewal IHA, but no takes are anticipated or requested for these locations. Planned survey activities could result in Level B harassment consisting of temporary, short-term behavioral disturbance. In analyzing the effects of the activities in the initial IHA, and in consideration of the implementation of the required mitigation measures, NMFS determined that the total marine mammal incidental take from PISCO's rocky intertidal monitoring program would not adversely affect annual rates of recruitment or survival and, therefore, would have a negligible impact on the affected species or stocks. NMFS also concluded that the numbers of animals authorized for incidental take are small relative to the relevant species or stocks (0.65 – 0.82 percent for harbor seals, and <0.01 percent for California sea lions and northern elephant seals). As discussed above, the same amount and type of take is authorized under this Renewal IHA.

All of the information and analysis from the initial IHA remains applicable and valid for the findings and determinations under this Renewal IHA. In addition, there is no new information that substantively affects or suggests that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) the authorized takes will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by these activities; and (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the ESA Interagency Cooperation Division whenever we authorize take for endangered or threatened species.

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.

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 IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality)

of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the Renewal IHA qualifies to be categorically excluded from further NEPA review.

IHA Renewal

NMFS has issued an IHA Renewal that includes the previously described mitigation, monitoring, and reporting requirements to PISCO for the harassment of small numbers of the three marine mammal species incidental to conducting rocky intertidal monitoring surveys off the coasts of Oregon and California for a period of one year.

Dated: April 22, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–08392 Filed 4–25–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG876

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Chevron Richmond Refinery Long Wharf Maintenance and Efficiency Project in San Francisco Bay, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Chevron for authorization to take marine mammals incidental to pile driving and removal associated with the Long Wharf Maintenance and Efficiency Project (LWMEP) in San Francisco Bay, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 28, 2019.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Pauline@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: Rob 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.

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.

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 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 January 17, 2019, NMFS received a request from Chevron for an IHA to take marine mammals incidental to pile

driving and pile removal associated with the LWMEP in San Francisco Bay, California. The application was deemed adequate and complete on April 8, 2019. Chevron's request is for take of a small number of seven species of marine mammals, by Level B harassment and Level A harassment. Neither Chevron nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Chevron for similar work (82 FR 27240; June 17, 2017). However, the construction schedule and scope was revised and no work was conducted under that IHA. NMFS issued a second IHA on May 31, 2018 to Chevron for work not conducted in 2017 (83 FR 27578; June 13, 2018). This newly proposed IHA would cover one year of this larger project for which Chevron obtained the prior IHAs, and Chevron also intends to request take authorizations for subsequent facets of the project. The larger multi-year project involves various construction activities that would allow Chevron to comply with Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) and to improve safety and efficiency at the Long Wharf. Chevron complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring results may be found in the *Estimated Take* section.

Because of the similarity of the work and marine mammal impacts to that covered in previous IHAs, we have often cited back to previous documents for more detailed descriptions.

Description of Proposed Activity

Overview

Chevron's Richmond Refinery Long Wharf (Long Wharf) located in San Francisco Bay, is the largest marine oil terminal in California. The existing configuration of these systems have limitations to accepting more modern, fuel efficient vessels with shorter parallel mid-body hulls and in some cases do not meet current MOTEMS requirements. The purpose of the proposed LWMEP is to comply with current MOTEMS requirements and to improve safety and efficiency at the Long Wharf.

Impact and vibratory pile driving and removal will be employed during the proposed construction project. These actions could produce underwater sound at levels that could result in the injury or behavioral harassment of marine mammal species. The proposed IHA would be effective from June 1, 2019 through May 31, 2020.

Dates and Duration

Pile driving activities would be timed to occur within the standard NMFS work windows for Endangered Species Act (ESA)-listed fish species (June 1 through November 30) over multiple years. An estimated 67 days of pile driving activity within the designated work window are planned for 2019. Additional work in the future will require subsequent IHAs. The proposed IHA would be effective from June 1, 2019 through May 31, 2020.

Specific Geographic Region

The Long Wharf is located in San Francisco Bay (the Bay) just south of the eastern terminus of the Richmond-San Rafael Bridge (RSRB) in Contra Costa County. The wharf is located in the northern portion of the central bay, which is generally defined as the area between the RSRB, Golden Gate Bridge, and San Francisco-Oakland Bay Bridge (SFOBB).

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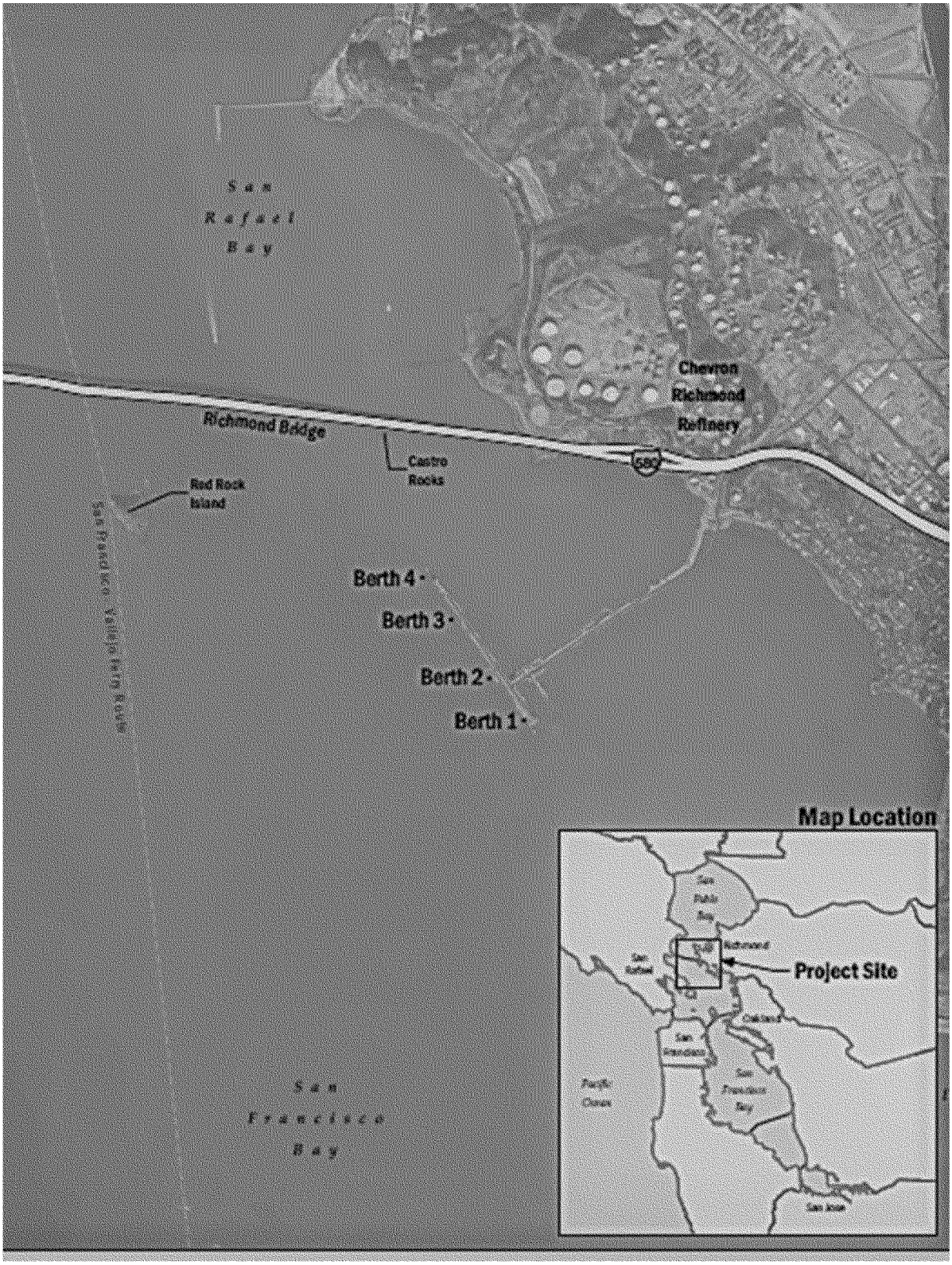

Figure 1. Long Wharf Maintenance and Efficiency Project (LWMEP) Location.

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Detailed Description of Specific Activity

The proposed project would involve modifications at Berths 1, 2, 3, and 4 as shown in Figure 1. NMFS refers the reader to the documents related to the previously issued 2018 IHA for more detailed description of the project activities, which include vibratory

driving and removal as well as impact pile driving. These previous documents include the **Federal Register** notice of the issuance of the 2018 IHA for Chevron's LWMEP project (83 FR 27578; June 13, 2018), the **Federal Register** notice of the proposed IHA (83 FR 18802; April 30, 2018), as well as Chevron's current IHA application for the 2019 work season. The current application is requesting take for the pile driving that will occur during the 2019 work season as shown in Table 1.

TABLE 1—PILE DRIVING SUMMARY FOR 2019 WORK SEASON

Pile type	Pile driver type	Number of piles	Number of driving days
60-inch steel pipe piles	Impact	8	8
36-inch steel template pile (Installation and removal)	Vibratory/Impact Proofing	8	4
20-inch steel template pile (Installation and removal)	Vibratory	8	4
22-inch concrete pile removal	Vibratory	5	1
24-inch square concrete	Impact	39	30
12-inch composite barrier piles	Vibratory	52	11
Timber pile removal	Vibratory	106	9

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Proposed Monitoring and Reporting*).

Description of Marine Mammals in the Area of Specified Activities

Table 2 lists species that may occur in the vicinity of the project area. A description of the marine mammals in the area of the activities is found in the **Federal Register** notice of the issuance of the 2018 IHA for Chevron's LWMEP project (83 FR 27578; June 13, 2018), the **Federal Register** notice of the proposed IHA (83 FR 18802; April 30, 2018), as well as Chevron's current IHA application for the 2019 work season.. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA. Specifically, the only change from the 2018 IHA is an increase in numbers of the eastern north Pacific stock of gray whale which have increased 20,990 to 26,960.

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF 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 Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-/-; (N)	26,960 (0.05, 25,849, 2016).	801	138
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	California Coastal	-/-; (N)	453 (0.06, 346, 2011)	2.7	≥2.0
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena Phocoena*	San Francisco-Russian River Stock.	-/-; (N)	9,886 (0.51, 6,625, 2011)	66	0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	Eastern U.S. stock	-/-; (N)	296,750 (-, 153,337, 2011).	9,200	389
Steller sea lion	*Eumetopias jubatus*	Eastern U.S. stock	-/-; (N)	41,638 (-, 41,638, 2015)	2,498	108
Northern fur seal	*Callorhinus ursinus*	California stock	-/-; (N)	14,050 (-, 7,524, 2013)	451	1.8
Family Phocidae (earless seals):						
Pacific harbor seal	*Phoca vitulina*	California stock	-/-; (N)	30,968 (-,27,348, 2012)	1,641	43
Northern elephant seal	*Mirounga angustirostris*	California Breeding stock	-/-; (N)	179,000 (-, 81,368, 2010)	4,882	8.8

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region#reports.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance.

[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.

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. Seven marine mammal species (three cetacean and four pinniped (two otariid and two phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Of the cetacean species that may be present, one is classified as a low-frequency cetacean (*i.e.,* gray whale), one is classified as a mid-frequency cetacean (*i.e.,* bottlenose dolphin), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in the **Federal Register** notice of the issuance of the 2018 IHA for Chevron's LWMEP project (83 FR 27578; June 13, 2018) and the **Federal Register** notice of the proposed IHA (83 FR 18802; April 30, 2018). This information remains applicable to the issuance of the proposed 2019 IHA. NMFS has reviewed the monitoring data from the initial IHA and other scientific literature, and found no new information that would affect our initial analysis of impacts on 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.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic source (*i.e.,* pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for limited auditory injury (Level A harassment) to result, primarily for high frequency species (harbor porpoises) because predicted auditory injury zones are larger than for other functional hearing groups and for phocids (harbor seals) as there is a sizable harbor seal haulout (Castro Rocks) located in close proximity to the project area. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent

hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment 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). 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 microPascal, root mean square (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.

Chevron's proposed activity includes the use of continuous (vibratory pile driving and removal) and intermittent (impact pile driving) sources and, therefore, the 120 and 160 dB re 1 μPa (rms) 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) (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Chevron's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and removal) sources.

These thresholds are provided in Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,\ HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Source Levels

The project includes impact pile driving, vibratory pile driving and vibratory pile removal. Source levels of pile driving activities are based on hydroacoustic testing performed in 2018 at the LWMEP location as well as reviews of measurements of the same or similar types and dimensions of piles available in the literature. Based on this information, the source levels described below are assumed for the underwater noise produced by construction activities.

Eight batter steel pipe piles, 60-inch diameter would be installed adjacent to the existing Wharf structure to retrofit the Berth 4 loading platform to limit displacement in a seismic event. An impact driver will be used to install these piles, as it is difficult to vibrate in batter piles and these piles have very high axial design loads that can only be achieved by impact driving methods.

Other projects conducted under similar circumstances were reviewed in order to estimate the approximate noise effects of the 60-inch steel piles. The best match found for sound source levels is from summary values provided by Caltrans in their hydroacoustic guidance document (Caltrans 2015). Summary values for the impact pile driving of 60-inch steel pipe piles indicates that noise levels of up to 210 peak, 185 dB SEL (single strike), and 195 RMS would be produced at 10

meters during pile driving using no sound attenuation such as a bubble curtain. The use of properly functioning bubble curtains is expected to reduce the peak and RMS noise levels by about 7 dB. As a result, noise levels of 203 dB peak, 178 dB SEL (single strike), and 188 dB are utilized to assess potential acoustic impacts.

It is expected that just one 60-inch pile would be driven over one (1) hour of active driving in a given day and that only one (1) pile would be installed in a given week. Installation could require up to 2,400 blows from an impact hammer, such as a HHK–16 or similar diesel hammer, producing approximately 173,000 to 217,000 ft. lbs. maximum energy per blow and 1.5 to 2 sec/blow average. As noted above, bubble curtains will be used during the installation of the 60-inch steel pipe piles in order to reduce underwater noise levels, with an assumed attenuation of 7 dB. NMFS acknowledges that noise level reductions measured at different project locations as well as different received ranges can vary widely. However, NMFS believes it reasonable to use a source level reduction factor for sound attenuation device implementation during impact pile driving. NMFS reviewed Caltrans' bubble curtain ''on and off'' studies conducted in San Francisco Bay in 2003 and 2004. Based on near distance measurements (a total of 28 measurements, with 14 during bubble curtain on and 14 during bubble curtain off), the linear averaged noise level reduction is 7 dB. As a conservative approach, NMFS will use a standard reduction of 7 dB of the source level for impact zone estimates.

Installation of 24-inch diameter square concrete piles is proposed for the modifications at the four berths. Approximately one to two of these piles would be installed in one work day, using impact driving methods and a bubble curtain attenuation system. Based on measured blow counts for 24-inch concrete piles driven at the Long Wharf Berth 4 in 2011, installation for each pile could require up to approximately 300 blows from a DelMag D62 22 or similar diesel hammer, producing approximately 165,000 ft lbs maximum energy (may not need full energy) and 1.5 second per blow average over a duration of approximately 20 minutes per pile, with 40 minutes of pile driving time per day if two (2) piles are installed.

To estimate the noise effects of the 24-inch square concrete piles, the underwater noise measurements recorded for this pile type at the Long Wharf during the 2018 construction season are utilized. These measured values were: 191 dB peak, 161 dB SEL (single strike), and 173 dB RMS during attenuated impact driving (AECOM 2018).

As part of the Berth 4 Loading Platform seismic retrofit, four (4) clusters of 13 composite piles (52 piles total) will be installed to provide protection to the infrastructure. These plastic encased concrete piles would be installed with a vibratory pile driver (APE 400B King Kong or similar vibratory driver), with a drive time of approximately 10 minutes per pile. Up to five (5) of these piles could be installed in any single work day.

Projects conducted under similar circumstances with similar piles were reviewed in order to approximate the noise effects of the 12-inch composite barrier piles. Since these piles will be composed of concrete encased in plastic, vibratory installation of similarly sized concrete piles would provide a good surrogate. However, concrete piles are rarely installed with a vibratory driver, and no suitable data could be located. In the absence of this data, we are conservatively using data from the Anacortes Ferry Terminal in Washington State, where 13-inch plastic coated steel piles were installed with a vibratory hammer. RMS noise levels produced during this installation varied from 138 to 158 dB RMS at 43 meters (141 feet) from the pile (Laughlin 2012). From these measurements, a peak noise value of 178 dB and an average RMS value of 168 dB normalized to a 10 meter (33 feet) distance was used to estimate the extent of underwater noise from installation of the 12-inch composite piles. During installation of the 12-inch composite barrier piles for the proposed Project, up to 50 minutes of vibratory driving could occur per day.

For the Berth 4 Loading Platform seismic retrofit, eight (8) 36-inch diameter temporary steel piles would be installed using a vibratory pile driver (APE 400B King Kong or similar vibratory driver) will be needed to support the guide template for the driving of the permanent 60-inch steel pipe piles. Each 36-inch temporary pile has an estimated drive time of approximately 10 minutes per pile. Up to four (4) of these piles could be installed in any single work day.

Projects conducted under similar circumstances with similar piles were reviewed in order to approximate the noise effects of the 36-inch steel pipe. The best match for estimated noise levels is from the Explosive Handling Wharf-2 (EHW–2) project located at the Naval Base Kitsap in Bangor, Washington (Illingworth and Rodkin 2013) During vibratory pile driving associated with this Project, which occurred under similar circumstances, average peak noise levels were approximately 180 dB, and the RMS was approximately 170 dB at a 10 meter (33 feet) distance (Caltrans 2015a). Installation of the 36-inch steel pipe piles is expected to be require 40 minutes per day.

In total, two of the eight 36-inch temporary piles will require proofing using an impact hammer. Each pile will require up to 30 strikes from an impact hammer during proofing which will take place during the last foot of pile driving. Up to two (2) piles would be proofed in one day, with each pile requiring up to 30 strikes from an impact hammer, for a total of 60 strikes in one day. The best match found for sound source levels is from summary values provided by Caltrans in their hydroacoustic guidance document (Caltrans 2015). Summary values for the impact pile driving of 36-inch steel pipe piles in water less than 5m deep indicates that noise levels of up to 210 peak, 180 dB SEL (single strike), and 193 RMS would be produced at 10 meters during pile driving. Since impact hammers are often operated at reduced power output during proofing, the source levels are likely to be lower than the values for impact driving used here. Due to very limited time that pile proofing would occur (60 strikes total, over a few minutes of active hammering) no sound attenuation would be used.

The Berth 4 Loading Platform seismic retrofit will require vibratory installation of, eight (8) 20-inch diameter temporary steel piles (APE 400B King Kong or similar vibratory driver) to support the guide template needed for the driving the permanent 60-inch steel pipe piles. Each 20-inch temporary pile has a drive time per pile of approximately 10 minutes. Up to four (4) of these piles could be installed in any single work day. The best match for estimated noise levels is from vibratory driving of 24-inch piles at the Explosive Handling Wharf-2 (EHW–2) project located at the Naval Base Kitsap in Bangor, Washington (Illingworth and Rodkin 2013). During vibratory pile driving associated with this Project, which occurred under similar circumstances, measured peak noise levels were approximately 180 dB, and the RMS was approximately 163 dB at a 10 meter (33 feet) distance (Illingworth and Rodkin 2013). During installation of the 20-inch steel pipe piles will require approximately 40 minutes per day.

The project includes the removal of 106 16-inch timber piles, and five (5) 18

to 24-inch square concrete piles using a vibratory pile driver. Up to 12 of these piles could be extracted in one (1) work day. Extraction time needed for each pile may vary greatly, but could require approximately 400 seconds (approximately seven (7) minutes) from an APE 400B King Kong or similar driver. The most applicable noise values for wooden pile removal from which to base estimates for the LWMEP are derived from measurements taken at the Pier 62/63 pile removal in Seattle, Washington. During vibratory pile extraction associated with this Project, which occurred under similar circumstances, the RMS was approximately 152 dB (WSDOT 2011). Applicable sound values for the removal of concrete piles could not be located, but they are expected to be similar to the levels produced by wooden piles described above, as they are similarly sized, non-metallic, and will be removed using the same methods.

For pile driving that does not have project specific hydroacoustic data available, the practical spreading model with a transmission loss coefficient of 15 (4.5 dB per doubling of distance) is used. However, project-specific transmission loss values have been measured for the impact driving of concrete piles and the vibratory driving of concrete piles. For those types of pile driving, a transmission loss factor of 20 (~8 dB per doubling of distance) has been measured and will be applied. This value is calculated from hydroacoustic monitoring of vibratory driving of steel piles and attenuated impact driving of concrete piles conducted as part of the LWMEP. The results of the 2018 hydroacoustic monitoring are provided in Appendix A of the application.

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 impact and vibratory pile driving), NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below in Table 5.

TABLE 5—INPUTS FOR USER SPREADSHEET

Spreadsheet tab used	E.1–2: Impact pile driving			A.1: Vibratory driving			
Pile type	60-inch steel	24-inch concrete	36-inch steel	12-inch Composite	36-inch steel	20-inch steel	Wood/ concrete
Source Level	178 SEL	161 SEL	180 SEL	168 RMS	170 RMS	150 RMS	152 RMS.
Weighting Factor Adjustment (kHz).	2	2	2	2.5	2.5	2.5	2.5.
Number of strikes in 1 h OR number of strikes per pile.	2,400	300	30	NA	NA	NA	NA.
Number of piles per day	1	2	2	5	4	4	12.
Propagation (xLogR)	15	20	15	15	20	20	15.
Duration to Drive single pile (minutes).	NA	NA	NA	10	10	10	7.
Distance of source level measurement (meters).	10	10	10	10	10	10	10.

Table 6 shows the Level A harassment isopleths as determined utilizing inputs from Table 5. Note that for all calculations, the results based on SEL_{ss} are larger than SPL_{pk}, therefore, distances calculated using SEL_{ss} are used to calculate the area. Level B Harassment isopleths for impact and vibratory driving and extraction are shown in Table 7.

TABLE 6—RADIAL DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING IMPACT AND VIBRATORY DRIVING

Project element requiring pile installation	Source levels at 10 meters (dB)		Distance to Level A threshold in meters (feet)				
	Peak	RMS/SEL	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):							
60-inch steel pipe (1 per day)	203	178 SEL	831 (2,726)	30 (97)	990 (3,247)	445 (1,459)	32 (106)
24-inch square concrete (1–2 per day).	191	161 SEL	19 (64)	2 (5)	22 (73)	12 (40)	2 (6)
Impact Pile Proofing (no bubble curtain):							
36-inch steel pipe pile (2 total)	210	180 SEL	97 (317)	3 (11)	115 (377)	52 (170)	4 (12)
Vibratory Driving/Extraction:							

TABLE 6—RADIAL DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING IMPACT AND VIBRATORY DRIVING—Continued

Project element requiring pile installation	Source levels at 10 meters (dB)		Distance to Level A threshold in meters (feet)				
	Peak	RMS/SEL	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
12-inch Composite Barrier Pile (5 per day).	178	168 RMS	18 (58)	2 (5)	26 (86)	11 (35)	1 (2)
36-inch steel pipe pile (4 per day)	195	170 RMS	17 (57)	3 (9)	23 (76)	12 (39)	2 (5)
20-inch steel pipe pile (4 per day)	180	163 RMS	8 (25)	1 (4)	10 (34)	5 (17)	1 (2)
Wood and concrete pile extraction (12 per day).	No Data	152 RMS	2 (7)	0 (<1)	3 (10)	1 (4)	0 (<1)

TABLE 7—RADIAL DISTANCES TO LEVEL B HARASSMENT ISOPLETHS DURING IMPACT AND VIBRATORY DRIVING

Pile type	Source levels at 10 meters (dB)		Distance to threshold 160/120 dB RMS (Level B) in meters (feet)
	Peak	RMS	
Attenuated Impact Driving (with Bubble curtain):			
60-inch steel pipe (1 per day)	203	188	736 (2,413)
24-inch square concrete (1–2 per day)	191	173	45 (147)
Impact Pile Proofing (no Bubble curtain):			
36-inch steel pipe pile (2 total)	210	193	1,585 (5,198)
Vibratory Driving/Extraction:			
12-Inch Composite Barrier Piles (5 per day)	178	168	15,849 (51,984)
36-inch steel pipe pile (4 per day)	180	170	3,162 (10,372)
20-inch steel pipe pile (4 per day)	180	163	1,413 (4,633)
Wood and concrete pile extraction (12 per day)	*	152	1,359 (4,459)

* No Data Available.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

For the 2019 IHA application, a combination of nearby haul-out occupancy and at-sea densities were used to develop take estimates, in order to account for both local movements of harbor seals that haul out at Castro Rocks and other individuals that may be foraging in the more distant part of the Level B Harassment zone. By using hydroacoustic data collected in 2018, extent of the harassment zones was refined for vibratory driving of steel piles and attenuated impact driving of concrete piles by using the transmission loss measured during 2018 project (20logr). As the Level B Harassment zones estimated for the 2019 IHA are generally more localized, only the occupancy from the local Castro Rocks haul-out is used.

Castro Rocks, located approximately 1.3 km northwest of the project site, is the largest harbor seal haul out site in the northern part of San Francisco Bay and is the second largest pupping site in the Bay (Green *et al.* 2002). Tidal stage is a major controlling factor of haul out usage at Castro Rocks with more seals present during low tides than high tide periods (Green *et al.* 2002). Additionally, the number of seals hauled out at Castro Rocks also varies with the time of day, with proportionally more animals hauled out during the nighttime hours (Green *et al.* 2002). Therefore, the number of harbor seals in the water around Castro Rocks will vary throughout the work period. Pile driving would occur intermittently during the day with average active driving times typically of a few hours per day, so varying sets of animals may be hauled out or in the water. However, there are no systematic counts available for accurately estimating the number of seals that may be in the water near the Long Wharf at any given time. The National Park Service provided recent data indicating that up to 176 seals could be present each day at Castro Rocks. This value was conservatively based on the highest mean plus the standard error of harbor seals observed at Castro Rocks per day (Codde, S. and S. Allen. 2013, 2015, and 2017), a value of 176 seals. The 2018 draft Long Wharf marine mammal monitoring report indicated that 24 harbor seals were observed within the Level B harassment zone and zero individuals were observed within the Level A harassment zone over 10 days of pile driving, which equals less than 1 percent of the authorized number of harbor seals with an average of 2.4 animals per day. The maximum number observed per day was six.

Since there are no California sea lion haul-outs in the vicinity of the project area, relatively few animals are expected to be present. However, monitoring for the RSRB did observe limited numbers in the north and central portions of the Bay during working hours. During monitoring for the San Francisco-Oakland Bay Bridge (SFOBB) Project in the central Bay, 83 California sea lions were observed in the vicinity of the bridge over a 17-year period from 2000–2017, and from these observations, an estimated at-sea density of 0.16 animals per square kilometer is derived (NMFS 2018). This bridge is located approximately 25 km south of the LWMEP location and is considered by NMFS to be the best available information. The 2018 Long Wharf draft monitoring report did not record any observations of sea lions.

Small numbers of northern elephant seal may haul out or strand on coastline

within the Central Bay. Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years. From those data, Caltrans has produced an estimated at-sea density for northern elephant seal of 0.16 animal per square mile (0.06 animal per square kilometer) (Caltrans, 2015b). Most sightings of northern elephant seal in San Francisco Bay occur in spring or early summer, and are less likely to occur during the periods of in-water work for this project. As a result, densities during pile driving for the proposed action are likely to be lower. Additionally, this species was not observed by the marine mammal observers in the vicinity of the Long Wharf during 2018 pile driving monitoring.

The occurrence of northern fur seal in San Francisco Bay depends largely on oceanic conditions, with animals more likely to strand during El Niño events. Equatorial sea surface temperatures are above average across most of the Pacific Ocean this year, and El Niño is expected to continue through winter of 2019 and into spring (NOAA 2019). There are no estimated at-sea densities for this species in San Francisco Bay and no seals were recorded during 2018 Long Wharf marine mammal monitoring.

A small but growing population of harbor porpoises utilizes San Francisco Bay which are typically spotted in the vicinity of Angel Island and the Golden Gate (6 and 12 kilometers [3.7 and 7.5 miles] southwest respectively) and the vicinity of Treasure Island (Caltrans 2018). However, they may occur in other areas in the Central Bay in low numbers, including the project area. Based on monitoring conducted for the SFOBB project in 2017, an in-water density of 0.17 animals per square kilometer has been estimated by Caltrans for this species (NMFS 2018). No members of this species were recorded during 2018 during pile driving activities at LWMEP.

Bottlenose dolphins are typically found close to the Golden Gate Bridge when they are observed in San Francisco Bay. There are no estimated at-sea densities for this species in San Francisco Bay available for calculating a take estimate. Beginning in 2015, two individuals have been observed frequently in the vicinity of Oyster Point (GGCR 2018; Perlman, 2017). The average reported group size for bottlenose dolphins is five. Reports show that a group normally comes into San Francisco Bay, is near Yerba Buena Island once per week for approximately two (2) weeks and then leaves (NMFS, 2017).

Gray whales have been observed entering the Bay during their northward migration period, and are most often sighted in the Bay between February and May. Most venture only about 2 to 3 km (about 1–2 miles) past the Golden Gate. However, gray whales have occasionally been sighted as far north as San Pablo Bay. Pile driving is not expected to occur during the February-May period, and gray whales are not likely to be present at other times of year. No whales were observed as part of 2018 Long Wharf marine mammal monitoring activities.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

When density data was available, take for the project was calculated by multiplying the density times the harassment zone (km^2) associated with pile driving activities that are underway times the number of construction days. Since density data was only available for harbor seals, harbor porpoises, and California sea lions, these were the only species whose take was calculated using this methodology. For species without density information, information on average group size or local observational data was used as described below.

Pacific Harbor Seal

Chevron initially estimated that all harbor seals (176) at Castro Rocks would be exposed to noise that reaches the threshold for Level B harassment on every day on which there was pile driving. The areas of the Level A harassment zones in which take by injury could occur were determined by subtracting the shutdown zone areas from Level A harassment zone areas. Estimated Level A take for impact driving of the 60-inch and 36-inch steel piles was then estimated by taking Level B take and multiplying it by the ratio of the Level A zone area to the Level B zone area. Level A take is not requested for vibratory driving. This resulted in an estimated 11,968 takes by Level B harassment and 513 takes by Level A harassment. However, given that the 2018 IHA, overestimated the amount of authorized seal takes by a considerable margin (based on recorded <1 percent of the authorized number of takes observed), this initial 2019 estimate is likely to also be too high. Therefore, NMFS proposes to conservatively assume that only 25 percent of these initially calculated take numbers will actually occur, resulting in a proposal of 2,992 takes by Level B harassment and 128 takes by Level A harassment. Even in consideration of animals that were likely taken but not detected, this results in a likely conservative average of 47 harbor seal takes per day.

TABLE 8—LEVEL A AND LEVEL B HARASSMENT ESTIMATE FOR PACIFIC HARBOR SEAL

[Per Day]

Pile type	Level B zone (sq km)	Exclusion zone radius (m)	Level A zone, minus shutdown zone (sq km)	Estimated take per day	
				Level B take per day—total	Level A take per day—total
Vibratory Driving					
12-inch composite pile	165.62	15	0	176	NA
36-inch steel pipe pile	22.90	15	0	176	NA
20-inch steel pipe pile	5.72	10	0	176	NA
Timber/Concrete Pile Removal	5.33	15	0	176	NA
Impact Driving					
24-inch concrete pile	0.01	20	0	176	NA
60-inch steel pile	1.70	30	0.62	176	64.06
Impact Proofing					
36-inch steel pile	6.92	30	0.01	176	0.14

For impact pile driving of the 60-inch steel piles, the proposed shutdown zones (30 m) are notably smaller than the Level A harassment zone and the applicant has accordingly requested take by Level A harassment for harbor seal so that pile driving can be completed on schedule without frequent shutdowns. Individuals occurring within the Level A harassment zone but outside of the shut-down zone may experience Level A harassment, if they reside in that area for a long enough duration. However, these animals can be highly mobile, and remaining within the small injury zone for an extended period is unlikely, though it could occur.

California Sea Lion

Monitoring data from the SFOBB Project over a 17-year period was used to develop a density of 0.16 California sea lions per square kilometer. This density and the areas of the potential Level B Harassment zones are used in Table 9. Level A harassment take of this species is not requested, due to the small size of the Level A harassment zone for otariid pinnipeds.

TABLE 9—LEVEL B HARASSMENT ESTIMATE FOR CALIFORNIA SEA LION

[per day]

Pile type	Level B zone (km^2)	Level B take estimate (based on Central Bay density of 0.16 animals per km^2)
Vibratory Driving		
12-inch composite pile	165.62	26.50
36-inch steel pipe pile	22.90	3.66
20-inch steel pipe pile	5.72	0.91
Timber/Concrete Pile Removal	5.33	0.85
Impact Driving		
24-inch concrete pile	0.01	0.01
60-inch steel pile	1.70	0.27
Impact Proofing		
36-inch steel pile	6.92	1.11

Harbor Porpoise

Based on monitoring conducted for the SFOBB project in 2017, an in-water density of 0.17 animals per square kilometer has been estimated by Caltrans for this species (NMFS 2018). Using this in-water density and the areas of potential Level A and Level B harassment, take is estimated for harbor porpoise as provided in Table 10. Level A harassment zone areas in which PTS could occur were determined by subtracting the shutdown zone areas from Level A harassment zone areas. Level A take is not requested for vibratory driving.

TABLE 10—LEVEL A AND LEVEL B HARASSMENT ESTIMATE FOR PACIFIC HARBOR PORPOISE

[Per day]

Pile type	Level B zone (km^2)	Exclusion zone (m)	Level A zone, minus shutdown zone (km^2)	Level B estimate Central Bay in-water—0.17 per km^2	Estimated Level A take per day
Vibratory Driving					
12-inch composite barrier pile	165.62	50	NA	28.16	NA
36-inch steel pipe pile	22.90	50	NA	3.89	NA
20-inch steel pipe pile	5.72	50	NA	0.97	NA
Timber/Concrete Pile Removal	5.33	50	NA	0.91	NA
Impact Driving					
24-inch concrete pile	0.01	50	0	0.01	0
60-inch steel pile	0.21	50	0.23	0.29	0.52
Impact Proofing					
36-inch steel pile	0.31	80	0	1.18	<0.01

Northern Elephant Seal

As noted above, elephant seal densities are expected to be extremely low. Therefore, Chevron did not use density data to calculate take. Additionally, this species was not observed by the marine mammal observers in the vicinity of the LWMEP during 2018 pile driving marine mammal monitoring activities. Therefore, Caltrans will conservatively assume that a lone northern elephant seal may enter the Level B Harassment area once per every three days during pile driving. As such, Chevron requests and NMFS proposes to authorize a total of 23 takes by Level B harassment. Level A harassment of this species is not expected to occur.

Northern Fur Seal

With weak El Niño conditions predicted to continue into spring and, perhaps, summer (NOAA 2019). There is a chance that fur seals could occur near the project area. Since there are no estimated at-sea densities for this species in San Francisco Bay, Chevron conservatively requested and NMFS proposes to authorize 10 takes of fur seals by Level B harassment. Level A harassment of this species is not anticipated.

Bottlenose Dolphin

As noted above, there are no estimated at-sea densities for this species in San Francisco Bay available for calculating a take estimate although they have been observed. Beginning in 2015, two individuals have been observed frequently in the vicinity of Oyster Point (GGCR, 2016; GGCR 2017; Perlman, 2017). The average reported group size for bottlenose dolphins is five. Assuming the dolphins come into San Francisco Bay once every 10 days, 34 takes would be anticipated, if the group enters the areas over which the Level B harassment thresholds may be exceeded.

Gray Whale

Gray whales are most often sighted in the Bay between February and May. However, LWMEP pile driving is not expected to occur during this time, and gray whales are unlikely to be present at other times of year. However, should pile driving occur during the northward migration period, Chevron requests and NMFS proposes to authorize two (2) Gray whale takes by Level B harassment.

The Level B Harassment estimates shown in Table 11 are based on the number of individuals assumed to be exposed per day, the number of piles driven per day and the number of days of pile driving expected based on an average installation rate. The Level A Harassment estimates for harbor seals and harbor porpoises are derived by taking the Level B Harassment estimates and multiplying it by the fractional ratio of the area of the Level A zone to the Level B zone as shown in Table 12. Values for harbor seals in both Table 11 and Table 12 are shown as 25 percent of total sums. Take by Level A harassment is not proposed for any other species.

TABLE 11—SUMMARY OF ESTIMATED TAKE LEVEL B HARASSMENT FOR 2019 WORK SEASON

Pile type	Pile driver type	Number of piles	Number of driving days	Species						
				Harbor seal	CA sea lion	Harbor porpoise	Gray whale	N. elephant seal	N. fur seal	Bottlenose dolphin
60-inch steel pipe.	Impact	8	8	1,408	2.18	2.31	NA	2.66	NA	NA
36-inch steel pipe pile**.	Vibratory	8	4	704	14.66	15.57	NA	1.33	NA	NA
36-inch steel pipe pile.	Impact Proofing.	2	1	176	1.11	1.18	NA	0.33	NA	NA
20-inch steel pipe pile**.	Vibratory	8	4	704	3.66	3.89	NA	1.33	NA	NA
Concrete pile removal.	Vibratory	5	1	176	0.91	0.97	NA	0.33	NA	NA
24-inch concrete.	Impact	39	30	5,280	0.03	0.04	NA	10	NA	NA
12-inch composite pile installation.	Vibratory	52	11	1,936	291.50	309.72	NA	3.66	NA	NA
Timber pile removal.	Vibratory	106	9	1,584	7.68	8.16	NA	3	NA	NA
Total Proposed Take by Species (2019).				*2,992	322	342	2	23	10	34

*Stated value equivalent to 25% of total sum.

TABLE 12—SUMMARY OF ESTIMATED TAKE LEVEL A HARASSMENT FOR 2019 WORK SEASON

Pile type	Pile driver type	Number of piles	Number of driving days	Harbor seal	Harbor porpoise
60-inch steel pipe	Impact	8	8	512.49	4.18
36-inch steel pipe pile	Vibratory	8	4	0	0
36-inch steel pipe pile	Impact Proofing	2	1	0.14	<0.01
20-inch steel pipe pile**	Vibratory	8	4	0	0
Concrete pile removal	Vibratory	5	1	0	0
24-inch concrete	Impact	39	30	0	0
12-inch composite pile installation	Vibratory	52	11	0	0
Timber pile removal	Vibratory	106	9	0	0

TABLE 12—SUMMARY OF ESTIMATED TAKE LEVEL A HARASSMENT FOR 2019 WORK SEASON—Continued

Pile type	Pile driver type	Number of piles	Number of driving days	Harbor seal	Harbor porpoise
Total Proposed Take				*128	4

*Stated value equivalent to 25% of total sum.

TABLE 13—PROPOSED AUTHORIZED TAKE AND PERCENTAGE OF STOCK OR POPULATION

Species	Stock	Authorized Level A takes	Authorized Level B takes	Percent (instances of take compared to population abundance)
Harbor seal	California	128	2,992	10.07
California sea lion	Eastern U.S		322	<0.01
Harbor porpoise	San Francisco—Russian River	4	342	3.49
Northern elephant seal	California Breeding		23	<0.01
Gray whale	Eastern North Pacific		2	<0.01
Northern fur seal	California		10	<0.01
Bottlenose Dolphin	California Coastal		34	7.51

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, as well as subsistence uses. 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.

Mitigation for Marine Mammals and Their Habitat

The following mitigation measures are proposed for Chevron's LWMEP:

Noise Attenuation—Bubble curtains will be used during all impact pile driving of 60-inch steel shell pile and 24-inch square concrete piles to interrupt acoustic pressure and reduce impact on marine mammals. The use of bubble curtains is expected to reduce underwater noise levels by approximately 7 dB, which greatly reduces the area over which the cumulative SEL threshold for Level A Harassment may be exceeded. Bubble curtains would also decrease the size of the Level B harassment zone, reducing the numbers of marine mammals affected by potential behavioral impacts.

Daylight Construction Period—Work would occur only during daylight hours (7:00 a.m. to 7:00 p.m.) when visual marine mammal monitoring can be conducted.

Establishment of a Shutdown Zone—For all pile driving/removal and drilling activities, Chevron will establish shutdown zones. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). A shutdown zone will be established which will include all or a portion of the area where SPLs are expected to reach or exceed the cumulative SEL thresholds for Level A harassment as provided in Table 14.

TABLE 14—SHUTDOWN ZONES FOR LWMEP

Project element requiring pile installation	Exclusion zones meters				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):					
60-inch steel pipe	840	30	50	30	35
24-inch square concrete	20	10	50	15	10
Impact Pile Proofing (no bubble curtain):					
36-inch steel pipe pile	100	10	80	30	10

TABLE 14—SHUTDOWN ZONES FOR LWMEP—Continued

Project element requiring pile installation	Exclusion zones meters				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Vibratory Driving/Extraction:					
12-inch Composite Barrier Pile	20	10	50	15	10
36-inch steel pipe pile	20	10	50	15	10
20-inch steel pipe pile	10	10	50	10	10
Wood and concrete pile extraction	10	10	50	10	10

Establishment of Monitoring Zones for Level A and Level B—Chevron will establish and monitor Level A harassment zones during impact driving for harbor seal extending to 450 meters and harbor seals and extending to 990 for harbor porpoises. These are areas beyond the shutdown zone in which animals could be exposed to sound levels that could result in Level A harassment in the form of PTS. Chevron 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 the 120 dB rms threshold during vibratory driving and extraction as shown in Table 7. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones also 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. Level B harassment exposures will be recorded and extrapolated based upon the number of observed take and the percentage of the Level B harassment zone that was not visible.

10-Meter Shutdown Zone—During the in-water operation of heavy machinery (*e.g.,* barge movements), a 10-m shutdown zone for all marine mammals will be implemented. 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.

Soft Start—The use of a soft-start procedure 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. Chevron shall 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.

Pre-Activity Monitoring—Pre-activity monitoring shall take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring shall continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone, as described below.

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

Non-authorized Take Prohibited—If a species for which authorization has not been granted or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the monitoring zone, pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or an observation time period of 15 minutes has elapsed.

Based on our evaluation of the Chevron's proposed measures, as well as other measures considered by NMFS, we have preliminarily 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.

Visual Monitoring

The following visual monitoring measures are required as part of the issued IHA.

• One day of biological monitoring would occur within one week before the project's start date to establish baseline observations;

• Monitoring distances, in accordance with the identified shutdown, Level A, and Level B zones, will be determined by using a range finder, scope, hand-held global positioning system (GPS) device or landmarks with known distances from the monitoring positions;

• Monitoring locations will be established at locations offering best views of the monitoring zone;

• Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving/removal and drilling 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 or removed. Pile driving/removal and drilling activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

• Monitoring will be continuous unless the contractor takes a break longer than 2 hours from active pile driving, in which case, monitoring will be required 30 minutes prior to restarting pile installation;

• For in-water pile driving, under conditions of fog or poor visibility that might obscure the presence of a marine mammal within the shutdown zone, the pile in progress will be completed and then pile driving suspended until visibility conditions improve;

• At least two PSOs will be actively scanning the monitoring zone during all pile driving activities;

• Monitoring of pile driving shall be conducted by qualified PSOs (see below), who shall have no other assigned tasks during monitoring periods. Chevron shall adhere to the following conditions when selecting observers:

(1) Independent PSOs shall be used (*i.e.,* not construction personnel);

(2) At least one PSO must have prior experience working as a marine mammal observer during construction activities;

(3) Other PSOs may substitute education (degree in biological science or related field) or training for experience; and

(4) Chevron shall submit PSO CVs for approval by NMFS;

• Chevron will ensure that observers have the following additional qualifications:

(1) Ability to conduct field observations and collect data according to assigned protocols;

(2) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(3) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(4) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

(5) 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.

Hydroacoustic Monitoring

Sound Source Verification (SSV) testing of would be conducted under this IHA. The purpose of the planned acoustic monitoring plan is to collect underwater sound-level information at both near and distant locations during vibratory pile extraction and installation and impact pile installation. Hydroacoustic monitoring would be conducted by a qualified monitor during pile extraction and driving activities as described in the Hydroacoustic Monitoring plan and will likely include the following during 2019:

• Acoustic monitoring for at least two (2) 60-inch steel pipe piles at Berth 4;

• Acoustic monitoring for at least one (1) 36-inch pile at Berth 4;

• Acoustic monitoring for at least one (1) 20-inch pile at Berth 4;

• Acoustic monitoring of a representative pile removal; and

• Acoustic monitoring of two (2) composite piles.

Proposed Reporting Measures

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal and drilling activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

• 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;

• 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; and

• Level B harassment exposures recorded by PSOs must be extrapolated based upon the number of observed takes and the percentage of the Level B harassment zone that was not visible.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such

as an injury, serious injury or mortality, Chevron would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Chevron to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Chevron would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Chevron discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), Chevron would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Chevron to determine whether modifications in the activities are appropriate.

In the event that Chevron discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Chevron would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, within 24 hours of the discovery. Chevron would provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and extraction associated with Chevron's LWMEP project as outlined previously have the potential to injure, disturb or displace marine mammals. Specifically, the proposed activities may result in Level B harassment (behavioral disturbance) for seven marine mammal species authorized for take from underwater sound generated during pile driving and removal operations. Level A harassment in the form of limited PTS may also occur to animals of two species. No marine mammal stocks for which incidental take authorization are listed as threatened or endangered under the ESA or determined to be strategic or depleted under the MMPA. No serious injuries or mortalities are anticipated to occur as a result of Chevron's pile driving activities.

A limited number of animals (128 harbor seals and 4 harbor porpoises) could experience Level A harassment in the form of PTS if they stay within the Level A harassment zone during impact driving of 60-inch steel and 36-inch steel piles. The degree of injury is expected to be mild and is not likely to affect the reproduction or survival of the individual animals. It is expected that, if hearing impairments occurs, most likely the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment.

The Level B takes that are anticipated and authorized are expected to be limited to short-term behavioral harassment. Marine mammals present near the action area and taken by Level B harassment would most likely show overt brief disturbance (*e.g.,* startle reaction) and avoidance of the area from elevated noise level during pile driving. However, this is unlikely to result in any significant realized decrease in fitness for the affected individuals or stocks for which take is authorized. While harbor seals from Castro Rocks may experience some temporary low-level behavioral impacts, the number of seals potentially affected is conservatively estimated at approximately 10 percent of the stock. This number, however, likely includes multiple takes of the same individuals. Furthermore, Castro Rocks and the LWMEP location represent a small portion of the range of the California stock of harbor seal. These two factors indicate that a much lower percentage of the stock would potentially be affected and, therefore, no adverse impacts to the stock as a whole are expected.

The project is not expected to have significant adverse effects on affected marine mammal habitat. The activities may cause fish to leave the area temporarily. This could impact marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the relatively short duration of driving activities and the relatively small area of affected habitat, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Furthermore, there are no biologically important areas identified in the project area.

The likelihood that marine mammals will be detected by trained observers is high under the environmental conditions described for the project. The employment of the soft-start mitigation measure during impact driving would also allow marine mammals in or near the shutdown and Level A zone zones to move away from the impact driving sound source. Therefore, the mitigation and monitoring measures are expected to reduce the potential for injury and reduce the amount and intensity of

behavioral harassment. Furthermore, the pile driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment.

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;
- Anticipated incidences of Level A harassment would be in the form of a small degree of PTS to a limited number of animals;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- No biologically important areas have been identified in the vicinity of the project area;
- The small percentage of the stock that may be affected by project activities (<10.07 percent for all stocks); and
- Efficacy of mitigation measures is expected to minimize the likelihood and severity of the level of harassment.

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.

Table 13 depicts the number of animals that could be exposed to Level A and Level B harassment from work associated with Chevron's proposed project. The analysis provided indicates that authorized take would account for no more than 10.07 percent of the populations of the stocks that could be affected. These are small numbers of marine mammals relative to the sizes of the affected stocks.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of 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 species is proposed for authorization 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.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Chevron for conducting pile driving and removal activities at Chevron's Long Wharf from June 1, 2019 through May 31, 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed action. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a one-year IHA renewal with an expedited public comment period (15 days) when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the proposed Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 23, 2019.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG822

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Biorka Island Dock Replacement Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the Federal Aviation Administration (FAA) to take small numbers of marine mammals, by harassment, incidental to the Biorka dock replacement project in Symonds Bay, Alaska.

DATES: This authorization is effective from May 1, 2019, through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as the issued IHA, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* 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.

History of Request

On March 31, 2017, NMFS received a request from the FAA for an IHA to take marine mammals incidental to pile driving and removal and down-the-hole (DTH) pile driving in association with the Biorka Island Dock Replacement Project (Project) in Symonds Bay, Alaska. NMFS published a notice of a proposed IHA and request for comments in the **Federal Register** on August 30, 2017 (82 FR 41229). We subsequently published the final notice of our issuance of the IHA on October 31, 2017 (82 FR 50397), making the IHA valid for May 1, 2018 through April 30, 2019. In-water work associated with the project was expected to be completed within the one-year timeframe of the IHA. The specified activities were expected to result in the take, in the form of Level A and Level B harassment, of five species of marine mammals including harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), and humpback whale (*Megaptera novaeangliae*).

On December 11, 2018, FAA informed NMFS that part of the work on the project would be postponed due to severe weather conditions that created significant logistical challenges; that no work was able to be conducted during the winter season of 2018 and 2019, and that, therefore, not all of the in-water pile driving activities can be completed by the expiration of the 2018 IHA. FAA requested that a new IHA be issued that would be valid from May 1, 2019 through April 30, 2020. There is no modification from the initial project description provided in the FAA's IHA application, except that only a subset of the activities analyzed in the 2018 IHA remain to be completed. A **Federal Register** notice for the proposed IHA for this action was published on March 7, 2019 (84 FR 8308).

Description of the Proposed Activity

The 2019 IHA covers a subset of the construction associated with the Biorka Island dock replacement project described in the initial **Federal Register** notice (82 FR 41229; August 30, 2017) for the proposed 2018 IHA. The 2017 IHA authorized Level A and B harassment of two species of marine mammals and Level B harassment of seven species of marine mammals (Table 1). FAA requests authorization to harass these same species. Accordingly, the take authorized here (in the form of Level A and Level B harassment) applies to the same stocks, resulting from the same activities. The amount of authorized take is based on marine mammal monitoring during the 2018 IHA, in consideration of the reduced subset of activities (described below).

Detailed Description of the Action

The majority of the planned construction project has been completed, and this proposed IHA would only cover potential marine mammal takes for the remainder of the pile driving activities. Specifically, these are:

- Two (2) 30-inch piles;
  - One has already been installed and just needs to be proofed with an impact hammer;
  - The other will be driven with an impact hammer;
- Four (4) 18-inch batter piles;
- Up to twelve (12) template H-piles (six per dolphin);
  - Includes installation and extraction using a vibratory hammer.

In the **Federal Register** notice for the proposed IHA (84 FR 8308; March 7, 2019), it stated that the proposed activities would be completed in 21 days. FAA subsequently clarified that these activities are expected to be completed in 10–12 working days.

NMFS refers the reader to the documents related to the previously issued 2018 IHA for more detailed description of the project activities. These previous documents include the **Federal Register** notice of the issuance of the 2018 IHA for FAA's Biorka Island dock replacement project (82 FR 50397; October 31, 2017), FAA's IHA application, the **Federal Register** notice of the proposed IHA (82 FR 41229; August 30, 2017) and all associated references and documents. A detailed description of the proposed vibratory and impact pile driving activities at the dock replacement project is found in these documents. The description remains accurate with the exception of the reduced scope of activity as noted above.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on March 7, 2019 (84 FR 8308). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission). Specific comments and responses are provided below.

Comment 1: The Commission recommended that NMFS further investigate appropriate timeframes over which sound exposure levels should be accumulated when estimating Level A harassment zones, and recommended that NMFS make this a priority to resolve in the near future. Commission further recommended that NMFS consult with its own and external scientists and acousticians to determine appropriate accumulation times.

Response: NMFS considers this a priority and has recently formed a group to work on the issue of accumulation time.

Comment 2: The Commission recommends that NMFS refrain from implementing its proposed renewal process and instead use abbreviated **Federal Register** notices and reference existing documents to streamline the IHA process. If NMFS adopts the proposed renewal process, the Commission recommends that NMFS provide the Commission and the public a legal analysis supporting its conclusion that the process is consistent with section 101(a)(5)(D) of the MMPA.

Response: The notice of the proposed IHA expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Additional reference to this solicitation of public comment has recently been added at the beginning of the **Federal Register** notices that consider renewals, requesting input specifically on the possible renewal itself. NMFS appreciates the streamlining achieved by the use of abbreviated **Federal Register** notices and intends to continue using them for proposed IHAs that include minor changes from previously issued IHAs, but which do not satisfy the renewal requirements. However, we believe our method for issuing renewals meets statutory requirements and maximizes efficiency. However, importantly, such renewals will be limited to circumstances where: The activities are identical or nearly identical to those analyzed in the proposed IHA; monitoring does not indicate impacts that were not previously analyzed and authorized; and, the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency will consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA will be published in the **Federal Register**, as they are for all IHAs. The option for issuing renewal IHAs has been in NMFS' incidental take regulations since 1996. We will provide any additional information to the Commission and consider posting a description of the renewal process on our website before any renewal is issued utilizing this process.

Description of Anticipated Impacts

Description of Marine Mammals

A description of the marine mammals in the area of the activities is found in the **Federal Resister** notice for the original IHA (82 FR 50397; October 31, 2017) and in FAA's IHA application, which remains applicable to the proposed 2019 IHA as well. In addition, NMFS has reviewed recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, recent scientific literature, and marine mammal monitoring reports during the 2018 IHA. With the exception of the minke whale (see below), there is no new information regarding the species and potential effects from our original analysis of impacts under the 2018 IHA.

One minke whale was observed during in-water construction activity on each of the two days on June 9 and June 10, 2018. The onsite protected species observers documented the whale erroneously as a humpback whale and did not call for shutdown of the activities, which resulted in a total of two exposures of minke whales within the modeled Level B harassment zone. FAA subsequently filed a report to NMFS documenting the incident (FAA, 2018). On both occasions, the whale was observed feeding at a distance 500–1,000 m from the pile, but no evident disturbance was recorded. As a result of these observations, the 2019 IHA authorizes Level B harassment of minke whales (see below).

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in the **Federal Register** notice for the previous IHA (82 FR 50397; October 31, 2017) and FAA's IHA application, which remains applicable to the issuance of the 2019 IHA.

Estimated Take

A detailed description of the methods and inputs used to estimate authorized take is found in the **Federal Register** notice for the previous IHA (82 FR 50397; October 31, 2017) and FAA's IHA application. The methods of estimating take for the 2019 IHA are based on those used in the 2018 IHA and corrected for certain species to reflect takes in the 2018 activities (see below). Information used to estimate potential takes are updated based on informal consultation with the Marine Mammal Commission, further review of FAA's marine mammal monitoring reports that were made available during the comment period, and the change of the expected in-water activity days from the previous 21 days to 10–12 days. In addition, minke whale takes were added due to sighting of this species in the project area from marine mammal monitoring during the previous activities.

The following provides descriptions on the correction of estimated take numbers for the 2019 IHA based on marine mammal monitoring during the 2018 activities.

Detailed description of the estimated takes for the 2019 IHA is provided below.

Harbor Seal

The 2018 IHA authorized 13 incidents of take by Level A harassment and 350 incidents of take by Level B harassment of harbor seals. Based on the marine mammal monitoring during the 2018 activities, it showed that an average of 15 harbor seals were sighted per day (FAA, 2018). A total of 240 Level B harassment takes of harbor seals occurred in 2018 but no Level A harassment take was observed. For the June 2018 monitoring report, 20 harbor seals were observed hauled out. More harbor seals likely will be hauled out in May/June due to pupping. Using an average of 20 harbor seals to be exposed to in-water pile driving noise that could cause takes, it is estimated that the total takes of harbor seals would be 240 animals for 12 days.

Among these takes, marine mammal monitoring during the 2018 activities

showed that up to 6 seals were within 300 m of the pile on a given day. Assuming that FAA cannot shut down in time for a third of those animals and assuming that 10 days would be delegated to in-water pile driving that have large Level A harassment zones (over 200 m), the estimated Level A harassment of harbor seals will be 20.

The estimated Level B harassment is the 240 total take minus the 20 Level A harassment, which is 220 Level B harassment take.

Killer Whale

Based on various previous monitoring efforts in nearby areas (such as City of Sitka), we expect group size of killer whales to be 8. At the recommendation of the Marine Mammal Commission, we assume takes could occur on 25 percent of the days, the 2019 IHA authorizes a total of 24 Level B harassment takes for killer whales. Marine mammal monitoring during 2018 in-water activity showed 8 Level B harassment takes of killer whales.

Minke Whale

On two occasions minke whales were sighted within the modeled Level B harassment zone during Biorka's 2018 pile driving activity. Take of this species was not authorized in the 2018 IHA. Based on potential occurrence of minke whale in the Biorka project area, the 2019 IHA authorizes 12 Level B harassment takes of minke whales assuming 1 take per day.

Other Species

For other species, the 2018 marine mammal monitoring report showed Level B harassment takes of 26 humpback whales, 0 harbor porpoise, and 11 Steller sea lions. The authorized 2019 takes are based on the same methods and inputs described in the 2018 IHA.

Table 1 provides a summary of the estimated take numbers for the 2019 IHA.

TABLE 1—ESTIMATED MARINE MAMMAL TAKES IN THE 2019 IHA

Species	Authorized take	
	Level A	Level B
Harbor seal	20	220
Steller sea lion	3	60
Harbor porpoise	15	45
Killer whale	0	24
Humpback whale	1	60
Minke whale	0	12

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures required in the 2019 IHA are identical to those included in the final 2018 IHA. The following measures are included in this IHA:

• Establishment of Shutdown Zone—For all pile driving activities, FAA will establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). In this case, shutdown zones are intended to contain areas in which sound pressure levels (SPLs) equal or exceed acoustic injury criteria for some authorized species, based on NMFS' 2018 acoustic technical guidance.

• Establishment of Monitoring Zones—FAA must identify and establish Level A harassment zones. These zones are areas beyond the shutdown zones where animals may be exposed to sound levels that could result in permanent threshold shift (PTS). FAA will also identify and establish Level B harassment disturbance zones which are areas where SPLs equal or exceed 160 dB rms for impact driving and 120 dB rms during vibratory driving. Observation of monitoring zones enables observers to be aware of and communicate the presence of marine mammals in the project area and outside the shutdown zone and thus prepare for potential shutdowns of activity. NMFS has established monitoring protocols described in the previous **Federal Register** notice of issuance (82 FR 50397; October 30, 2017) which are based on the distance and size of the monitoring and shutdown zones. These same protocols are contained in this 2019 IHA.

• *Temporal Restrictions*—Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted.

• *Soft Start*—The use of a soft-start procedure is 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 implement soft start procedures. Soft Start is not required during vibratory pile driving and removal activities.

• *Visual Marine Mammal Observation*—Monitoring must be conducted by qualified marine mammal observers (MMOs), who are trained biologists, with minimum qualifications described in the **Federal Register** notice of the issuance of the 2018 IHA (82 FR 50397; October 30, 2017). In order to effectively monitor the pile driving monitoring zones, two MMOs must be positioned at the best practical vantage point(s). If waters exceed a sea-state which restricts the observers' ability to make observations within the shutdown zone (*e.g.,* excessive wind or fog), pile installation and removal will cease. Pile driving will not be initiated until the entire shutdown zone is visible. MMOs shall record specific information on the sighting forms as described in the **Federal Register** notice of issuance of the 2018 IHA (82 FR 50379; October 30, 2017). At the conclusion of the in-water construction work, FAA will provide NMFS with a monitoring report which includes summaries of recorded takes and estimates of the number of marine mammals that may have been harassed.

• *Sound source verification*—In the 2018 IHA, NMFS required FAA to conduct sound source verification (SSV) measurements of 2 18-inch and 2 30-inch piles driven using various installation methods (vibratory, impact, and down-the-hole driving (for the 30-inch pile only)). SSV measurements have been conducted for the 18-inch piles and for 30-inch down-the-hole driving during the 2018 activity. The FAA is required to conduct SSV measurements on the 2 30-inch piles. Furthermore, the FAA is required to report SSV data in median root-mean-square sound pressure level (SPLrms), peak SPL (SPLpeak), single strike sound exposure level (SELss), and pulse duration for impact driving, and SEL for vibratory drive.

Determinations

FAA will conduct a subset of the activities covered in the previous 2018 IHA. FAA was not able to complete these activities within the effective dates of the 2018 IHA due to weather-related delays of the project. Potential impacts to marine mammals from these activities were previously analyzed for the issuance of the 2018 IHA. In our **Federal Register** notice for this proposed IHA (84 FR 8308; March 7, 2019), we stated that the potential effects of the specified activity on the marine mammals previously analyzed remain applicable (though of a lower amount), as do NMFS prior determinations. However, although there are no changes to these activities for this IHA, subsequent analysis based on reviews of marine mammal monitoring reports during the 2018 activities prompted us to re-evaluate the take numbers of marine mammals in consultation with the Marine Mammal

Commission. For the Steller sea lion and humpback whale, authorized take numbers decreased from those considered in our notice of this proposed IHA. For harbor seals and killer whales, analysis of the most recent monitoring data led to a conclusion that the take numbers should be increased by a small amount (see ''Estimated Take''). These modifications to the authorized take numbers are minor in degree and do not affect our original assessment that the prior analyses and determinations remain applicable. However, review of the same monitoring data has also indicated that authorization of take for minke whale—not previously evaluated—is appropriate as a precaution. The substance of our prior analysis and determinations—in particular, the analysis provided for killer whales—is generally applicable to the effects expected for the minke whale (*i.e.,* a low number of takes, by Level B harassment only, are authorized as a precaution).

When issuing the 2018 IHA, NMFS found FAA's Biorka Island dock replacement project, in its entirety, would have a negligible impact to species or stocks' rates of recruitment and survival and the amount of taking would be small relative to the population size of such species or stock (less than 15 percent). The 2019 IHA includes identical required mitigation, monitoring, and reporting measures as the 2018 IHA and is applicable to a subset of the activity for which the 2018 IHA was issued. In conclusion, and inclusive of the authorized take numbers that were modified from those provided in our notice of proposed IHA, there is no new information suggesting that our analysis or findings should change. Here, we provide an assessment specific to the minke whale.

When issuing the 2018 IHA, NMFS conducted a thorough analysis on all species for which take was authorized, except minke whales, and found that FAA's Biorka Island dock replacement project, in its entirety, would have a negligible impact to these species or stocks' rates of recruitment and survival and the amount of taking would be small relative to the population size of such species or stock (less than 15 percent).

For the issuance of the 2019 IHA, minke whale is included as well on the basis of the most recent monitoring data. The potential impacts to minke whale are expected to be the same as to other marine mammals of low abundance, such as killer whale. For minke whales, takes that are anticipated and authorized are expected to be limited to short-term Level B harassment in the form of behavioral modification. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal noise.

There are no known important areas for minke whales in the area, such as important feeding, pupping, or other areas.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect minke whales through effects on annual rates of recruitment or survival:

- No mortality or injury is anticipated or authorized; and
- Behavioral disturbance—only a few minke whales would experience behavioral disturbance from the FAA's Biorka Island dock replacement project. However, as discussed earlier, the area to be affected is small and the duration of the project is short. No other important habitat for minke whales exist in the vicinity of the project area. Therefore, the overall impacts are expected to be insignificant.

The 2019 IHA includes identical required mitigation, monitoring, and reporting measures as the 2018 IHA.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) FAA's activities will not have an unmitigable adverse impact on taking for subsistence purposes as subsistence activities do not occur in the project area during the project time frame.

National Environmental Policy Act

To comply with the National Environmental Policy Act (NEPA) 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 environmental consequences on the human environment. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is authorizing take of two DPSs (*i.e.,* western DPS of Steller sea lions and Mexico DPS of humpback whales), which are listed under the ESA. The Permit and Conservation Division requested initiation of Section 7 consultation with the Alaska Region for the issuance of this IHA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion in October, 2017 under section 7 of the ESA, on the issuance of an IHA to the FAA under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of western DPS Steller sea lions or Mexico DPS of humpback whales, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat.

Authorization

As a result of these determinations, NMFS has issued an IHA to the FAA for conducting FAA's Biorka Island dock replacement project between May 1, 2019, and April 30, 2020, provided the prescribed mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 22, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–08391 Filed 4–25–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

[Docket No.: PTO–C–2019–0010]

Request for Comments and Notice of Public Hearings on the Report Required by the Study of Underrepresented Classes Chasing Engineering and Science Success Act of 2018

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

ACTION: Request for comments; notice of public hearings.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') is interested in gathering information on the participation of women, minorities, and veterans in entrepreneurship activities and the patent system for purposes of preparing a study on the subject as required by the Study of Underrepresented Classes Chasing Engineering and Science (SUCCESS) Act. To assist in gathering this information, the USPTO invites the public to provide comments and to attend public hearings addressing the participation of women, minorities, and veterans in entrepreneurship activities and the patent system.

DATES: The USPTO will hold three (3) public hearings in support of the SUCCESS Act study in locations that provide broad coverage of the Nation. The first public hearing will be held in Alexandria, Virginia, on Wednesday, May 8, 2019, beginning at 9 a.m. and ending at 4 p.m., Eastern Standard Time (EST). The second public hearing will be held in Detroit, Michigan, on Thursday, May 16, 2019, beginning at 9 a.m. and ending at 4 p.m., EST. The third public hearing will be held in San Jose, California, on Monday, June 3, 2019, beginning at 9 a.m. and ending at 4 p.m., Pacific Standard Time.

Oral Testimony: Those wishing to present oral testimony at one of the hearings must request an opportunity to do so in writing no later than May 1, 2019. Speakers providing oral testimony at the hearings should submit a written copy of their testimony for inclusion in the record of the proceedings no later than June 30, 2019.

Written Comments: The deadline for receipt of written comments is June 30, 2019. Written comments should be identified in the subject line of the email or postal mailing as ''SUCCESS Act Study.''

ADDRESSES: The first public hearing will be held at the United States Patent and Trademark Office in the Clara Barton Auditorium (formerly the Madison Auditorium), which is located on the concourse level of the USPTO Madison Building, located at 600 Dulany Street, Alexandria, Virginia 22314.

The second public hearing will be held at the Elijah J. McCoy Midwest Regional Office of the USPTO, located in the Stroh Building at 300 River Place Drive, Detroit, Michigan 48207.

The third public hearing will be held at the Silicon Valley United States Patent and Trademark Office, located in the Wing Building of San Jose City Hall at 26 South 4th Street, San Jose, California 95113.

Oral Testimony: Requests to testify must be submitted by email to *successact@uspto.gov.*

Written Comments: Written comments should be sent by email to *successact@uspto.gov.* Comments may also be submitted by postal mail addressed to Office of the Chief Economist, Mail Stop OPIA, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450. Although comments may be submitted by postal mail, the USPTO prefers to receive comments via email.

Because written comments and testimony will be made available for public inspection, information that a respondent does not desire to be made public, such as a phone number, should not be included in the testimony or written comments.

The public hearings will be available via Webcast. Information about the Webcast will be posted on the USPTO's internet website (address: *www.uspto.gov/successact*) before the public hearing.

Transcripts of the hearings will be available on the USPTO internet website (*www.uspto.gov/successact*) shortly after the hearings.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Pope, Office of the Chief Economist by telephone at (571) 272–9880, or by email at *successact@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 3 of the Study of Underrepresented Classes Chasing Engineering and Science Success Act (SUCCESS Act) requires the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), in consultation with the Administrator of the U.S. Small Business Administration (SBA), with delivering to Congress a report on the results of a study on the participation of women, minorities, and veterans in the U.S. patent system. This report is due no later than one year after the enactment of the Act (*i.e.,* by October 31, 2019).

Congress has mandated that the study: (1) Identify publicly available data on the number of patents annually applied for and obtained by, and the benefits of increasing the number of patents applied for and obtained by women, minorities, and veterans and small businesses owned by women, minorities, and veterans and (2) provide legislative recommendations for how to: (A) Promote the participation of women, minorities, and veterans in entrepreneurship activities and (B) increase the number of women, minorities, and veterans who apply for and obtain patents.

The USPTO understands that significant information gaps exist for documenting the number of and benefits from patents applied for and obtained by women, minorities, and veterans. This type of information is not collected by the USPTO as part of the patent application or granting process. The lack of information hampers efforts to assess the interrelationship of participation in the patent process and entrepreneurship activities by these groups, and inhibits analysis of whether and how participation could be enhanced through education, Federal program funding, coordination with universities and industry stakeholders, and other means. To overcome this limitation, the USPTO is engaging with other bureaus within the Department of Commerce and consulting with other U.S. government agencies, such as the SBA, U.S. Department of Treasury and the U.S. Army Office of Economic and Manpower Analysis, about possible data sharing or analysis, and are in the process of collecting information regarding legislative proposals or recommendations to increase entrepreneurship and utilization of the patent process by women, minorities, and veterans. In addition to these efforts, the USPTO believes that individuals, businesses and non-profit organizations outside government have relevant information on the number of and benefits from patents applied for and obtained by women, minorities, and veterans as well as small businesses owned by these groups. To assist in gathering this information, the USPTO invites the public to provide comments and to participate in any of three public hearings to be held in support of the SUCCESS Act study. The diversity and inclusiveness of the U.S. IP system is a national issue with stakeholders all across the U.S. With this in mind, we determined that three public hearings, located in Alexandria, VA, Detroit, MI, and San Jose, CA, would provide broad coverage of the Nation that would be

helpful in reaching members of the public who might have valuable information to assist in these efforts and helpful in USPTO's ultimate preparation of the report.

Issues for Comment: The USPTO seeks comments on the participation of women, minorities, and veterans in entrepreneurship activities and the patent system. The questions enumerated below are a preliminary guide to aid the USPTO in collecting relevant information and to evaluate possible administrative or legislative recommendations that may be provided to Congress. The tenor of the following questions should not be taken as an indication that the USPTO has taken a position or is predisposed to any particular views. USPTO welcomes comments from the public on any issues that they believe are relevant to the scope of the study, and is particularly interested in answers to the following questions:

(1) What public data are available to identify the number of patents applied for and obtained by women, minorities and veterans?

(2) What public data are available to assess the social and private benefits that result from increasing the number of patents applied for and obtained by women, minorities, and veterans, as well as small businesses owned by these groups?

(3) What social and private benefits would you identify as resulting from increasing the number of patents applied for and obtained by women, minorities, and veterans?

(4) What social and private benefits to small businesses owned by women, minorities, and veterans would you identify as resulting from increasing the number of patents applied for and obtained by those businesses?

(5) Should the USPTO collect demographic information on patent inventors at the time of patent application, and why?

(6) To what extent, if at all, do educational and professional circumstances affect the ability of women, minorities, and veterans to apply for and obtain patents or to pursue entrepreneurial activities?

(7) To what extent, if at all, do socioeconomic factors facilitate or hinder the ability of women, minorities, and veterans to apply for and obtain patents or to pursue entrepreneurial activities?

(8) What entities or institutions, if any, should or should not play an active role in promoting the participation of women, minorities, and veterans in the patent system and entrepreneurial activities?

(9) What public policies, if any, should the Federal Government explore in order to promote the participation of women, minorities, and veterans in the patent system and entrepreneurial activities? Are there any public policies that the Federal Government should not explore?

(10) What action could USPTO take to address the participation of women, minorities, and veterans in the patent system and entrepreneurial activities?

(11) Are there policies, programs, or other targeted activities shown to be effective at recruiting and retaining women, minorities, and veterans in innovative and entrepreneurial activities? Are there policies, programs, or other targeted activities that have proved ineffective?

Oral Testimony: Members of the public are invited to present oral testimony at any scheduled hearing date. Those wishing an opportunity to do so must submit a request in writing via email no later than May 1, 2019.

Requests to testify must be submitted by email to *successact@uspto.gov* and should indicate the following: (1) The name of the person wishing to testify; (2) the person's contact information (telephone number and email address); (3) the organization(s) the person represents, if any; (4) an indication of the amount of time needed for the testimony; and (5) a preliminary written copy of the testimony. Based upon the requests received, an agenda for witness testimony will be sent to testifying requesters and posted on the USPTO internet website (address: *www.uspto.gov/successact*).

Dated: April 22, 2019.

Andrei Iancu,

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

[FR Doc. 2019–08437 Filed 4–25–19; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services previously furnished by such agencies.

DATES: Comments must be received on or before: May 26, 2019.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSNs—Product Names:
MR 11087—Bowl, Collapsible, Pet
MR 11088—Blanket, Pet, Large
MR 11089—Blanket, Pet, Small
MR 11090—Disc, Toy, Dog

Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

Contracting Activity: Military Resale-Defense Commissary Agency

Services

Service Type: Records digitization

Mandatory for: Ohio Army Reserve National Guard Element, Joint Forces Headquarters, Columbus, Ohio

Mandatory Source of Supply: Coleman Professional Services, Kent, OH

Contracting Activity: DEPT OF THE ARMY, W7NU USPFO ACTIVITY OH ARNG

Service Type: Messenger Service

Mandatory for: U.S. Customs and Border Protection, Area Port St. Thomas, St. Thomas, VI

Mandatory Source of Supply: The Corporate Source, Inc., New York, NY

Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CTR DIV

Deletions

The following products and services are proposed for deletion from the Procurement List:

Products

NSN—Product Name:
MR 334—Turner, Omelet
Mandatory Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: Military Resale-Defense Commissary Agency

NSN—Product Name:
7510–00–223–6813—Fastener, Paper, 3″ Capacity with Compressor, 2–3/4″ Center
Mandatory Source of Supply: Delaware County Chapter, NYSARC, Inc., Walton, NY
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR (2, NEW YORK, NY

Services

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Contracting Command, Sutcovoyo USAR Center, Waterbury, CT
Mandatory Source of Supply: Allied Community Services, Inc., Enfield, CT
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Service Type: Food Service Attendant
Mandatory for: West Virginia Air National Guard, Charleston, WV
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK

Service Type: Food Service Attendant
Mandatory for: U.S. Air Force, 183rd Capital Airport ANGB, Aerospace Dining Facility, Bldg. P–48, Springfield, IL
Mandatory Source of Supply: United Cerebral Palsy of the Land of Lincoln, Springfield, IL

Service Type: Mess Attendant Services
Mandatory for: 131st Fighter Wing, ANGU—Lambert Air Base, Bridgeton, MO
Mandatory Source of Supply: Challenge Unlimited, Inc., Alton, IL
Contracting Activity: DEPT OF THE ARMY, W7M6 USPFO ACTIVITY IL ARNG

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: AMSA 69, Milford, CT
Mandatory Source of Supply: CW Resources, Inc., New Britain, CT
Mandatory for: U.S. Army Reserve Center: 54 Alfred Plourde, Lewiston, ME
Mandatory Source of Supply: Northern New England Employment Services, Portland, ME
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT DIX (RC–E)

Service Type: Administrative Services
Mandatory for: Honolulu Property Management Office: Prince Kuhio Federal Building, Honolulu, HI
Mandatory for: GSA, Los Angeles: Federal Protective Services, Los Angeles, CA

Service Type: Janitorial/Elevator Operator
Mandatory for: Southeast Federal Center: Buildings 74, 158, 191, 197 and 202, Washington, DC
Mandatory Source of Supply: Davis Memorial Goodwill Industries, Washington, DC
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: System Furniture Reuse Services
Mandatory for: U.S. Air Force, North American Aerospace Defense Command & U.S. Northern Command, Building 2, Peterson AFB, CO
Mandatory Source of Supply: AspenPointe Employment, Colorado Springs, CO
Contracting Activity: DEPT OF THE AIR FORCE, FA2517 21 CONS LGC

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: Kirkwood, Wilmington, DE
Mandatory Source of Supply: Opportunity Center, Incorporated, Wilmington, DE
Mandatory for: U.S. Army Reserve Center: 10 Scenic Drive, Washington, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: Landrum Federal Building and U.S. Post Office, Jasper, GA
Mandatory Source of Supply: Goodwill Industries of North Georgia, Inc., Atlanta, GA
Contracting Activity: PUBLIC BUILDINGS SERVICE, ACQUISITION DIVISION/SERVICES BRANCH

Service Type: Janitorial/Custodial
Mandatory for: Old Post Office Building, Washington, DC
Mandatory Source of Supply: Davis Memorial Goodwill Industries, Washington, DC
Contracting Activity: PUBLIC BUILDINGS SERVICE, WPHCB—EAST O&M CONTRACTS BRANCH

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2019–08439 Filed 4–25–19; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Commodity Futures Trading Commission (CFTC or Commission) is republishing existing SORN: National Futures Association (NFA) Applications Suite System, CFTC–12. The modification will add two routine uses, clarify existing routine uses, and bring the SORN in compliance with the Office of Management and Budget (OMB) Circular A–108 SORN template. The two new routine uses pertain to sharing information to mitigate a breach and are required by OMB Memorandum 17–12. Other updates include identifying the specific routine uses applicable to the system of records rather than relying on CFTC's previously published blanket routine uses, and administrative updates to comply with the OMB Circular A–108 SORN template format.

DATES: Comments must be received on or before May 28, 2019. This action will be effective without further notice on May 28, 2019, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to ''National Futures Association Applications Suite System'' by any of the following methods:

- Agency website, via its Comments Online process: *https://comments.cftc.gov*. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Melissa Jurgens, Acting Chief Privacy Officer, 202–418–5516, *privacy@cftc.gov,* Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. National Futures Association

The National Futures Association (NFA) is a not-for-profit membership corporation formed in 1976 that serves as an industry self-regulatory organization under Section 17 of the Commodity Exchange Act (CEA). NFA's formal designation as a ''registered futures association'' was granted by the

CFTC in 1981 and NFA's regulatory operations began in 1982.

The Commodities Futures Trading Commission (CFTC or Commission) has delegated to the NFA the authority to perform certain functions and act as custodian of certain CFTC records to support the CFTC's mission of protecting market participants and the public from fraud, manipulation, abusive practices and systemic risk related to futures and swaps derivatives and to foster transparent, open, competitive and financially sound markets. The NFA Applications Suite System (''Applications Suite'') is a collection of the NFA databases and applications specifically designed to allow NFA to fulfill the mission and business objectives set forth by the Commission through delegated authority.

II. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a Federal government agency from which information about individuals is retrieved by name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

III. Notice: National Futures Association (NFA) Applications Suite System, CFTC–12.

SYSTEM NAME AND NUMBER

National Futures Association (NFA) Applications Suite System, CFTC–12.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located at the National Futures Association, 300 S. Riverside Plaza, Chicago, IL 60606 and the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SYSTEM MANAGER(S):

For records held by the Commission related to fitness investigations and registration: Director, Division of Swap Dealer and Intermediary Oversight (DSIO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Surveillance Branch Chiefs in the regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661 and 140 Broadway, 19th Floor, New York, NY 10005. For records held by the Commission related to disciplinary action: Director, Division of Market Oversight (DMO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. For records held by NFA contact: Vice President for Registration, National Futures Association, 300 South Riverside, Suite 1800, Chicago, Illinois 60606.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of this information is authorized under The Commodity Exchange Act, 7 U.S.C. 1, *et seq.,* and the rules and regulations promulgated thereunder.

PURPOSE(S) OF THE SYSTEM:

The records in this system are used to support the Commission's registration and other regulatory authority as delegated to NFA. This involves maintaining fitness investigation and other fitness related records, including investigatory material compiled for law enforcement purposes, non-fitness registration records, images of registration records, information related to disciplinary action taken by the CFTC and self-regulatory organizations; processing hard copy and electronic fingerprint cards; and maintaining a web based registration system, records related to notices of exemption or claims for exemption from certain CFTC requirements, and financial statements, reports, notices and other filings that enable NFA and the CFTC to oversee registrant activities for compliance with legal requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes information about individuals who have applied or who may apply for registration as futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, leverage transaction merchants, swap dealers, major swap participants, retail foreign exchange dealers and agricultural trade option merchants (ATOMs); individuals who file notices of exemption or claims for exemption from certain CFTC requirements; individuals who are or may become principals (as defined in 17 CFR 3.1); individuals who have applied or who may apply for registration as associated persons of the foregoing firms; and floor brokers and floor traders. This system also includes information about individuals who have been suspended, expelled, disciplined, or denied access to or by a self-regulatory organization (SRO), including, but not limited to NFA, or who have been subject to a CFTC civil or administrative action.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes information pertaining to the fitness of the individuals or firms to engage in business subject to the Commission's jurisdiction, including but not limited to registration forms, schedules and supplements, fingerprint cards which are required for certain individual registrants as provided under CFTC rules, correspondence relating to registration, fitness investigations, and reports and memoranda reflecting information developed from various sources. This system includes investigatory material compiled for law enforcement purposes whose disclosure the Commission staff has determined could compromise Commission investigations, or would reveal the identity of a source who furnished information to the Commission under an express promise that the identity of the source would be held in confidence. The system also includes information pertaining to disciplinary or other adverse action taken by an SRO or the CFTC, including the name of the person against whom such action was taken, the action taken, and the reasons. Information submitted by certain individuals or firms to enable NFA and/or CFTC supervision and oversight of activities governed by the Commodity Exchange Act, such as financial statements, reports and notice filings; disclosure documents; and submissions by swap dealers and major swap participants pursuant to Commission Regulation 3.10(a)(1)(v)(A) and information developed by the NFA and/or CFTC related to such information. Additionally, this system includes information submitted by individuals related to notices of exemption or claims for exemption from certain CFTC requirements and information developed by NFA and/or the CFTC related to the notice of exemption or claim for exemption.

RECORD SOURCE CATEGORIES:

Sources of the information include the individual or firm on whom the record is maintained; the individual's employer; individuals filing reparations complaints or answers; Federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges; NFA; Financial Industry Regulatory Authority (FINRA); foreign futures and securities authorities and INTERPOL; self-regulatory organizations notifying the Commission of disciplinary or other adverse actions taken; and other miscellaneous sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with NFA rules that have been approved by the Commission or permitted to become effective without Commission approval. Disclosures must be made under circumstances authorized by the Commission as consistent with the Commission's regulations and routine uses.

NFA generally makes available to the public on NFA website(s), including the Background Affiliation Status Information Center (BASIC), firm directories, registration forms, business addresses, telephone numbers, registration categories, biographical supplements (except for any confidential information on supplementary attachments to the forms), effective dates of registration, registration status, and disciplinary action taken concerning futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, swap dealers, major swap participants and retail foreign exchange dealers and their associated persons. NFA also will release records or portions of records to any member of the public if such records or portions are ''public'' or ''publicly available'' under Commission Regulations 1.10(g) or 145.0. For information not made available to the public as explained above, NFA may disclose information contained in those portions of this system of records maintained by NFA.

These records and information in these records may be used:

(a) To disclose to any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal or with whom an individual is or plans on being associated as a swap associated person;

(b) To disclose to any futures commission merchant or retail foreign exchange dealer with whom an introducing broker, whether an applicant or registrant, has or plans to enter into a guarantee agreement under CFTC Regulation 1.10;

(c) To disclose to boards of trade designated as contract markets or to any other futures associations registered with the Commission to assist those organizations in carrying out their responsibilities under the Act;

(d) To disclose pursuant to an order of a court of competent jurisdiction; except that, subpoenas and summonses covering non-public portions of registration records and copies of the non-public records shall be promptly forwarded to the Commission to enable the Commission to consult with NFA on how to proceed;

(e) To disclose to the public certain background information about firms and industry professionals to allow them to understand NFA membership, CFTC registration status, and relevant background information;

(f) To disclose in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae;

(g) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(h) To disclose to any ''registered entity,'' as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (''the Act''), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures association registered under section 17 of the Act to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.*;

(i) To disclose to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function;

(j) To disclose to Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and the rules and regulations promulgated thereunder;

(k) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(l) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are stored in file folders and binders. Electronic records, including computer files, are stored on the Commission's network, NFA databases or applications, NFA website, and other secure electronic media as needed.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information covered by this system of records notice may be retrieved by the name of the individual or firm, an NFA identification number, docket number, or by cross-indexing an individual's file to the name of the firm with which the individual is associated or affiliated (*e.g.,* the name of the futures commission merchant).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records will be maintained in accordance with records disposition schedules approved by the National Archives and Records Administration. The schedules are available at *http://www.cftc.gov*.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all NFA and CFTC staff are required to take annual privacy and security training. Technical security measures within NFA and CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

Individuals may also request registration information by telephone directly from the NFA information center at (800) 621–3570 or (312) 781–1410. Inquiries can also be made to NFA by fax at (312) 781–1459 or via the internet at *information@nfa.futures.org.* NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request. Individuals may also request registration information by telephone directly from the NFA information center at (800) 621–3570 or (312) 781–1410. Inquiries can also be made to NFA by fax at (312) 781–1459 or via the internet at *information@nfa.futures.org.* NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records. The internet may be used to obtain information on current registration status and futures-related regulatory actions at *http://www.nfa.futures.org.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of applicants for registration or registrants are exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. 552a(k)(2), and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, records access procedures, and record contest procedures set forth in the system notices of other systems of records, and from the requirement that the sources of records in the system be described.

HISTORY:

A previous version of this SORN was published in the **Federal Register** on September 30th, 2014 at 79 FR 58752.

Issued in Washington, DC, on April 22, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–08397 Filed 4–25–19; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commodity Futures Trading Commission (CFTC or Commission) is establishing a new systems of records: CFTC–53, Mailing, Event, and General Contact Lists.

DATES: Comments must be received on or before May 28, 2019. This action will be effective without further notice on May 28, 2019, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to ''Mailing, Event, and General Contact Lists'' by any of the following methods:

- *Agency website, via its Comments Online process: https://comments.cftc.gov.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Melissa Jurgens, Acting Chief Privacy Officer, 202–418–5516, *privacy@cftc.gov,* Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Mailing, Event, and General Contact Lists

The CFTC is establishing a new system of records that includes contact information compiled in lists related to a specific event, initiative, project, or outreach activity. These lists are used to facilitate mailings, registrations, and other communications to multiple addressees in furtherance of CFTC's mission under the Commodity Exchange Act.

II. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a Federal government agency from which information about individuals is retrieved by name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

III. Notice: Mailing, Event and Contact Lists, CFTC–53

SYSTEM NAME AND NUMBER

Mailing, Event, and General Contact Lists, CFTC–53.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SYSTEM MANAGER(S):

Office of Public Affairs, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 748 of the Dodd-Frank Act (Pub. L. 111–203, Title VII, Section 748(g)(2)(B)) established the CFTC Customer Protection Fund for customer education initiatives designed to help customers protect themselves against fraud or other violations of the CEA or the rules or regulations thereunder. The Commission undertakes and maintains customer, and financial regulator education and awareness initiatives through various CFTC events and activities in accordance with Part 165.12 of the regulations under the Commodity Exchange Act, 17 CFR 165. The Commission also has authority to collect this information under 7 U.S.C. 22(a)(2)–(3) of the Commodity Exchange Act. See also 7 U.S.C. 26(g), and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

The information in the system is being collected to enable CFTC to efficiently and effectively manage contact information to: (1) Assist CFTC in the distribution of documents and information to individuals who request such materials; (2) to maintain lists of media, Congressional, business, or other contacts for future communications; (3) create and maintain registration and event management tools for outreach, education, and training events; and, (4) correspond with individuals who attend CFTC events or request materials or notifications of CFTC events or initiatives or may be interested in learning about such events.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include individuals who have requested to receive information, subscriptions, inquiries, informal guidance or materials from CFTC; who register or participate in CFTC-sponsored or CFTC-funded events; respond to surveys or feedback forms from CFTC, partnering agency, or by a third party contracted by CFTC; correspond with CFTC or are discussed in correspondence to or from CFTC regarding events, initiatives, and outreach activities; or who have previously interacted with the CFTC or other financial market regulators on other matters; or who the CFTC believes would be interested in learning of certain of our events or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information included in the system of records may contain: (1) Contact information (name, home/work address, business/institution affiliation and address, job titles, phone numbers (both work and mobile), email addresses; (2) information collected from or about attendees in response to surveys or as part of the event registration process; (3) special accommodation information (*e.g.,* dietary restrictions, seating, access accommodations); (4) photographs; and (5) sign-in sheets or rosters compiled at meetings, conferences, and workshops held at or by the CFTC or event/outreach partner.

RECORD SOURCE CATEGORIES:

Information in this system is obtained directly from the individual, or their representative, who is the subject of these records or from third parties, such as survey providers or event hosting companies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in this system will be routinely used by CFTC staff members to contact individuals to respond to requests for information; facilitate events; educate customers, industry members, and financial regulators (both domestic and foreign); and, correspond with members of the public. These records and information in these records may be used:

(a) To disclose in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae;

(b) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(c) Information may be disclosed to any ''registered entity,'' as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (''the Act''), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures association registered under section 17 of the Act to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.;*

(d) To disclose to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function;

(e) To disclose to Congress upon its request, acting within the scope of its

jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and the rules and regulations promulgated thereunder;

(f) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(g) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system may be stored electronically or on paper. Electronic records are stored on the Commission's secure network and secure back-up media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Certain information covered by this SORN may be retrieved by name, address, business affiliation, email address, event date, event type, event location or an identifying event or file number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records will be maintained in accordance with records disposition schedules approved by the National Archives and Records Administration. The schedules are available at *http://www.cftc.gov.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all CFTC staff are required to take annual privacy and security training. Technical security measures within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Issued in Washington, DC, on April 22, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–08395 Filed 4–25–19; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Commodity Futures Trading Commission (CFTC or Commission) is republishing existing SORN: CFTC–45, Comments Online. The modification will clarify the Categories of Records in the system, add two routine uses, tailor existing routine uses, and bring the SORN in compliance with the Office of Management and Budget (OMB) Circular A–108 SORN template. The update distinguishes summaries of ex parte communications from comments submitted directly by the public in the Categories of Records. The two new routine uses that are proposed pertain to sharing information to mitigate a breach and are required by OMB Memorandum 17–12. Other updates include identifying the specific routine uses applicable to the system of records rather than relying on CFTC's previously published blanket routine uses, and administrative updates to comply with the OMB Circular A–108 SORN template format.

DATES: Comments must be received on or before May 28, 2019. This action will be effective without further notice on May 28, 2019, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to ''Comments Online'' by any of the following methods:

- Agency website, via its Comments Online process: *https://comments.cftc.gov*. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Melissa Jurgens, Acting Chief Privacy Officer, 202–418–5516, *privacy@cftc.gov,* Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Comments Online

The CFTC is obligated to collect comments on rulemakings and other regulatory action, which it timely publishes on its website to provide transparency in the informal rulemaking process under the Administrative Procedure Act (''APA''), 5 U.S.C. 553, and in the regulatory processes established in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* The CFTC also may solicit comments or other input from the public that may not be associated with statutory or regulatory notice and comment requirements. The Comments Online system collects and stores comments and input received by the Commission. Specifically, the system includes a web form on *http://www.cftc.gov* allowing individuals to submit their comments or input, along with their name, organization and contact information. Once submitted, the system stores this information in the Comments Online database. Any comments received by fax, postal mail, or email are uploaded by personnel into this database, collecting all comments into one database. The commenter's name, organization, and comment or input are published to *http://www.cftc.gov*. The commenter's contact information, or other additional personal information voluntarily submitted, is not published on the internet, unless the commenter has incorporated such information into the text of his or her comment. During an informal rulemaking or other statutory or regulatory notice and comment process, Commission personnel may manually remove a comment from publication if the commenter withdraws his or her comments before the comment period has closed or because the comment contains obscenities or other material deemed inappropriate for publication by the Commission. However, comments that are removed from publication will be retained by the Commission for consideration as required by the APA, or as part of the Commission's documentation of a comment withdrawal in the event that one is requested.

II. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a Federal government agency from which information about individuals is retrieved by name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

III. Notice: Comments Online, CFTC–45.

SYSTEM NAME AND NUMBER

Comments Online, CFTC–45.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SYSTEM MANAGER(S):

Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of this information is authorized under 44 U.S.C. 3101, Administrative Procedure Act, 5 U.S.C. 553 *et seq.,* the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and rules and regulations promulgated thereunder.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect and maintain feedback from the public and industry groups regarding proposed rules and other Commission regulatory actions in accordance with the Administrative Procedure Act (''APA'') or other statutory or regulatory provisions, as well as input on Commission activities that may not be associated with notice and comment requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals providing comments or other input to the Commission in response to proposed rules, industry filings or other Commission request for comments associated with Commission rules, policies or procedures, whether the individuals provide comments or input directly or through their representatives. The system also includes individuals who may be discussed or identified in the comments or input provided by others to the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include incoming comments or other input to the Commission in response to proposed rules, industry filings, or other Commission requests for comments associated with Commission rules, policies or procedures, provided to the Commission via the web form on the *http://www.cftc.gov* site, electronic mail, facsimile, or postal mail. Comments or input submitted through *http://www.cftc.gov* include the full name of the submitter, an email address and the name of the organization, if an organization is submitting the comments. The commenter may optionally provide job title, mailing address, and phone numbers. The comments or input provided may

contain other personal information, although the comment submission instructions advise commenters not to include additional personal or confidential information. The system may also contain summaries or memorializations of ex parte communications input by CFTC staff related to the proposed rule, statutory or regulatory provision, or Commission activity.

RECORD SOURCE CATEGORIES:

Individuals and organizations providing comments or other input to the Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

(a) To disclose in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae;

(b) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(c) Information may be disclosed to any ''registered entity,'' as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (''the Act''), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures association registered under section 17 of the Act to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.*;

(d) To disclose to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function;

(e) To disclose to Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and the rules and regulations promulgated thereunder;

(f) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(g) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The Comments Online system of records stores records in this system electronically. The records are stored on the Commission's secure network and secure back-up media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information covered by this system of records notice may be retrieved by name of the individual providing the comment or input, name of the individual on whose behalf a comment or input is provided, number assigned to the comment or input, or the subject matter, such as the proposed rule or industry filing to which the comment or input pertains.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Comments received per the notice and comment requirement of the APA will be retained permanently in accordance with the Commission's records disposition schedule. All other submissions received that do not fall under proposed rulemaking will be retained in accordance with the retention period for the appropriate subject item in the Commission's records disposition schedule. All approved schedules are available at *http://www.cftc.gov.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all CFTC staff are required to take annual privacy and security training. Technical security measures within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details

on what to include in a Privacy Act notification request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

A previous version of this SORN was published in the **Federal Register** on April 07, 2011 at 76 FR 19330.

Issued in Washington, DC, on April 22, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–08396 Filed 4–25–19; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0008]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, 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 May 28, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

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: Militarily Critical Technical Data Agreement; DD Form 2345; OMB Control Number 0704–0207.

Type of Request: Extension without change.

Number of Respondents: 8,000.

Responses per Respondent: 1.

Annual Responses: 8,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 2,666.

Needs and Uses: The information collection requirement is necessary as a basis for certifying enterprises or individuals to have access to DoD export-controlled militarily critical technical data subject to the provisions of 32 CFR 250. Enterprises and individuals that need access to unclassified DoD-controlled militarily critical technical data must certify on DD Form 2345, Militarily Critical Technical Data Agreement, that data will be used only in ways that will inhibit unauthorized access and maintain the protection afforded by U.S. export control laws. The information collected is disclosed only to the extent consistent with prudent business practices, current regulations, and statutory requirements and is so indicated on the Privacy Act Statement of DD Form 2345.

Affected Public: Individuals and households; businesses or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

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: April 23, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–08417 Filed 4–25–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Draft Mathematics Assessment Framework for the 2025 National Assessment of Educational Progress

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Notice of opportunity for public comment for the Mathematics Assessment Framework for the 2025 National Assessment of Educational Progress (NAEP).

SUMMARY: The National Assessment Governing Board (Governing Board) is soliciting public comment for guidance in updating the Assessment Framework for the 2025 National Assessment of Educational Progress (NAEP) in Mathematics.

The Governing Board is authorized to formulate policy guidelines for NAEP. The NAEP legislation specifies that the Governing Board determines the content to be assessed for each NAEP Assessment. Each NAEP subject area assessment is guided by a framework that defines the scope of the domain to be measured by delineating the knowledge and skills to be tested at each grade and subject, the format of the assessment, and the achievement level definitions—guiding assessments that are valid, reliable, and reflective of widely accepted professional standards. The NAEP Mathematics Assessment Framework was last revised in 2006. It is anticipated that the current update of the NAEP Mathematics Assessment Framework will be presented for approval at the National Assessment Governing Board quarterly meeting on August 1–3, 2019.

Public and private parties and organizations are invited to provide written comments and recommendations on the draft framework. This notice sets forth the review schedule and provides information for accessing additional materials that will be useful for this review.

DATES: Comments must be received no later than June 7, 2019.

ADDRESSES: Comments should be uploaded at the following URL: *https://www.naepframeworkupdate.org.* Comments may also be provided via email at *naepmath@wested.org*

FOR FURTHER INFORMATION CONTACT: Michelle Blair, National Assessment Governing Board, 800 North Capitol Street NW, Suite 825, Washington, DC, 20002–4233, Telephone: (202) 357–0396.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Assessment and Item Specifications elaborate on the framework as guidance for item development conducted by the National Center for Education Statistics

(NCES) and the NAEP assessment development contractor(s). The framework development and update process also produces recommendations for contextual variables, which supports NCES' development of the questionnaires administered to students, teachers, and schools to help the public understand the achievement results in each subject. By engaging NAEP's audiences, partners, and stakeholders in the panels that provide recommendations for NAEP frameworks and seeking public comment, NAEP frameworks reflect content valued by the public as important to measure.

All responses will be taken into consideration before finalizing the updated NAEP Mathematics Assessment Framework for Board adoption. Once adopted, the framework will be used to guide assessment development and reporting for the 2025 NAEP Mathematics Assessment.

Additional information (including the materials referenced below) can be found on the project website at *https://www.naepframeworkupdate.org.*

Proposed Updated Mathematics Framework for the 2025 National Assessment of Educational Progress

The proposed revised framework can be downloaded from the framework project website at *https://www.naepframeworkupdate.org.*

Existing Mathematics Framework for the National Assessment of Educational Progress

The existing framework (adopted in 2006) can be downloaded from the Governing Board website at *https://www.nagb.gov/naep-frameworks/mathematics.html.*

Governing Board's Periodic Review and Updating of NAEP Frameworks

Governing Board policy articulates the Board's commitment to a comprehensive, inclusive, and deliberative process to determine and update the content and format of all NAEP assessments. For each NAEP assessment, this process results in a NAEP framework, outlining what is to be measured and how it will be measured. Periodically, the Governing Board reviews existing NAEP frameworks to determine if changes are warranted. Each NAEP framework development and update process considers a wide set of factors, including but not limited to reviews of recent research on teaching and learning, changes in state and local standards and assessments, and the latest perspectives on the nation's future needs and desirable levels of achievement.

In 2018, the Board initiated a review of the NAEP Mathematics Framework. To inform its discussions about the extent to which the NAEP Mathematics Framework needs revisions, the Board decided it would be prudent to gather and analyze mathematics curricular standards for grades K through 8 in all 50 states, the District of Columbia, and the Department of Defense Education Activity. The Governing Board's NAEP Mathematics Framework review used this analysis of state standards along with expert commentary to determine whether a framework update was required and the type of updates that may be needed. As a result of this review, the Governing Board initiated a framework update process for the NAEP Mathematics Assessment. Learn more about the review at *https://www.nagb.gov/focus-areas/framework-development/framework-development-mathematics.html.*

Summary of Proposed Revisions

Compared to the existing NAEP Mathematics Framework for the 2009—2017 NAEP Mathematics Assessments, the proposed updated framework reflects the following changes:

- The grade 4 version of six objectives were removed (two objectives each in Number and Operations; Geometry; and Data Analysis, Statistics, and Probability). One objective was added to grade 4 in Algebra.
- Three grade 8 objectives were edited, one was deleted in Number and Operations, and one was added in Algebra.
- Descriptions of objectives in grade 12 were edited. In Measurement, one objective was made optional, and one new optional objective was added.
- Distribution of items for each content area at grades 4 and 12 remains the same. In grade 8, the proportion of items in Data Analysis, Statistics, and Probability was increased 5% (to 20%) and for Algebra decreased by 5% (to 25%).
- A new chapter on Mathematical Practices describes and illustrates the assessment of five mathematical practices through which students engage in knowing and doing mathematics. This chapter replaces the previous chapter on Mathematical Complexity and removed the need for the subtopic of ''Reasoning'' (this subtopic was introduced in 2009 for Number and Operations; Geometry, Data Analysis, Statistics, and Probability; Algebra). The objectives in that subtopic have been removed.
- The two chapters on item formats and assessment design were merged into a single chapter, Overview of the Assessment Design, and updated extensively to reflect current and future digital platform use and the new item option of scenario-based tasks.
- Continuing the policy established for the 2017 digital administration of NAEP, students will have access to a calculator emulator in blocks of items designated as ''calculator blocks'': four-function for grade 4, scientific for grade 8. The one change in 2025 will be that the grade 12 calculator will include a graphing emulator.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 22, 2019.

Lesley Muldoon,

Executive Director, National Assessment Governing Board, U.S. Department of Education.

[FR Doc. 2019–08393 Filed 4–25–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0015]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; William D. Ford Federal Direct Loan Program (Direct Loan Program) Promissory Notes

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 28, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0015. 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 Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program (Direct Loan Program) Promissory Notes.

OMB Control Number: 1845–0007.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 9,862,685.

Total Estimated Number of Annual Burden Hours: 4,021,534.

Abstract: The Department is requesting that three separate ICR packages be combined into a single ICR using OMB Control Number 1845–0007. The three separate ICR packages cover: The Direct Subsidized Loan and Direct Unsubsidized Loan Master Promissory Note, 1845–0007; the Direct PLUS Loan Master Promissory Note and Direct PLUS Loan Endorser Addendum, 1845–0068; and the Direct Consolidation Loan Application and Promissory Note and Related Forms, 1845–0053. We are streamlining all of the forms by eliminating duplicative and obsolete information, reordering items to present information in a more logical order, using plain language to present information more clearly, adding information about the new cancer treatment deferment, updating information about the borrower defense discharge provisions to show changes made through the November 1, 2016 regulation. For the PLUS master promissory note (MPN) we are revising the information and instruction section to clarify who qualifies as a ''parent''. The promissory notes serve as the means by which an individual applies for and agrees to repay a Federal Direct Loan. It also informs the borrower of the terms and conditions of the Direct Loan and includes a statement of borrower's rights and responsibilities. Instructions explain how to complete the applications. The additional forms for the Direct Consolidation Loan allows the borrower to list all loans that they wish to include that would not fit on the application, and add other loans within the allowed time frame once the Consolidation Loan is made. The LVC for the Consolidation Loan serves as the means by which the Department obtains information needed to pay off the holders of the loans being consolidated.

Dated: April 23, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–08443 Filed 4–25–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0052]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Magnet Schools Assistance Program Application for Grants (1894–0001)

AGENCY: Office of Innovation and Improvement (OII), 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 28, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0052. 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 Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tiffany McClain, 202–401–0003.

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: Magnet Schools Assistance Program Application for Grants (1894–0001).

OMB Control Number: 1855–0011.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 150.

Total Estimated Number of Annual Burden Hours: 6,000.

Abstract: The Magnet Schools Assistance program provides grants to eligible local educational agencies to establish and operate magnet schools that are operated under a court-ordered or federally approved voluntary desegregation plan. These grants assist in the desegregation of public schools by supporting the elimination, reduction, and prevention of minority group isolation in elementary and secondary schools with substantial numbers of minority group students. In order to meet the statutory purposes of the program, projects also must support the development and implementation of magnet schools that assist in the achievement of systemic reforms and provide all students with the opportunity to meet challenging academic content and student academic achievement standards. Projects support the development and design of innovative education methods and practices that promote diversity and increase choices in public education programs. The program supports capacity development—the ability of a school to help all its students meet more challenging standards—through professional development and other activities that will enable the continued operation of the magnet schools at a high performance level after funding ends. Finally, the program supports the implementation of courses of instruction in magnet schools that strengthen students' knowledge of academic subjects and their grasp of tangible and marketable vocational skills.

Dated: April 23, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–08445 Filed 4–25–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP19–194–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Joint Abbreviated Application for Partial Lease Capacity Abandonment Authorization of Midcontinent Express Pipeline LLC, et al.

Filed Date: 4/18/19.

Accession Number: 20190418–5221.

Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: RP18–1167–002.

Applicants: Equitrans, L.P.

Description: Compliance filing Pre/Arranged/Pre-Agreed (2019 Settlement) to be effective 6/1/2019.

Filed Date: 4/18/19.

Accession Number: 20190418–5172.

Comments Due: 5 p.m. ET 4/26/19.

Docket Numbers: RP19–1137–000.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: § 4(d) Rate Filing: MNUS Apr2019 NRA and NCF Cleanup Filing to be effective 5/18/2019.

Filed Date: 4/18/19.

Accession Number: 20190418–5003.

Comments Due: 5 p.m. ET 4/30/19.

Docket Numbers: RP19–1138–000.

Applicants: Centra Pipelines Minnesota Inc.

Description: § 4(d) Rate Filing: Updated Shipper Index June 2019 to be effective 6/1/2019.

Filed Date: 4/18/19.

Accession Number: 20190418–5016.

Comments Due: 5 p.m. ET 4/30/19.

Docket Numbers: RP19–1139–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: SS–2 Inventory Adjustment (2019) to be effective 5/1/2019.

Filed Date: 4/18/19.

Accession Number: 20190418–5085.

Comments Due: 5 p.m. ET 4/30/19.

Docket Numbers: RP19–1140–000.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: § 4(d) Rate Filing: MNUS Apr2019 NRA Cleanup Filing to be effective 5/18/2019.

Filed Date: 4/18/19.

Accession Number: 20190418–5117.

Comments Due: 5 p.m. ET 4/30/19.

Docket Numbers: RP19–1141–000.

Applicants: Spire Storage West LLC.

Description: § 4(d) Rate Filing: Spire Storage West LLC—Filing of Tariff Changes to be effective 5/20/2019.

Filed Date: 4/19/19.

Accession Number: 20190419–5120.

Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: RP19–1142–000.

Applicants: Calpine Energy Services, L.P., Garrison Energy Center LLC, Cobalt Power, L.L.C.

Description: Joint Petition for Limited Waivers of Capacity Release Regulations and Tariff Provisions of Calpine Energy Services, L.P., et al. under RP19–1142.

Filed Date: 4/19/19.

Accession Number: 20190419–5126.

Comments Due: 5 p.m. ET 5/1/19.

Docket Numbers: RP19–1143–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: Neg Rate 2019–04–19 Triad Hunter (2) to be effective 4/19/2019.

Filed Date: 4/19/19.

Accession Number: 20190419–5129.

Comments Due: 5 p.m. ET 5/1/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08423 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1621–000]

Great American Gas & Electric, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Great American Gas & Electric, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 9, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link above. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08427 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2344–003.
Applicants: Headwaters Wind Farm LLC.
Description: Compliance filing: Headwaters Wind Farm LLC, Docket No. ER18–2344–003 to be effective 10/29/2018.
Filed Date: 4/22/19.
Accession Number: 20190422–5025.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER18–2397–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2019–04–22_Compliance filing to Order 844 to be effective 7/1/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5112.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–875–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2019–04–22_Deficiency Response to Cyber Security Coordination to be effective 3/30/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5142.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1343–000; ER19–1342–000.
Applicants: NMRD Data Center III, LLC, NMRD Data Center II, LLC.
Description: Supplement to March 18, 2019 NMRD Data Center III, LLC, et al. tariff filings.
Filed Date: 4/19/19.
Accession Number: 20190419–5127.
Comments Due: 5 p.m. ET 5/3/19.

Docket Numbers: ER19–1629–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3357 Monument Road Wind GIA Cancellation to be effective 3/21/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5005.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1630–000.
Applicants: Entergy Louisiana, LLC.
Description: Tariff Cancellation: Entergy Louisiana, LLC to be effective 1/1/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5020.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1631–000.
Applicants: Entergy Mississippi, LLC.
Description: Tariff Cancellation: Entergy Mississippi, LLC to be effective 1/1/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5024.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1632–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ICSA, SA No. 3399, Queue Position V3–045 to be effective 3/7/2017.
Filed Date: 4/22/19.
Accession Number: 20190422–5057.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1633–000.
Applicants: Rumford Power LLC.
Description: Compliance filing: Notice of Succession, Revised MBR Tariff, & New eTariff Baseline to be effective 4/23/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5101.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1634–000.
Applicants: Bridgeport Energy LLC.
Description: Compliance filing: Revised MBR Tariff & New eTariff Baseline to be effective 4/23/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5111.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1635–000.
Applicants: Glaciers Edge Wind Project, LLC.
Description: Baseline eTariff Filing: Glaciers Edge Initial Market-Based Rate Application Filing to be effective 6/22/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5113.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1636–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–04–22_Termination of SA 6510 MISO-Cleco SSR Agreement for Teche Unit No. 3 to be effective 4/30/2019.

Filed Date: 4/22/19.
Accession Number: 20190422–5123.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1637–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment AE to Allow DVERs to Utilize Control Status 3 to be effective 12/31/9998.
Filed Date: 4/22/19.
Accession Number: 20190422–5128.
Comments Due: 5 p.m. ET 5/13/19.

Docket Numbers: ER19–1638–000.
Applicants: Tiverton Power LLC.
Description: Compliance filing: Revised MBR Tariff & New eTariff Baseline to be effective 4/23/2019.
Filed Date: 4/22/19.
Accession Number: 20190422–5133.
Comments Due: 5 p.m. ET 5/13/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08425 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–480–000]

Annova LNG Common Infrastructure, LLC, Annova LNG Brownsville A, LLC, Annova LNG Brownsville B, LLC, Annova LNG Brownsville C, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Annova LNG Brownsville Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Annova LNG Brownsville Project (referred to as the Annova LNG Project, or Project). Annova LNG Common Infrastructure LLC, Annova LNG Brownsville A LLC, Annova LNG Brownsville B LLC, and Annova LNG Brownsville C, LLC (collectively referred to as Annova LNG) request authorization to site, construct, and operate liquefied natural gas (LNG) export facilities on the Brownsville Ship Channel in Cameron County, Texas. The Project would include a new LNG export terminal capable of producing up to 6.95 million metric tons per year of LNG for export. The LNG terminal would receive natural gas to the export facilities from a third party intrastate pipeline.

The final EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the Project would result in adverse environmental impacts. With the mitigation measures recommended in the EIS and Annova's proposed mitigation measures, most impacts in the Project area would be avoided or minimized and would not be significant. However, the Project would have significant construction noise impacts during the six months of nighttime pile-driving. In addition, the Annova LNG Project combined with other projects within the geographic scope, including the Texas LNG and Rio Grande LNG Projects, would contribute to potential significant cumulative impacts from construction noise during nighttime pile-driving, sediment/turbidity and shoreline erosion within the Brownsville Ship Channel during operations from vessel transits; on the federally listed ocelot and jaguarundi from habitat loss in combination with past actions and potential for increased vehicular strikes during construction; on the federally listed aplomado falcon from habitat loss in combination with past actions; and on visual resources from the presence of aboveground structures. Construction and operation of the Project would result in mostly temporary or short-term environmental impacts; however, some long-term and permanent environmental impacts would occur.

The U.S. Army Corps of Engineers; U.S. Coast Guard; U.S. Department of Transportation; U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; National Parks Service; the National Oceanic and Atmospheric Administration, National Marine Fisheries Service; Federal Aviation Administration; and U.S. Department of Energy participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis.

The final EIS addresses the potential environmental effects of the construction and operation of the following Project facilities:

- Pipeline meter station;
- natural gas pretreatment and liquefaction facilities;
- two LNG storage tanks;
- marine and LNG transfer facilities;
- control room, administration/maintenance building;
- site access road; and
- utilities (power, water, and communication systems).

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The final EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the Environmental Documents page (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the final EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://www.ferc.gov/docs-filing/elibrary.asp*), click on General Search, and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP16–480). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with

notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: April 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–08380 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–31–000]

Notice of Schedule for Environmental Review of the Southern Star Central Gas Pipeline, Inc. Lines DT and DS Replacement Project

On December 21, 2018, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed an application in Docket No. CP19–31–000 requesting authorization pursuant to Section 7(b) and 7(c) of the Natural Gas Act to construct, operate, and abandon certain natural gas pipeline facilities in Anderson and Franklin Counties, Kansas. The proposed project is known as the Lines DT and DS Replacement Project (Project) and would consist of the abandonment of two pipelines and construction of one larger diameter pipeline to replace the pipelines being abandoned.

On January 4, 2019, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA (September 9, 2019)
90-day Federal Authorization Decision Deadline (December 8, 2019)

If a schedule change becomes necessary, additional notice would be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Southern Star proposes the construction of 31.5 miles of new 36-inch-diameter pipeline, designated as Line DPA, and three small-diameter (*i.e.,* 2 to 4 inches) pipeline laterals, totaling about 5.9 miles. The new pipelines would replace Southern Star's existing 20-inch-diameter pipeline, designated as Line DS (31.4 miles of which 29.4 miles would be removed and 2 miles would be abandoned in place), and existing 26-inch-diameter pipeline, designated as Line DT (31.8 miles of which 29 miles would be removed and 2.8 miles would be abandoned in place). As part of the Project, Southern Star would: Make modifications at two existing compressor stations (Ottawa Compressor Station and Welda Compressor Station) and five existing tie-ins; and construct one new regulator/measuring station (Richmond Regulator Station), two new launchers and receivers, three new mainline valves, and four new tie-ins along the new pipeline laterals.

Background

On February 8, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Lines DT and DS Replacement Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received a comment letter from Kansas Department of Wildlife, Parks and Tourism regarding impacts on state-listed wildlife species and designated critical habitats as well as impacts on state-managed lands. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP19–31), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: April 22, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–08434 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–92–000.
Applicants: Seymour Hills Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Seymour Hills Wind Project, LLC.
Filed Date: 4/19/19.
Accession Number: 20190419–5087.
Comments Due: 5 p.m. ET 5/10/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1267–001.
Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.
Description: Tariff Amendment: 2019–04–18_SA 3280 DEI-Roaming Bison Renewables E&P (J754) Substitute to be effective 3/14/2019.
Filed Date: 4/18/19.
Accession Number: 20190418–5179.
Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: ER19–1621–000.
Applicants: Great American Gas & Electric, LLC.
Description: Baseline eTariff Filing: Baseline New to be effective 6/1/2019.
Filed Date: 4/18/19.
Accession Number: 20190418–5205.
Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: ER19–1622–000.
Applicants: Google Energy LLC.
Description: § 205(d) Rate Filing: Revised Market Based Rate Tariff Filing to be effective 4/9/2019.
Filed Date: 4/18/19.
Accession Number: 20190418–5209.
Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: ER19–1623–000.

Applicants: Meyersdale Storage, LLC.
Description: § 205(d) Rate Filing: Meyersdale Storage MBR Tariff Revisions to be effective 4/19/2019.
Filed Date: 4/18/19.
Accession Number: 20190418–5210.
Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: ER19–1624–000.
Applicants: Unitil Service Corp.
Description: Unitil Power Corp submits Statement of all billing transactions under the Amended Unitil System Agreement for the period January 1, 2018 to December 31, 2018.
Filed Date: 4/18/19.
Accession Number: 20190418–5215.
Comments Due: 5 p.m. ET 5/9/19.

Docket Numbers: ER19–1625–000.
Applicants: Northern Indiana Public Service Company.
Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 4/12/2019.
Filed Date: 4/19/19.
Accession Number: 20190419–5059.
Comments Due: 5 p.m. ET 5/10/19.

Docket Numbers: ER19–1626–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–04–19_SA 2294 Heritage Garden Wind Farm-ATC 4th Rev GIA to be effective 4/4/2019.
Filed Date: 4/19/19.
Accession Number: 20190419–5092.
Comments Due: 5 p.m. ET 5/10/19.

Docket Numbers: ER19–1627–000.
Applicants: PacifiCorp.
Description: Tariff Cancellation: Termination of Orion Wind E&P Agreement to be effective 6/27/2019.
Filed Date: 4/19/19.
Accession Number: 20190419–5094.
Comments Due: 5 p.m. ET 5/10/19.

Docket Numbers: ER19–1628–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–04–19_SA 3296 ITC-Dearborn Industrial Generation GIA to be effective 4/5/2019.
Filed Date: 4/19/19.
Accession Number: 20190419–5114.
Comments Due: 5 p.m. ET 5/10/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08426 Filed 4–25–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9044–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa/*.

Weekly receipt of Environmental Impact Statements Filed 04/15/2019 Through 04/19/2019 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search*.

EIS No. 20190063, Draft, USFWS, TX, Authorization of Incidental Take and Implementation of the LCRA Transmission Services Corporation Habitat Conservation Plan, Comment Period Ends: 06/10/2019, Contact: Delfinia Montano 505–248–6401.

EIS No. 20190064, Final Supplement, BLM, CA, West Mojave Route Network Project Final Supplemental Environmental Impact Statement Land Use Plan Amendment, Review Period Ends: 05/28/2019, Contact: Matthew Toedtli 760–252–6026.

EIS No. 20190065, Final, FERC, MS, Gulf LNG Liquefaction Project, Review Period Ends: 05/28/2019, Contact: Office of External Affairs 866–208–3372.

EIS No. 20190066, Final, BLM, AZ, San Pedro Riparian National Conservation Area Proposed Resource Management Plan, Review Period Ends: 05/28/2019, Contact: Amy McGowan 520–258–7231.

EIS No. 20190067, Draft Supplement, BLM, WY, Converse County Oil and Gas Project Supplemental DEIS, Comment Period Ends: 07/25/2019, Contact: Mike Robinson 307–261–7520.

EIS No. 20190068, Draft Supplement, BLM, CA, Bakersfield Field Office Hydraulic Fracturing DSEIS, Comment Period Ends: 06/10/2019, Contact: Carly Summers 661–391–6000.

EIS No. 20190069, Final, FERC, TX, Annova LNG Brownsville Project, Review Period Ends: 05/28/2019, Contact: Office of External Affairs 866–208–3372.

EIS No. 20190070, Final, USFS, ID, Crow Creek Pipeline Project, Review Period Ends: 05/28/2019, Contact: Doug Herzog 208–557–5763.

EIS No. 20190071, Draft, USFWS, HI, Draft Programmatic Environmental Impact Statement Addressing the Issuance of Incidental Take Permits for Four Wind Energy Projects in Hawai'i, Comment Period Ends: 06/10/2019, Contact: Michelle Bogardus 808–792–9473.

Amended Notice

EIS No. 20190038, Draft Supplement, USN, WA, Northwest Training and Testing Activities Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement, Comment Period Ends: 06/12/2019, Contact: Jacqueline Queen 360–257–3852. Revision to FR Notice Published 03/29/2019; Extending the Comment Period from 05/28/2019 to 06/12/2019.

Dated: April 22, 2019.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2019–08379 Filed 4–25–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0422]

Information Collection Approved by the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it

displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed below.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418–2235, or email: *Eliot.Greenwald.@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0422.

OMB Approval Date: 04/15/2019.

Expiration Date: 04/30/2019.

Title: Section 68.5, Waivers (Application for Waivers of Hearing Aid Compatibility Requirements).

Form No.: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 2 respondents; 2 responses.

Estimated Time per Response: 3 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 610.

Total Annual Burden: 6 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Telephone manufacturers seeking a waiver of 47 CFR 68.4(a)(1), which requires that certain telephones be hearing aid compatible, must demonstrate that compliance with the rule is technologically infeasible or too costly. Information is used by FCC staff to determine whether to grant or dismiss the request. Prior to (and after) the adoption of FCC 17–135, manufacturers could request waivers for wireline telephones connected to the public switched telephone network. Pursuant to FCC 17–135, waivers may also be requested for wireline advanced communications services telephonic customer premises equipment (ACS telephonic CPE), which includes wireline telephones used for Voice over internet Protocol.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–08429 Filed 4–25–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1192]

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 June 25, 2019. 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: 3060–1192.

Title: Survey of Urban Rates, DA 13–598.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 3.5 hours.

Frequency of Response: Annually.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 254(b).

Total Annual Burden: 3,500 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. Also, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In April 2013, the Wireline Competition Bureau of the Federal Communications Commission adopted an Order (Order), in WC Docket No. 10–90; DA 13–598, 78 FR 29063, Connect America Fund. The Order adopts the form and content for a survey of urban rates for fixed voice and fixed broadband residential services for purposes of implementing various reforms adopted as part of the USF/ICC Transformation Order, 76 FR 73830, November 29, 2011. The information collected in this survey will be used to establish a rate floor that eligible telecommunications carriers (ETCs) receiving high-cost loop support (HCLS) or frozen high-cost support must meet to receive their full support amounts and to help ensure that universal service support recipients offering fixed voice and broadband services do so at reasonably comparable rates to those in urban areas. The rate floor and comparability requirements are important components of the Commission's overall effort to improve accountability for the use of universal service funding. The rate floor will prevent the use of universal service subsidizes to support artificially low local rates in rural areas. The comparability requirements will ensure that rates are reasonably comparable for voice as well as broadband service, between urban and rural, insular, and high cost areas. Rates must be reasonably comparable so that consumers in rural, insular, and high

cost areas have meaningful access to these services. This Order requires a statistically valid sample of urban providers to complete a survey with information regarding the types and prices of their offerings. The Commission conducts this survey through an online reporting form accessible to those urban providers of fixed voice and broadband services that are chosen to participate.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–08430 Filed 4–25–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0175 and OMB 3060–0707]

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 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 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 June 25, 2019. 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 Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0175.

Title: Section 73.1250, Broadcasting Emergency Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection contained in 47 CFR 73.1250(e) state immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC in Washington, DC, setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the non-commercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

OMB Control Number: 3060–0707.

Title: Over-the-Air Reception Devices (OTARD).

Type of Review: Extension of a currently approved collection.

Respondents: State or Local, or Tribal Government.

Number of Respondents and Responses: 77 respondents; 77 responses.

Estimated Time per Response: 2–6 hours.

Frequency of Response: On occasion reporting; third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 207 of the Communications Act of 1934, as amended.

Total Annual Burden: 288 hours.

Total Annual Cost: 17,100.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 207 of the Telecommunications Act of 1996 (''1996 Act'') directs the Commission to promulgate rules prohibiting restrictions on viewers' ability to receive over-the-air signals by television broadcast, multichannel multipoint distribution, or direct broadcast satellite services.

In a Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CS Docket No. 96–83, FCC 96–328, released August 6, 1996, the Commission fully implemented Section 207 of the 1996 Act by adopting final rules for a preemption of state, local and non-governmental regulations that impair viewers ability to receive over-the-air signals. In doing so, the FCC acknowledged the necessity of allowing state, local and non-governmental entities to continue to enforce certain regulations and restrictions, such as those serving safety purposes, and therefore exempted them from its prohibition. Also, state, local and non-governmental entities were permitted to file petitions for waivers.

On September 25, 1998, the Commission released an Order on Reconsideration, FCC 98–214, in this proceeding that further modified and clarified Section 207 rules. Among other things, the Order on Reconsideration clarified how declaratory rulings and waivers in this matter are to be served on all interested parties. If a local government seeks a declaratory ruling or a waiver, it must take steps to afford reasonable, constructive notice to

residents in its jurisdiction (*e.g.,* by placing notices in a local newspaper of general circulation). Certificates of service and proof of constructive notice also must be provided to the Commission with the petition.

In this regard, the petitioner should provide the Commission with a copy of the notice and an explanation of where the notice was placed and how many people the notice might reasonably have reached. Effective January 22, 1999, FCC 98–273, the Commission amended the rules so that it applies to rental property where the renter has an exclusive use area, such as a balcony or patio.

In FCC 00–366, the Commission then further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–08435 Filed 4–25–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1178]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for public 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 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 comments should be submitted on or before June 25, 2019. 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC 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.

OMB Control Number: 3060–1178.

Title: TV Broadcast Relocation Fund Reimbursement Form, FCC Form 2100, Schedule 399; Section 73.3700(e), Reimbursement Rules.

Form Number: FCC Form 2100, Schedule 399.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 4,400 respondents; 52,800 responses.

Estimated Hours per Response: 1–4 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement, Record keeping requirement.

Total Annual Burden: 98,800 hours.

Total Annual Cost: $15,000,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(j), 157 and 309(j) as amended; and Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, §§ 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

Nature and Extent of Confidentiality: There is some need for confidentiality with this collection of information. Invoices, receipts, contracts, and other cost documentation submitted along with the form will be kept confidential in order to protect the identification of vendors and the terms of private contracts between parties. Vendor name and Employer Identification Numbers (EIN) or Tax Payer Identification Number (TIN) will not be disclosed to the public.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The submission is being made to the Office of Management and Budget (OMB) for the approval of new information collection requirements contained within the Commission's Report and Order, *LPTV, TV Translator, and FM Reimbursement; Expanding the Economic and Innovation Opportunities Through Incentive Auction,* MB Docket No. 18–214 and GN Docket No. 12–268, FCC 19–21, (March 15, 2019), 84 FR 11233 (March 26, 2019) (*LPTV, TV Translator, and FM Reimbursement Report and Order*). The *LPTV, TV Translator, and FM Reimbursement Report and Order* adopts rules to implement Congress' directive in the 2018 Reimbursement Expansion Act (REA) that the Commission reimburse certain Low Power Television and television translator stations and FM broadcast stations, for costs incurred as a result of the Commission's broadcast television spectrum incentive auction. In the REA, Congress provided additional funding for the TV Broadcaster Relocation Fund and expanded the list of entities eligible to receive reimbursement for costs reasonably incurred as a result of the reorganization of broadcast television spectrum to include LPTV/translator and FM stations. The *LPTV, TV Translator, and FM Reimbursement Report and Order* adopts rules relating to eligibility, expenses, and procedures the Commission will use to provide

reimbursement to these entities and mandates the use of various measures designed to protect the Reimbursement Fund against waste, fraud, and abuse. This submission is being made to implement the Commission's directive to add LPTV, TV Translators, and FM broadcast stations to this Information Collection.

In the *LPTV, TV Translator, and FM Reimbursement Report and Order,* the Commission delegated to the Media Bureau the authority to modify current FCC Form 2100, Schedule 399, TV Broadcaster Relocation Fund Reimbursement Form (Reimbursement Form), to add all newly eligible LPTV, TV Translator, and FM broadcast entities. The Media Bureau has, therefore, added questions and certifications to the Reimbursement Form to accommodate these newly eligible broadcast entities. Specifically, in order to protect the Reimbursement Fund against waste, fraud, and abuse, all newly eligible broadcast entities that propose to request reimbursement for eligible expenses must certify on the Reimbursement Form that they meet the specified eligibility criteria and provide information regarding their affected broadcasting equipment and the estimated costs eligible for reimbursement. This Information Collection is otherwise unchanged as already approved by OMB.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–08436 Filed 4–25–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

TIME AND DATE: May 1, 2019; 10:00 a.m.

PLACE: 800 N. Capitol Street, NW, First Floor Hearing Room, Washington, DC.

STATUS: Parts of this meeting will be open to the public and will be streamed live at *https://bit.ly/2IZBIkY.* The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries
2. Staff Briefing on Ocean Carrier Alliances
3. Staff Briefing on Frank LoBiondo Coast Guard Authorization Act of 2018

Closed Session

1. Staff Briefing on Georgia—South Carolina Marine Terminal Operator Cooperative Working Agreement, Agreement No. 201293
2. Staff Briefing on Puerto Nuevo Terminals LLC Cooperative Working Agreement, Agreement No. 201292

CONTACT PERSON FOR MORE INFORMATION: Rachel Dickon, Secretary, (202) 523–5725.

Rachel Dickon,

Secretary.

[FR Doc. 2019–08600 Filed 4–24–19; 4:15 pm]

BILLING CODE 6731–AA–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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 13, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Margaret Kirschner GST Separate Trust for Pamela Kirschner Bolduc, David E. Kirschner, trustee; Margaret Kirschner GST Separate Trust for Philip S. Kirschner, David E. Kirschner, trustee; Margaret Kirschner GST Separate Trust for Mary C. Kirschner, David E. Kirschner, trustee; Margaret Kirschner GST Separate Trust for David E. Kirschner, David E. Kirschner, trustee; Henry C. Kirschner Beneficiary Trust B1 for Pamela K. Bolduc, Pamela K. Bolduc, Trustee, David E. Kirschner, Special Asset Advisor; Henry C. Kirschner Beneficiary Trust B1 for Philip S. Kirschner, Philip S. Kirschner, trustee, David E. Kirschner, Special Asset Advisor; Henry C. Kirschner Beneficiary Trust B1 for Mary C. Kirschner, David E. Kirschner, trustee; Henry C. Kirschner Beneficiary Trust B1 for David E. Kirschner, David E. Kirschner, trustee; and Mary C. Kirschner, individually c/o David E. Kirschner, all of Springfield, Illinois, as a group acting in concert;* to retain voting shares of Town and Country Financial Corporation and thereby indirectly retain shares of Town and Country Bank, both of Springfield, Illinois.

Board of Governors of the Federal Reserve System, April 23, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–08453 Filed 4–25–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0184; Docket No. 2019–0003, Sequence No. 4]

Information Collection; Contractors Performing Private Security Functions Outside the United States

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal concerning contractors performing private security functions outside the United States.

DATES: Submit comments on or before June 25, 2019.

ADDRESSES: The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Mandell, 1800 F Street NW, Washington, DC 20405.

Instructions: All items submitted must cite Information Collection 9000–0184, Contractors Performing Private

Security Functions Outside the United States. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Governmentwide Acquisition Policy, at 202–219–0202 or email *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Solicitation of Public Comment

Written comments and suggestions from the public should address one or more of the following four points:

(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 the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

B. Purpose

In accordance with Federal Acquisition Regulation (FAR) 52.225–26, Contractors Performing Private Security Functions Outside the United States, requires contractors performing in areas such as Iraq and Afghanistan to ensure that their personnel performing private security functions comply with 32 CFR part 159, including (1) accounting for Government-acquired and contractor-furnished property and (2) reporting incidents in which a weapon is discharged, personnel are attacked or killed or property is destroyed, or active, lethal countermeasures are employed.

C. Annual Reporting Burden

Respondents: 16.
Responses per Respondent: 5.
Total Response: 13.36.
Hours per Response: 0.167.
Total Burden Hours: 734.80.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0184, Contractors Performing Private Security Functions Outside the United States, in all correspondence.

Dated: April 22, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–08385 Filed 4–25–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH). This meeting is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on June 25, 2019, 11:00 a.m. to 1:00 p.m. EDT.

ADDRESSES: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the passcode is 9933701.

FOR FURTHER INFORMATION CONTACT: Theodore Katz, MPA, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE, Mailstop E–20, Atlanta, Georgia 30329, Telephone (513) 533–6800, Toll Free 1 (800) CDC–INFO, Email *ocas@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered under Executive Order 13811 on February 12, 2018, and will terminate on September 30, 2020.

Purpose: This Advisory Board is charged with a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Considered: The agenda will include discussions on: Recording April 2019 Meeting Absentee Votes; Work Group and Subcommittee Reports; Update on the Status of SEC Petitions; Plans for the August 2019 Advisory Board Meeting; and Advisory Board Correspondence. Agenda items are subject to change as priorities dictate.

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to

announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–08446 Filed 4–25–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Board of Scientific Counselors, National Center for Injury Prevention and Control BSC, NCIPC

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the BSC, NCIPC. The BSC, NCIPC consists of 18 experts in fields associated with surveillance, basic epidemiologic research, intervention research, and implementation, dissemination, and evaluation of promising and evidence-based strategies for the prevention of injury and violence.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of pertinent disciplines involved in injury and violence prevention, including, but not limited to, epidemiology, statistics, trauma surgery, rehabilitation medicine, behavioral science/psychology, health economics, program evaluation, political science, law, criminology, informatics and other aspects of injury management. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of BSC, NCIPC objectives *https://www.cdc.gov/injury/bsc/.*

DATES: Nominations for membership on the BSC, NCIPC must be received no later than May 31, 2019. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be emailed (recommended) to *ncipcbsc@CDC.GOV.*

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Designated Federal Officer and Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, GA 30341, Telephone (770) 488–1430, Email address: *ncipcbsc@cdc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for BSC, NCIPC membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in September or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. SGE Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Cover letter stating area of expertise
- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, SAMHSA, etc.).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate. The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–08442 Filed 4–25–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0363]

Characterization of Ultrahigh Molecular Weight Polyethylene Used in Orthopedic Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Characterization of Ultrahigh Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic Devices.'' The guidance identifies the types of UHMWPE commonly in use in orthopedic implants, as well as the recommended information and testing that should be included in premarket submissions for such devices.

DATES: The announcement of the guidance is published in the **Federal Register** on April 26, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted,

such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2016–D–0363 for ''Characterization of Ultrahigh Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Characterization of Ultrahigh Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic Devices'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Peter Allen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1512, Silver Spring, MD 20993–0002, 301–796–6402.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff entitled ''Characterization of Ultrahigh Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic Devices.'' FDA has developed this guidance document for members of industry who submit, and FDA staff who review, information regarding orthopedic devices using UHMWPE material. This guidance is intended to provide recommendations regarding the characterization and testing of orthopedic devices that use UHMWPE materials such as conventional UHMWPE, highly crosslinked UHMWPE, highly crosslinked UHMWPE containing antioxidants, and non-conventional UHMWPE. This guidance also outlines the information FDA recommends industry include in a regulatory submission to characterize the UHMWPE material (*e.g.,* material description, sterility, biocompatibility, mechanical properties, and chemical properties). FDA considered comments received on the draft guidance that appeared in the **Federal Register** of February 12, 2016 (81 FR 7543). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on the characterization of UHMWPE used in orthopedic devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Characterization of Ultrahigh Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1300006 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
820	Quality System Regulation	0910–0073
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''	De Novo classification process	0910–0844
''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-submissions	0910–0756

Dated: April 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08465 Filed 4–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–4206]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device User Fee Small Business Qualification and Certification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by May 28, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0508 and title ''Medical Device User Fee Small Business Qualification and Certification.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device User Fee Small Business Qualification and Certification

OMB Control Number 0910–0508—Extension

Medical device user fees were first established in 2002 by the Medical Device User Fee and Modernization Act (MDUFMA) (Pub. L. 107–250). User fees were renewed in 2007, with the Medical Device User Fee Amendments to the Food and Drug Administration Amendments Act of 2007 (MDUFA II), in 2012 with the Medical Device User Fee Amendments to the FDA Safety and Innovation Act (MDUFA III), and in 2017 with the Medical Device User Fee Amendments to the FDA Reauthorization Act of 2017 (MDUFA IV). MDUFA IV will be in place from October 1, 2017, until September 30, 2022.

A business that is qualified and certified as a ''small business'' is eligible for a substantial reduction in most of these user fees. The guidance document entitled ''Medical Device User Fee Small Business Qualification and Certification Guidance for Industry, Food and Drug Administration Staff and Foreign Governments'' describes the criteria FDA will use to decide whether an entity is eligible for a reduction in user fees and the process by which a business may request certification as a small business.

An applicant can qualify for a small business fee discount under MDUFMA if they reported gross receipts or sales of no more than $100 million on their Federal income tax return for the most recent tax year. If they have any affiliates, partners, or parent firms, the applicant must add the gross receipts or sales of the affiliates, partners, or parent firms to the applicant's, and the total must be no more than $100 million. If the applicant's gross receipts or sales are no more than $30 million, including all of their affiliates, partners, and parent firms, they will also qualify for a waiver of the fee for their first (ever) premarket application (product development protocol, biologics licensing application, or premarket report). An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the small business criteria (Form FDA 3602, ''MDUFA Small Business Certification Request for a Business Headquartered in the United States''). The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these materials and decide whether an applicant is a small business within the meaning of MDUFMA.

MDUFA II provided an alternative way for a foreign business to qualify as a small business eligible to pay a significantly lower fee when a medical device user fee must be paid (Form FDA 3602A, ''MDUFA Foreign Small Business Certification Request for a Business Headquartered Outside the United States''). Before passage of MDUFA II, the only way a business could qualify as a small business was to submit a Federal (U.S.) income tax return showing its gross receipts or sales that did not exceed a statutory threshold, currently, $100 million. If a business could not provide a Federal income tax return, it did not qualify as a small business and had to pay the standard (full) fee. Because many foreign businesses have not, and cannot, file a Federal (U.S.) income tax return, this requirement effectively prevented those businesses from qualifying for the small business fee rates. Thus, foreign governments, including the European Union, objected. In lieu of a Federal income tax return, the MDUFA II allowed a foreign business to qualify as a small business by submitting a certification from its national taxing authority, the foreign equivalent of our Internal Revenue Service. This certification, referred to as a ''National Taxing Authority Certification,'' must: (1) Be in English; (2) be from the national taxing authority of the country in which the business is headquartered; (3) provide the business' gross receipts

or sales for the most recent year, in both the local currency and in U.S. dollars, and the exchange rate used in converting local currency to U.S. dollars; (4) provide the dates during which the reported receipts or sales were collected; and (5) bear the official seal of the national taxing authority.

Forms FDA 3602 and FDA 3602A are accessible through the guidance document entitled ''Medical Device User Fee Small Business Qualification and Certification Guidance for Industry, Food and Drug Administration Staff and Foreign Governments'' on the internet at: *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm456779.pdf.*

The estimated burden is based on the number of applications received in the last 3 years and includes time required to collect the required information. Based on our experience with Form FDA 3602, FDA believes it will take each respondent 1 hour to complete the form. Based on our experience with Form FDA 3602A, FDA also believes that it will take each respondent 1 hour to complete.

In the **Federal Register** of November 14, 2018 (83 FR 56852), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FDA 3602—MDUFA Small Business Certification Request for a Business Headquartered in the United States	5,000	1	5,000	1	5,000
FDA 3602A—MDUFA Foreign Small Business Certification Request for a Business Headquartered Outside the United States	2,000	1	2,000	1	2,000
Total					7,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 2,000 hours and a corresponding increase of 2,000 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: April 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08471 Filed 4–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–4048]

Unique Device Identification: Convenience Kits; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Unique Device Identification: Convenience Kits; Guidance for Industry and Food and Drug Administration Staff.'' The unique device identification system regulations require that the label and device package of a device must bear a unique device identifier (UDI), unless an exception or alternative applies. An exception is provided for devices packaged within the immediate container of a convenience kit, if the label of the convenience kit bears a UDI. This guidance document describes FDA's interpretation of the definition of ''convenience kit.'' This guidance does not apply to in vitro diagnostic (IVD) devices that are subject to IVD labeling requirements nor does it apply to combination products.

DATES: The announcement of the guidance is published in the **Federal Register** on April 26, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–4048 for ''Unique Device Identification: Convenience Kits: Guidance for Industry and Food and Drug Administration Staff; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9

a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Unique Device Identification: Convenience Kits: Guidance for Industry and Food and Drug Administration Staff; Availability'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: *For Center for Devices and Radiological Health-regulated devices:* Christina Savisaar, Unique Device Identifier Regulatory Policy Support, 301–796–5995, email: *GUDIDSupport@fda.hhs.gov. For Center for Biologics Evaluation and Research-regulated devices:* Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled ''Unique Device Identification: Convenience Kits; Guidance for Industry and Food and Drug Administration Staff.'' In the September 24, 2013, **Federal Register** (78 FR 58786), FDA published a final rule establishing the unique device identification system, which is designed to adequately identify medical devices during their distribution and use (the UDI Rule). Under 21 CFR 801.20, a device is required to bear a UDI on its label and packages unless an exception or alternative applies. Individual devices packaged within the immediate container of a convenience kit are excepted from the UDI labeling requirements of 21 CFR 801.20, provided that a UDI is on the label of the immediate container of the convenience kit (21 CFR 801.30(a)(11)). Convenience kits are themselves devices.

A convenience kit is ''two or more different medical devices packaged together for the convenience of the user'' (21 CFR 801.3). FDA interprets this to mean a device that contains two or more different medical devices packaged together and intended to remain packaged together and not to be replaced, substituted, or repackaged.

Although FDA previously expressed thinking that medical procedure kits containing only devices are convenience kits,[1] FDA believes that this policy requires clarification for consistency with the objective of the unique device identification system. For purposes of the UDI regulations, FDA does not consider every medical procedure kit, nor every collection of two or more medical devices, to be a ''convenience kit.''

FDA recognizes that the interpretation of terms provided in this guidance may mean that fewer medical procedure kits are ''convenience kits'' for purposes of the UDI regulations, which may impact the assembly and packaging of medical procedure kits that are not ''convenience kits.'' Nevertheless, FDA believes that the interpretation of the term ''convenience kit'' in this guidance document is appropriate. As for all devices, a labeler may request an exception from or alternative to a UDI requirement under 21 CFR 801.55.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on ''Unique Device Identification—Convenience Kits; Guidance for Industry and Food and Drug Administration Staff''. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statute and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance documents are also available at *http://www.regulations.gov* or *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm].* Persons unable to download an electronic copy of ''Unique Device Identification: Convenience Kits—Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500010 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork

[1] *See* 78 FR 58876 (the ''UDI Rule'') at 58800.

Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations have been approved by OMB as listed in the following table.

21 CFR part	Topic	OMB control No.
801, subpart B, and 830.	Unique Device Identification.	0910–0720

Dated: April 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08472 Filed 4–25–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0375]

Agency Information Collection Activities; Proposed Collection; Comment Request; Agreement for Shipment of Devices for Sterilization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements relating to shipment of nonsterile devices that are to be sterilized elsewhere or are shipped to other establishments for further processing, labeling, or repacking.

DATES: Submit either electronic or written comments on the collection of information by June 25, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 25, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 25, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2013–N–0375 for ''Agreement for Shipment of Devices for Sterilization.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an

existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agreement for Shipment of Devices for Sterilization—21 CFR 801.150

OMB Control Number 0910–0131—Extension

Under sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations at § 801.150(e) (21 CFR 801.150(e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment, a practice that facilitates the processing of devices and is economically necessary for some firms.

Under § 801.150(e)(1), manufacturers and sterilizers may sign an agreement containing the following: (1) Contact information of the firms involved and the identification of the signature authority of the shipper and receiver, (2) instructions for maintaining accountability of the number of units in each shipment, (3) acknowledgment that the devices that are nonsterile are being shipped for further processing, and (4) specifications for sterilization processing. This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices (§ 801.150(a)(2)).

The respondents to this collection of information are device manufacturers and contract sterilizers. FDA's estimate of the reporting burden is based on data obtained from industry over the past several years. It is estimated that each of the firms subject to this requirement prepares an average of 20 written agreements each year. This estimate varies greatly, from 1 to 100, because some firms provide sterilization services on a part-time basis for only one customer, while others are large facilities with many customers. The average time required to prepare each written agreement is estimated to be 4 hours. This estimate varies depending on whether the agreement is the initial agreement or an annual renewal, on the format each firm elects to use, and on the length of time required to reach agreement. The estimate applies only to those portions of the written agreement that pertain to the requirements imposed by this regulation. The written agreement generally also includes contractual agreements that are a usual and customary business practice. The recordkeeping requirements of § 801.150(a)(2) consist of making copies and maintaining the records required under the third-party disclosure section of this collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Record retention, 801.150(a)(2)	100	20	2,000	.5	1,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Agreement and labeling requirements, 801.150(e)	100	20	2,000	4	8,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 900 total hours and a corresponding increase of 400 records/disclosures. We attribute this increase to an increase in the number of agreements that we have seen in inspection data received over the last few years.

Dated: April 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08470 Filed 4–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1329]

Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions.'' FDA has developed this document to describe relevant information that should be included in test report summaries, test protocols, and complete test reports for non-clinical bench performance testing provided in a premarket submission

(*i.e.,* premarket approval (PMA) applications, humanitarian device exemption (HDE) applications, premarket notification (510(k)) submissions, investigational device exemption (IDE) applications, and De Novo requests).

DATES: The announcement of the guidance is published in the **Federal Register** on April 26, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2018–D–1329 for ''Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jismi Johnson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1524, Silver Spring, MD 20993–0002, 301–796–6424.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of the guidance for industry and FDA staff entitled ''Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions.'' FDA has developed this document to describe relevant information that should be included in test report summaries, test protocols, and complete test reports for non-clinical bench performance testing provided in a premarket submission (*i.e.,* PMA, HDE applications, 510(k) submissions, IDE applications, and De Novo requests).

Non-clinical bench performance testing is defined as performance testing, performed by either a device manufacturer or a third-party testing facility (*e.g.,* test laboratory), which encompasses all bench testing and will be dependent upon the specifics of the actual device or device type. Non-clinical bench performance testing includes, but is not limited to, mechanical and biological engineering performance (such as fatigue, wear, tensile strength, compression, burst pressure); bench tests using ex vivo, in vitro, and in situ animal or human tissue; and animal carcass or human cadaveric testing.

Non-clinical bench performance testing excludes biocompatibility evaluation, reprocessing or sterilization validation, human factors, software verification and validation, and computational modeling because relevant information on these assessments are included in associated guidance documents. Test reports for clinical studies, animal studies, and studies evaluating the performance characteristics of in vitro diagnostic devices are also excluded from the scope of this document.

This guidance is intended to help ensure that clear and consistent information is provided in premarket submissions containing non-clinical bench performance testing. The information in this guidance is intended

to be used in conjunction with other FDA guidance documents, including device-specific guidances, as well as in conjunction with specific test reporting recommendations in FDA-recognized standards.

FDA considered comments received on the draft guidance that appeared in the **Federal Register** of May 31, 2018 (83 FR 25014). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on recommended content and format of non-clinical bench performance testing information in premarket submissions. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 18011 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''	De Novo classification process	0910–0844

Dated: April 23, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08466 Filed 4–25–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, MD 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on March 1, 2019, through March 31, 2019. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to

submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: April 22, 2019.

George Sigounas,

Administrator.

List of Petitions Filed

1. Robert Kleinknecht, Naples, Florida, Court of Federal Claims No: 19–0325V
2. David Pavish, Friendswood, Texas, Court of Federal Claims No: 19–0326V
3. Mengyao Hu, Boston, Massachusetts, Court of Federal Claims No: 19–0327V
4. Robert Vasquez, Fresno, California, Court of Federal Claims No: 19–0328V
5. Richard G. Doble, Brewer, Maine, Court of Federal Claims No: 19–0335V
6. Colleen Garten, Dunedin, Florida, Court of Federal Claims No: 19–0336V
7. Isaac Friedman, Jacksonville, Florida, Court of Federal Claims No: 19–0337V
8. Claretta Edwards, Oak Park, Illinois, Court of Federal Claims No: 19–0338V
9. Susan Cheney, Encinitas, California, Court of Federal Claims No: 19–0341V
10. Mong Ha Vivian Cheung, San Mateo, California, Court of Federal Claims No: 19–0342V
11. Pamela Vibbard, Olympia, Washington, Court of Federal Claims No: 19–0343V
12. Ivie Dotson on behalf of A.D., Cedar City, Utah, Court of Federal Claims No: 19–0344V
13. Susanna Edelstein, Glenview, Illinois, Court of Federal Claims No: 19–0345V
14. Cynthia Rublaitus, Alton, Illinois, Court of Federal Claims No: 19–0346V
15. Doreen E. Beer, Roanoke, Virginia, Court of Federal Claims No: 19–0348V
16. David McBane on behalf of R.M., Portland, Oregon, Court of Federal Claims No: 19–0350V
17. Elizabeth Levine, Denville, New Jersey, Court of Federal Claims No: 19–0351V
18. Ryan Faust, Boston, Massachusetts, Court of Federal Claims No: 19–0354V
19. Kurt T. Westerlund, Pittsburgh, Pennsylvania, Court of Federal Claims No: 19–0355V
20. Patrick Hansen, Mankato, Minnesota, Court of Federal Claims No: 19–0356V
21. Daniel McAvoy, Chandler, Arizona, Court of Federal Claims No: 19–0357V
22. Eileen Rescheske, Oshkosh, Wisconsin, Court of Federal Claims No: 19–0359V
23. Susan Leone, White Plains, New York, Court of Federal Claims No: 19–0360V
24. Megan Murphy Jones, Washington, District of Columbia, Court of Federal Claims No: 19–0361V
25. Karla Strand, Washington, District of Columbia, Court of Federal Claims No: 19–0362V
26. Jennifer Thompson, Charlottesville, Virginia, Court of Federal Claims No: 19–0363V
27. Crystal Mertins, Dallas, Texas, Court of Federal Claims No: 19–0364V
28. Rozene K. Whitaker-Jones, Canton, Georgia, Court of Federal Claims No: 19–0365V
29. Gerald Hines, Wilsonville, Oregon, Court of Federal Claims No: 19–0366V
30. Naila Hanif, Westbury, New York, Court of Federal Claims No: 19–0367V
31. Melissa Strait, Windsor, Wisconsin, Court of Federal Claims No: 19–0368V
32. Lorraine Fleagle, Philadelphia, Pennsylvania, Court of Federal Claims No: 19–0370V
33. Amy Redford, Tampa, Florida, Court of Federal Claims No: 19–0375V
34. Carol Gordon, Houston, Texas, Court of Federal Claims No: 19–0378V
35. Erica Winebrenner on behalf of S.W., Deceased, Crossville, Tennessee, Court of Federal Claims No: 19–0379V
36. Tom Janus and Beata Walerych Janus on behalf of M.J., Mineola, New York, Court of Federal Claims No: 19–0380V
37. Aaron Scott, Waupun, Wisconsin, Court of Federal Claims No: 19–0381V
38. Michael Terry, Douglasville, Georgia, Court of Federal Claims No: 19–0382V
39. Marilyn Dixon Hill, Runnemede, New Jersey, Court of Federal Claims No: 19–0384V
40. Tina Murry, Shoreline, Washington, Court of Federal Claims No: 19–0385V
41. Diane R. Hecht, Webster, New York, Court of Federal Claims No: 19–0387V
42. Mercedes Gallagher, San Diego, California, Court of Federal Claims No: 19–0389V
43. Paula Roberts, Atlanta, Georgia, Court of Federal Claims No: 19–0390V
44. Sue Decoretz, San Antonio, Texas, Court of Federal Claims No: 19–0391V
45. Ann Furman, Kelso, Washington, Court of Federal Claims No: 19–0392V
46. Charles Bracewell, Boston, Massachusetts, Court of Federal Claims No: 19–0393V
47. Timothy Nabulsi, Lantana, Florida, Court of Federal Claims No: 19–0395V
48. Dolores Walton, Boston, Massachusetts, Court of Federal Claims No: 19–0396V
49. Jane B. Rushing, Mount Gilead, North Carolina, Court of Federal Claims No: 19–0397V
50. Nadine Kraus, Buffalo, New York, Court of Federal Claims No: 19–0398V
51. Katy Parrott, Austin, Texas, Court of Federal Claims No: 19–0401V
52. John Gold on behalf of Norma A. Gold, Deceased, Elkhart, Indiana, Court of Federal Claims No: 19–0402V
53. Jennifer Anderson, Minneapolis, Minnesota, Court of Federal Claims No: 19–0403V
54. Christine Bedell on behalf of Thomas Bedell, Devereux, Florida, Court of Federal Claims No: 19–0404V
55. Veronica Sanderson, Lakeville, Minnesota, Court of Federal Claims No: 19–0407V
56. Jessica Davis on behalf of C.D., Philadelphia, Pennsylvania, Court of Federal Claims No: 19–0410V
57. Marcus Smith, Brandywine, Maryland, Court of Federal Claims No: 19–0411V
58. Tori Smith, Greenville, South Carolina, Court of Federal Claims No: 19–0412V
59. Daniel Payne, Peoria, Arizona, Court of Federal Claims No: 19–0413V
60. Johnny Matthews, Florence, South Carolina, Court of Federal Claims No: 19–0414V
61. Tonya Lemay, Cranston, Rhode Island, Court of Federal Claims No: 19–0415V
62. Gregory Bacon, Big Piney, Wyoming, Court of Federal Claims No: 19–0416V
63. Andrea Keady, Wilmington, Delaware, Court of Federal Claims No: 19–0419V
64. Dawn L. Bonsall, Medway, Maine, Court of Federal Claims No: 19–0420V
65. Kenneth Gumm, Sr., Vero Beach, Florida, Court of Federal Claims No: 19–0421V
66. Adam Gapen, Minneapolis, Minnesota, Court of Federal Claims No: 19–0422V
67. Patricia Murray, Manalapan, New Jersey, Court of Federal Claims No: 19–0424V
68. Carol Scott, Davidson, North Carolina, Court of Federal Claims No: 19–0427V
69. Jeffrey Crosse, Aberdeen, Maryland, Court of Federal Claims No: 19–0429V
70. Amy Thompson, Batavia, Illinois, Court of Federal Claims No: 19–0430V
71. Odaine Tomlinson on behalf of Catelyn Rose Tomlinson, Manassas, Virginia, Court of Federal Claims No: 19–0431V
72. John Mates, North Palm Beach, Florida, Court of Federal Claims No: 19–0432V

73. Katie M. Miller, Andover, Minnesota, Court of Federal Claims No: 19–0433V
74. Rebekah Fisler, Anderson, South Carolina, Court of Federal Claims No: 19–0434V
75. Christopher Lagos, Staten Island, New York, Court of Federal Claims No: 19–0436V
76. Maureen Nelson, Hempstead, New York, Court of Federal Claims No: 19–0438V
77. Jennifer Venier, Washington, District of Columbia, Court of Federal Claims No: 19–0439V
78. Sara Dorman, Paramus, New Jersey, Court of Federal Claims No: 19–0444V
79. Vera Veronica Kelly, Richmond, Virginia, Court of Federal Claims No: 19–0445V
80. Alexandra Friedman, Phoenix, Arizona, Court of Federal Claims No: 19–0446V
81. Susan Reifman, Boise, Idaho, Court of Federal Claims No: 19–0447V
82. Dameond Sigmond Reed, Charleston, South Carolina, Court of Federal Claims No: 19–0448V
83. Michelle A. Miller, Lancaster, New York, Court of Federal Claims No: 19–0450V
84. Cheri Sleeth, Boston, Massachusetts, Court of Federal Claims No: 19–0451V
85. Laurie L. Ogle, North Bend, Washington, Court of Federal Claims No: 19–0452V
86. Keyonna Michie on behalf of K.W., Bronx, New York, Court of Federal Claims No: 19–0453V
87. Robert Thomas Frey, Prospect, Kentucky, Court of Federal Claims No: 19–0454V
88. Darrell Barrett, Booneville, Kentucky, Court of Federal Claims No: 19–0456V
89. Roy Bristow, San Antonio, Texas, Court of Federal Claims No: 19–0457V
90. Cheryl Porter, Gainesville, Florida, Court of Federal Claims No: 19–0458V
91. Samantha Deters on behalf of S.D., Glen Burnie, Maryland, Court of Federal Claims No: 19–0459V
92. Ron Dimant and Christina Saczek on behalf of L.D., Boston, Massachusetts, Court of Federal Claims No: 19–0461V
93. Benjamin Larson, Washington, District of Columbia, Court of Federal Claims No: 19–0462V
94. Dwayne Palacio, Gardena, California, Court of Federal Claims No: 19–0466V
95. Amy Hatfield, Transfer, Pennsylvania, Court of Federal Claims No: 19–0467V
96. Lawrence Romine, Walnut Creek, California, Court of Federal Claims No: 19–0468V
97. Taylor Blackmore, Monterey, California, Court of Federal Claims No: 19–0470V

[FR Doc. 2019–08381 Filed 4–25–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Environmental Information Documentation, OMB No. 0915–0324—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than May 28, 2019.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Environmental Information Documentation OMB No. 0915–0324—Revision.

Abstract: HRSA proposes revisions to the Environmental Information and Documentation (EID) checklist, which consists of information that the agency is required to obtain to comply with the National Environmental Policy Act of 1969 (NEPA). NEPA establishes the federal government's national policy for protection of the environment. The EID checklist must be completed and submitted by applicants for HRSA funds that plan to engage in construction or other projects that would potentially impact the environment. HRSA utilizes the checklist to ensure that decision-making processes are consistent with NEPA. The revisions will update some of the language in the checklist. For example, to better align with 45 CFR part 75, HRSA proposes to change the term ''grant'' to ''award'' and ''grantee'' to ''award recipient.''

A 60-day notice was published in the **Federal Register** on December 27, 2018, Vol. 83, No. 247.

Need and Proposed Use of the Information: Applicants for HRSA funds must provide information and assurance of compliance with NEPA on the EID checklist. This information is reviewed in the pre-award stage.

Likely Respondents: HRSA applicants applying for federal construction grants and cooperative agreements.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NEPA EID Checklist	1,500	1	1,500	1	1,500
Total	1,500		1,500		1,500

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–08383 Filed 4–25–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Urban Indian Health Programs; 4-in-1 Grant Programs

Announcement Type: New and Competing Continuation.

Funding Announcement Number: HHS–2019–IHS–UIHP2–0002.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.193.

Key Dates

Application Deadline Date: May 30, 2019.

Earliest Anticipated Start Date: July 1, 2019.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Urban Indian Health Programs (OUIHP) is accepting applications for competitive grants for the Fiscal Year (FY) 2019 4-in-1 for Urban Indian Organizations. This program is authorized under the Snyder Act, 25 U.S.C. 13, Public Law (Pub. L.) 67–85, and Title V of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437, as amended, specifically the provisions codified at 25 U.S.C. 1653(c)–(e) (authorizing grants for health promotion and disease prevention services, immunization services and mental health services), and § 1660a (authorizing grants for alcohol and substance abuse related services). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.193.

Background

In the late 1960s, Urban Indian community leaders began advocating at the local, State and Federal levels to address the unmet health care needs of Urban Indians, and requested health care services and programs. These efforts resulted in an increase of preventative, medical, and behavioral health services, but there was growing recognition of challenges preventing Urban Indians in seeking health care services. To address these barriers, advocacy focused on the development of culturally appropriate activities that were unique to the social, cultural and spiritual needs of American Indians and Alaska Natives residing in urban settings. Programs developed at that time were staffed by volunteers in storefront settings with limited budgets offering primary care and outreach and referral-type services.

In response to efforts of the Urban Indian community leaders, Congress appropriated funds in 1966, through the IHS, for a pilot urban clinic in Rapid City, South Dakota. In 1973, Congress appropriated funds to study unmet Urban Indian health needs in Minneapolis, Minnesota. The findings of this study documented cultural, economic, and access barriers to health care and led to congressional appropriations under the Snyder Act to support emerging Urban Indian clinics in several Bureau of Indian Affairs relocation cities, *e.g.,* Seattle, San Francisco, Tulsa, and Dallas. In 1976, Congress passed the IHCIA, Public Law 94–437, establishing the Urban Indian health program under Title V. Congress reauthorized the IHCIA in 2010 under Public Law 111–148 (2010). This law is considered health care reform legislation to improve the health and well-being of all American Indians and Alaska Natives, including Urban Indians. Title V-specific funding is authorized for the development of programs for Urban Indians residing in urban areas. These areas include health promotion and disease prevention (HP/DP) services, immunization services, alcohol and substance abuse related services, and mental health services, hereafter referred to as ''4-in-1,'' health programs or services.

Purpose

The purpose of this IHS grant announcement is to award funding to Urban Indian Organizations to ensure the highest possible health status for Urban Indians. Funding will be used to support the 4-in-1 health program objectives. Specifically, the four health programs are: (1) HP/DP services, (2) immunization services, (3) alcohol and substance abuse related services, and (4) mental health services. These programs are integral components of the IHS health care delivery system. Funds from this effort will ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to Urban Indians.

II. Award Information

Type of Awards

Grants.

Estimated Funds Available

The total amount of funding identified for FY 2019 is approximately $980,000. Total funding available for competitive new and competing continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

New applicants are eligible to apply for funding, up to $200,000 per budget year, under this funding announcement. Current 4-in-1 grantees are eligible to apply for competing continuation funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the 4-in-1 grant in order to receive funding under this announcement. Current 4-in-1 grantees may request annual funds up to the total cost amount approved in the last noncompeting award.

Anticipated Number of Awards

Approximately 9 grants will be issued under this program announcement.

Project Period

The project period is for three years.

III. Eligibility Information

1. Eligibility

To be eligible for this New and Competing Continuation Funding Opportunity, applicants must be an Urban Indian Organization (UIO) administering a contract or grant under 25 U.S.C. 1653. Urban Indian Organizations are defined by 25 U.S.C. 1603(29) as a nonprofit corporate body situated in an urban center, governed by an Urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in 25 U.S.C. 1653(a). Applicants must provide proof of nonprofit status with the application such as 501(c)(3) Certificate.

Current 4-in-1 grantees awarded in FY 2019 under announcement HHS–2019–IHS–UIHP2–0001 are not eligible to apply for this New and Competing Continuation Funding Opportunity.

Note: Please refer to Section IV (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as, 501(c)(3) Certificate, copy of current Negotiated Indirect Cost Rate agreement, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Application budget requests that exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section will be considered nonresponsive and will not be reviewed. The applicant will be notified by the IHS Division of Grants Management (DGM).

Note: The highest dollar amount new applicants are eligible to apply for funding is up to $200,000 per budget year. The highest dollar amount current 4-in-1 grantees are eligible to apply for funding is up to the total cost amount approved in the last noncompeting award per budget period.

Each grantee shall provide health care services to eligible Urban Indians living within the urban center in which the UIO is situated. An ''Urban Indian'' eligible for services, as codified at 25 U.S.C. 1603(13), (27), and (28), includes any individual who:

1. Resides in an urban center, which is any community that has a sufficient Urban Indian population with unmet health needs to warrant assistance under the IHCIA, as determined by the Secretary, HHS; and who meets one or more of the following criteria:

a. Irrespective of whether he or she lives on or near a reservation, is a member of a Tribe, band, or other organized group of Indians, including:

i. Those Tribes, bands, or groups terminated since 1940, and

ii. those recognized now or in the future by the State in which they reside, or

b. Is a descendant, in the first or second degree, of any such member described in 1.a.; or

c. Is an Eskimo, or Aleut, or other Alaska Native; or

d. Is a California Indian; [1] or

e. Is considered by the Secretary of the Department of the Interior to be an Indian for any purpose; or

f. Is determined to be an Indian under regulations pertaining to Urban Indian health that are promulgated by the Secretary, HHS.

[1] Consistent with 25 U.S.C. 1603(3), (13), (28), and 1679, eligibility of California Indians may be demonstrated by documentation that the individual:

1. Is a descendant of an Indian who was residing in the State of California on June 1, 1852;

2. Holds trust interests in public domain, national forest, or Indian reservation allotments; or

3. Is listed on the plans for distribution of assets of California Rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), or is the descendant of such an individual.

Each grantee is responsible for taking reasonable steps to confirm that the individual is eligible for IHS services as an Urban Indian.

Documentation of Support

The UIO must submit a letter of support from their organization's board of directors.

Proof of Non-Profit Status

The UIO claiming nonprofit status must submit proof. A copy of the 501(c)(3) Certificate must be submitted with the application by the Application Deadline Date.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are found online at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/*.

Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form of Application Submission

The application must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs. Each of the 4 health program objectives (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services), should be addressed in a separate Grant Program Function or Activity row/column in the SF–424A.
  - SF–424B, Assurances—Non-Construction Programs.
- Project Narrative (not to exceed 20 pages).
  - Includes the statement of need, proposed scope of work, required objectives, activities that provide a description of what will be accomplished, and evaluation and performance measurement plan.
- Budget Justification and Narrative (not to exceed 5 pages).
- 501(c)(3) Certificate.
- Letters of support from the UIO's board of directors.
- Biographical sketches for all Key Personnel (not to exceed one page each).
- Contractor/Consultant proposed scope of work and letter of commitment (not to exceed one page each, if applicable).
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost (IDC) Rate agreement (required in order to receive indirect costs).
- Organizational chart or written information that shows where the HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services fit into the larger organization.
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Website at *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants, with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

The project narrative (Parts A through D listed below) should be a separate document not to exceed 20 pages that must: (1) Have consecutively numbered pages; (2) use black text no smaller than 12-point font; (3) and be formatted to fit standard letter paper (8½ x 11 inches).

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section. Applications not organized as noted below will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities. Applications with narratives exceeding the page limit may be deemed nonresponsive. The 20-page limit for the project narrative does not include the table of contents, abstract, standard forms, and/or other appendix items.

A. Project Narrative:

There are four parts to the project narrative:

Part A—Statement of Need;

Part B—Program Information/Proposed Approach;

Part C—Organizational Capacity and Staffing/Administration; and,

Part D—Performance Measurement Plan and Evaluation.

See below for additional details about the content for inclusion in the project narrative.

Part A: Statement of Need—Corresponds to Evaluation Criteria (Section V. 1.A.).

The statement of need describes the history and urban center currently served by the applicant. The statement of need provides the facts and evidence that support the need for these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) and establishes that the UIO understands the problems and can reasonably address them.

- Describe the current service gaps, including disconnection between available services and unmet needs of Urban Indians. This should include services at the UIO and in communities where Urban Indians reside.
- Describe the need for an enhanced infrastructure to increase the capacity to implement, sustain, and improve effective health care services offered to Urban Indians and any other service gaps and problems related to the need for infrastructure development within the UIO.

Part B: Program Information/Proposed Approach—Corresponds to Evaluation Criteria (Section V.1.B.).

State the purpose, goals, and objectives of your proposed projects. Clearly state how proposed activities address the needs detailed in the statement of need. Describe fully and clearly plans to meet these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) of this funding announcement. Each objective should be addressed with a corresponding time frame. Provide a work plan for year one budget period that details expected key activities, accomplishments, and includes responsible staff for each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services).

Part C: Organizational Capacity and Staffing/Administration—Corresponds to Evaluation Criteria (Section V.1.C.).

This section should describe your organizational capacity for each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services). Current staff and future positions for the four program components should also be outlined.

- Identify qualified professionals who will implement and administer the proposed grant activities, including progress and financial reports.
- Identify contact person to maintain open and consistent communication with the IHS program official on any financial or programmatic barriers to meeting the requirements of the award.
- Describe the organization's current system and ability to develop partnerships with service providers and community programs, including families and support systems of Urban Indians.
- Describe potential project partners and community resources in the urban center.

Part D: Performance Measurement Plan and Evaluation—Corresponds to Evaluation Criteria (Section V.1.D.).

This section of the application should describe efforts to collect and report project data that will support and demonstrate grant activities for each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services). Grantees will be required to participate in a national evaluation of the 4-in-1 grant program. Grantees will also be required to collect and report data pertaining to activities, processes, and outcomes. Data collection activities should capture and document actions conducted throughout awarded years, including activities that will contribute to relevant project impact. This section should also describe the applicant's plan to evaluate program activities, including any evidence-based prevention or treatment programs implemented. The evaluation plan should describe expected results and any identified metrics to support program effectiveness. Evaluation plans should incorporate questions related to outcomes and processes, including documentation of lessons learned.

- Describe in a brief narrative a plan to monitor activities under each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) to demonstrate progress towards program outcomes and inform future program decisions over the three-year project period.
- Describe proposed evaluation methods, including performance measures and other data relevant to evaluation outcomes, including intended results (*e.g.,* impact and outcomes). Include any partners who will assist in evaluation efforts if separate from the primary applicant.

B. Budget and Budget Narrative—Corresponds to Evaluation Criteria (Section V.1.E.).

This narrative must include a line item budget for these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. The budget should match the scope of work described in the project narrative. The budget and budget narrative should be no longer than five pages. For subsequent budget years, the narrative should highlight the changes from year one, or clearly indicate that there are no substantive budget changes during the period of performance. Do not use the budget narrative to expand the project narrative.

This section must succinctly but completely address the items listed under the Evaluation criteria in Section V.1.E. Budget and Budget Narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m., Eastern Daylight Time (EDT) on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*). If problems persist, contact the Grant Systems Coordinator listed under Agency Contacts in Section VII. Please contact at least 10 days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- The available funds are inclusive of direct and indirect costs.
- Only one grant will be awarded per applicant.

6. Application Submission Requirements

All applications must be submitted via the *Grants.gov* website at *http://www.Grants.gov*. Find the application by selecting the ''Search Grants'' link on the homepage. Application submission instructions can be found under the

Package Tab. No other method of application submission is acceptable.

If the applicant cannot submit an application through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, IHS, (see Section IV.6 described above for additional information). A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must: (1) Be documented in writing (emails are acceptable) before submitting an application by some other method, and (2) include clear justification for the need to deviate from the required application submission process.

If the waiver request is approved, the applicant will receive a confirmation of approval by email containing submission instructions. A copy of the written approval must be included with the application that is submitted to the DGM. Applications that are submitted without a copy of the signed waiver from Mr. Robert Tarwater, Director of the DGM will not be reviewed. The applicant will be notified via email of this decision by the DGM. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline. Late applications will not be accepted for processing. Applicants that do not register with both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov*, as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by the funding announcement.
- Applicants must comply with any applicable page limits described in this funding announcement.
- After submitting the application, the applicant will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify the applicant whether the application has been received.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

Applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B that uniquely identifies each entity. The DUNS number is site-specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access the Government Customer support center request service through *http://fedgov.dnb.com/webform,* or call toll-free (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006 (, as amended (''Transparency Act), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that are not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge, but can take several weeks to process. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the DMG, Policy Topics website: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Weights assigned to each section are noted in parentheses. The 20-page project narrative and 5-page budget and budget narrative should include only the first year activities; information for multiyear projects should be included as an appendix. See ''Multiyear Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. Points are assigned as follows:

1. Evaluation Criteria

Applications will be reviewed and scored according to the quality of responses to the required application components in Sections A–E outlined below. In developing the required sections of this application, use the instructions provided for each section, which have been tailored to this program. The application must use the five sections (Sections A–E) listed below in developing the narratives. The applicant must place the required information in the correct section or it will not be considered for review. The application will be scored according to how well the applicant addresses the requirements for each section listed below. The number of points after each section heading is the maximum number of points the review committee may assign to that section. Although scoring weights are not assigned to individual bullets, each bullet is assessed deriving the overall section score.

A. Statement of Need (25 Points)

Applications will be evaluated based on following criteria:

1. Identify the proposed urban center and provide demographic information on the population(s) to receive services. Describe the stakeholders and resources in the urban center that can help implement activities for these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services).

2. Based on the information and/or data currently available, document the need to implement, sustain, and improve health care services offered to Urban Indians.

3. Based on available data, describe the service gaps and other problems related to the needs of Urban Indians.

Identify the source of the data. Documentation of need may come from a variety of qualitative and quantitative sources. Examples of data sources for the quantitative data that could be used are local epidemiologic data such as Tribal Epidemiology Centers or IHS Area Offices, state data from state needs assessments, and/or national data from the Substance Abuse and Mental Health Services Administration's National Survey on Drug Use and Health or from the National Center for Health Statistics/ Centers for Disease Control, and census data. This list is not exhaustive. Applicants may submit other valid data, as appropriate for the applicant's programs.

B. Program Information/Proposed Approach (30 Points)

Applications will be evaluated based on following criteria:

• Describe the purpose of the proposed project, including a clear statement of goals and objectives. The proposed project narrative is required to address all four projects of the 4-in-1 grant program, including: (1) HP/DP services, (2) immunization services, (3) alcohol and substance abuse related services, and (4) mental health.

○ *HP/DP:* Applicants are encouraged to use evidence-based and promising strategies which can be found at the IHS best practice database *http://www.ihs.gov/hpdp/,* the National Registry for Effective Programs at *http://www.nrepp.samhsa.gov/,* and the Guide to Community Preventive Services at *http://www.thecommunityguide.org/about/conclusionreport.html.* Applicants are encouraged to work collaboratively with their assigned Area HP/DP Coordinator.

○ *Immunization:* Applicants are encouraged to participate in the Vaccines for Children program (if applicable). Applicants are encouraged to research capability with State/ regional immunization registry (where applicable). For sites using the IHS Resource and Patient Measurement System (RPMS), provide training sessions to providers and data entry clerks on the RPMS Immunization package. Establish a process for immunization data entry into RPMS (*e.g.,* point of service or through standard data entry). Utilize RPMS Immunization package to identify 3- to 27-month-old children whose immunization records are not up to date that generates reminder/recall letters. Applicants are encouraged to work collaboratively with their assigned Area Immunization Coordinator.

○ *Alcohol and Substance Abuse:* Describe services to be provided, *e.g.,* residential, detox, halfway house, counseling, outreach and referral, etc. Describe substance abuse prevention and education efforts to increase access to services, outreach, education, prevention, and treatment of substance abuse-related issues. Applicants are encouraged to work collaboratively with their assigned Area Behavioral Health Consultant.

○ *Mental Health:* Identify services to be provided, *e.g.,* community outreach and referral, prevention, training sessions, evaluations, schools, domestic violence programs, child abuse programs, etc. Describe mental health prevention and education program efforts to increase access to services, outreach, referral, education, prevention, and treatment of mental health related issues. Applicants are encouraged to work collaboratively with their assigned Area Behavioral Health Consultant.

• Describe how project activities will increase the capacity of the UIO to improve access to and quality of care for Urban Indians.

• Describe anticipated barriers and how these barriers will be addressed.

• Describe how the proposed project will address issues of diversity for Urban Indians, including race/ethnicity, gender, culture/cultural identity, language, sexual orientation, disability, and literacy.

• Describe how Urban Indians may receive services in these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) and how they will be involved in the planning and implementation of the grant.

• Describe how the efforts of the proposed project will be coordinated with any other related Federal grants, including IHS, SAMHSA, or Health Resources and Services Administration, etc. (if applicable).

• Provide a work plan for year one project period that details expected key activities, accomplishments, and includes responsible staff for each of these projects (HP/DP services, immunization services, alcohol and substance abuse services, and mental health services).

C. Organizational Capacity and Staffing/ Administration (15 Points)

Applications will be evaluated based on following criteria:

• Describe the management capability of the UIO and other participating organizations in administering similar projects.

• Identify staff to maintain open and consistent communication with the IHS program official on any financial or programmatic barriers to meeting the requirements of the award.

• Identify the department(s) and/or division(s) that will administer these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services). Include a description of these department(s) and/or division(s), their functions, and their placement within the UIO and their direct link to management.

• Discuss the UIO's experience and capacity to provide culturally appropriate and competent services to the community and specific populations of focus.

• Describe the resources available for the proposed project (*e.g.,* facilities, equipment, information technology systems, and financial management systems).

• Identify other organization(s) that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services).

• Describe how project continuity will be maintained if there is a change in the operational environment (*e.g.,* staff turnover, change in project leadership, etc.) to ensure project stability over the life of the grant.

• Provide a list of staff positions for the project and other key personnel, showing the role of each and their level of effort and qualifications for these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services). Key personnel include the Chief Executive Officer or Executive Director, Chief Financial Officer, Medical Director, and Information Officer.

• Demonstrate successful project implementation for the level of effort budgeted for the project staff and other key staff.

• Include position descriptions as attachments to the application for all key personnel. Position descriptions should not exceed one page each. Reviewers will not consider information past one page. *Note:* Attachments will not count against the 20-page maximum.

• For individuals who are currently on staff, include a biographical sketch with their name (do not include personally identifiable information such as social security number or date and place of birth) for each individual that will be listed as the project staff and other key positions. Describe the experience of identified staff in these

projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services). Include each biographical sketch as attachments to the project proposal/application. Biographical sketches should not exceed one page per staff member. Reviewers will not consider information past one page. *Note:* The attachment will not count as part of the 20-page limit. Do not include any of the following:

○ Personally Identifiable Information (social security number and date and place or birth);

○ Resumes; or

○ Curriculum Vitae.

D. Performance Measurement Plan and Evaluation (20 Points)

Describe plans to monitor activities under each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services), demonstrate progress towards program outcomes, and inform future program decisions over the 3-year project period. Applications will be evaluated based on following criteria and should address the following points:

• Describe proposed data collection efforts (performance measures and associated data) and how you will use the data to answer evaluation questions. This should include (data collection method, data source, data measurement tool, identified staff for data management, and data collection timeline).

• Identify key program partners and describe how they will participate in the implementation of the evaluation plan (*e.g.,* Tribal Epidemiology Centers, universities, etc.).

• Describe data collection and evaluation of any proposed evidence-based care programs implemented throughout awarded years.

• Describe how evaluating findings will be used at the applicant level. Discuss how data collected (*e.g.,* performance measurement data) will be used and shared by the key program partners.

• Discuss any barriers or challenges expected for implementing the plan, collecting data (*e.g.,* responding to performance measures), and reporting on evaluation results. Describe how these potential barriers would be overcome. In addition, applicants may also describe other measures to be developed or additional data sources and data collection methods that applicants will use.

E. Budget and Budget Narrative (10 Points)

Applications will be evaluated based on following criteria:

• Include a line item budget for each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services) for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative for Budget year one only.

• Provide a categorized budget for each of these projects (HP/DP services, immunization services, alcohol and substance abuse related services, and mental health services).

• Applicants should ensure that the budget and budget narrative are aligned with the project narrative. The budget and budget narrative the applicant provides will be considered by reviewers in assessing the applicant's submission, along with the material in the project narrative. Questions to address include: What resources are needed to successfully carry out and manage the project? What other resources are available from the organization? Will new staff be recruited? Will outside consultants be required?

• For any outside consultants, include the total cost broken down by activity.

• If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the current negotiated IDC rate agreement in the appendix.

Multi-Year Project Requirements

Applications must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project. The attachment will not count as part of the 20-page project narrative and 5-page budget and budget narrative.

Additional Documents Can Be Uploaded as Appendix Items in *Grant.gov*

• Work Plan, logic model, and/or time line for proposed objectives.

• Position descriptions for key staff (not to exceed one page each).

• Biographical sketches for key staff (not to exceed one page each).

• Consultant or contractor proposed scope of work and letter of commitment (if applicable).

• Current Negotiated Indirect Cost Rate Agreement.

• Organizational chart.

• Additional documents to support narrative (data tables, key news articles, etc.).

2. Review and Selection

Each application will be screened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on the evaluation criteria. Incomplete applications and applications that are nonresponsive to not just administrative thresholds will not be referred to the ORC and will not be funded. The applicant will be notified of this determination.

Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS OUIHP within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The Notice of Award (NoA) is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget and project period. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for 1 year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Grants are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

• Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

• HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

2. Indirect Costs

This section applies to all recipients requesting reimbursement of indirect costs (IDC) in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, the IHS requires applicants to obtain a current negotiated IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Generally, IDC rates for grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under Agency Contacts in Section VII or the main DGM office at (301) 443–5204.

3. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions, such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions at *https://home.grantsolutions.gov/home/.* Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in Section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

The grantee shall, consistent with 25 U.S.C. 1655 and 1657, submit quarterly reports demonstrating compliance with the grant, including an explanation of activities conducted pursuant to the grant, information gathered, a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date, justification for the lack of progress (if applicable), and an accounting for the amounts and purposes for which Federal funds were expended, and such other information as the Government may request. The quarters are based on the start of the budget period. Quarterly reports are due 30 days after the end of each quarter. A final report must be submitted within 90 days of expiration of each budget period.

B. Financial Reports

Federal Financial Report (FFR) (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS, at *https://pms.psc.gov.* The applicant is also requested to upload a copy of the FFR SF–425 report into the grants management system, GrantSolutions. Failure to submit timely reports may result in adverse award actions blocking access to funds.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Government Performance and Results Act and Uniform Data System Reporting

Government Performance and Results Act (GPRA) data shall be submitted electronically to the National Data Warehouse (NDW). All GPRA data submitted shall be verifiable and based upon criteria set forth for each GPRA performance standard. The GPRA data period shall be the Federal fiscal year of October 1 through September 30. Monthly registration and workload data shall be exported to the NDW. All data shall be exported by the cutoff date for that fiscal year. A GPRA Developmental Report shall be run at the end of the second and fourth quarters and sent to the National GPRA Support Team at *caogpra@ihs.gov* by the required due dates.

Uniform Data System (UDS) reporting period shall be by calendar year. The UDS reports shall be due in January for the previous calendar year.

D. Quarterly Immunization Report

Quarterly Immunization Reports are required and submitted to the online National Immunization Reporting System (NIRS). Grantees are required to submit immunization coverage reports on children 3 to 27-month-old, 2-year-old, Adolescent, and Adult and Influenza on a quarterly basis. For sites not using the IHS RPMS, visit the Division of Epidemiology and Disease Prevention (DEDP), Vaccine—Preventable Diseases Reports website to access non-RPMS quarterly reporting forms. An EXCEL spreadsheet with the required data elements can be found under the ''Non-RPMS Quarterly Reporting Forms'' section at: *https://www.ihs.gov/epi/vaccine/reports/.*

E. Quarterly Unmet Needs Report

The grantee shall, consistent with 25 U.S.C. 1653(a), 1655, and 1657(a), submit an unmet needs report quarterly. The report includes information gathered by the grantee to: (1) Identify gaps between unmet health needs of Urban Indians and the resources available to meet such needs; and (2) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health services to meet the needs of Urban Indians. The grantee shall upload the unmet needs report 30 days after the end of the quarter into GrantSolutions at *https://home.grantsolutions.gov/home/.*

F. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

The IHS has implemented a Term of Award into all IHS Standard Terms and

Conditions, NoAs, and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the period of performance is made up of more than one budget period) and where: (1) The period of performance start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM, Policy Topics web page at *http://www.ihs.gov/dgm/policytopics/.*

G. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. The HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call (800) 368–1019 or TDD (800) 537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS–690 Assurance of Compliance form, which can be obtained from the following website: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Avenue SW, Washington, DC 20201.

H. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) at *https://www.fapiis.gov,* before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10 million for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratutity violations potentially affecting the federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mailstop: 09E70, Rockville, Maryland 20857. (Include ''Mandatory Grant Disclosures'' in the subject line.)

Office: (301) 443–5204.

Fax: (301) 594–0899.

Email: Robert.Tarwater@ihs.gov.

and

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201.

Website address: https://oig.hhs.gov/fraud/report-fraud/. (Include ''Mandatory Grant Disclosures'' in the subject line.)

Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or

Email: MandatoryGranteeDisclosures@oig.hhs.gov.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371, Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on programmatic issues may be directed to: Shannon Beyale, Health Information Specialist, Office of Urban Indian Health Programs, 5600 Fishers Lane, Mail Stop: 08E65D, Rockville, MD 20857, Telephone: (301) 945–3657, Fax: (301) 443–4794, Email: *Shannon.Beyale@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Pallop Chareonvootitam, Grants

Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Telephone: (301) 443–5204, Fax: (301) 594–0899, Email: *Pallop.Chareonvootitam@ihs.gov*.

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Telephone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The U.S. Public Health Service strongly encourages all grant, cooperative agreement, and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, the Pro-Children Act of 1994, (Pub. L. 103–227), prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Urban Indian Health Programs; Urban Indian Education and Research Program

Announcement Type: New or Competing Continuation.

Funding Announcement Number: HHS–2019–IHS–UIHP3–0001.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.193.

Key Dates

Application Deadline Date: August 15, 2019.

Earliest Anticipated Start Date: September 15, 2019.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Urban Indian Health Programs (OUIHP), is accepting applications for a cooperative agreement for the Urban Indian Education and Research Organization Program. This program is authorized under: The Snyder Act, 25 U.S.C. 13, and Section 301(a) of the Public Health Service Act, 42 U.S.C. 241(a). This program is described in the Assistance Listings located at *https://beta.sam.gov* (formerly known as Catalog of Federal Domestic Assistance) under 93.193.

Background

The OUIHP oversees the implementation of the Indian Health Care Improvement Act (IHCIA) provisions for making health care services more accessible to Urban Indians. Pursuant to those authorities, the IHS enters into contracts and grants with Urban Indian Organizations (UIOs) for the provision of health care and referral services for Urban Indians residing in urban centers. This program provides services and education for UIOs that include the following Five Core Projects: (1) Public policy; (2) research and data; (3) training and technical assistance; (4) education, public relations, and marketing; and (5) payment system reform/monitoring regulations.

Purpose

The purpose of this IHS announcement is to fund a National Urban Indian Organization to act as an education and research partner for OUIHP and UIOs funded under the IHCIA.

Limited Competition Justification

Competition for the one award included in this announcement is limited to national organizations with at least ten years of experience providing national awareness, visibility, advocacy, education and outreach related to urban Indian health care on a national scale. This limitation ensures that the awardee will have: (1) A national information-sharing infrastructure which will facilitate the timely exchange of information between IHS and UIOs on a broad scale; (2) a national perspective on the needs of urban Indian communities that will ensure the information developed and disseminated through the projects is appropriate and useful and addresses the most pressing needs of urban Indian communities; and (3) established relationships with UIOs that will foster open and honest participation by urban Indian communities. Regional or local organizations will not have the mechanisms in place to conduct communication on a national level, nor will they have an accurate picture of the health care needs facing urban Indians nationwide. Organizations with less experience will lack the established relationships with UIOs throughout the country that will facilitate participation and the open and honest exchange of information between UIOs and the IHS. With the limited funds available for these Five Core Projects, the IHS must ensure that the education and outreach efforts described in this announcement reach the widest audience possible in a timely fashion, are appropriately tailored to the needs of urban Indian communities throughout the country, and come from a source that urban Indians recognize and trust.

Pre-Conference Grant Requirements

The awardee is required to comply with the ''HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting Space, Food, Promotional Items, and Printing and Publications,'' dated January 23, 2015 (Policy), as applicable to conferences funded by grants and cooperative agreements. The Policy is available at *https://www.hhs.gov/grants/contracts/contract-policies-regulations/efficient-spending/index.html?language=es.*

The awardee is required to:

Provide a separate detailed budget justification and narrative for each conference anticipated. The cost categories to be addressed are as follows: (1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration website, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other (explain in detail and cost breakdown). For additional questions, please contact Shannon Beyale at 301–945–3657 or email at *Shannon.Beyale@ihs.gov.*

II. Award Information

Funding Instrument

Cooperative Agreement.

Estimated Funds Available

The total funding identified for fiscal year (FY) 2019 is approximately $1,050,000. Award amount for the first budget year is anticipated to be $1,050,000. The funding available for competing and subsequent continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

One award will be issued under this program announcement.

Period of Performance

The period of performance is for three years.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as a grant. However, the funding agency (IHS) is anticipated to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for the IHS.

Substantial Involvement Description for Cooperative Agreement

In addition to the usual monitoring and technical assistance provided under the cooperative agreement, the IHS OUIHP responsibilities shall include:

(1) Assurance of the availability of services from experienced OUIHP staff to participate in the planning and development of all phases of this cooperative agreement;

(2) Participation in, including the planning of, any meetings conducted as part of the Five Core Projects;

(3) Assistance in establishing federal interagency contacts necessary for the successful completion of tasks and activities identified in the approved scope of work;

(4) Identification of organizations with whom the awardee will be asked to develop cooperative and collaborative relationships;

(5) Assisting the awardee to establish, review, and update priorities for the Five Core Projects conducted under this cooperative agreement; and

(6) Assisting the awardee in determining issues to be addressed during the project period, sequence in which they will be addressed, what approaches and strategies will be used to address them, and how relevant information will be transmitted to specified target audiences and used to enhance core project activities and advance the program.

III. Eligibility Information

1. Eligibility

To be eligible for this New and Competing Continuation FY 2019 Funding Opportunity, applicants must be national organizations with at least ten years of experience providing national awareness, visibility, advocacy, education and outreach related to urban Indian health care on a national scale. See Limited Competition Justification section above.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as letter of support from organization's board of directors, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Applications with budget requests that exceed the highest dollar amount outlined under the Award Information, Estimated Funds Available section, or exceed the Period of Performance outlined under the Award Information, Period of Performance section will be considered not responsive and will not be reviewed. The Division of Grants Management (DGM) will notify the applicant.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit a copy of the 501(c)(3) Certificate with the application.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are hosted on *http://www.Grants.gov.*

Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Project Narrative (not to exceed 20 pages). See IV.2.A Project Narrative for instructions.
  - Background information on the organization.
  - Proposed scope of work objectives, and activities that provide a description of what the applicant plans to accomplish.
- Budget Justification and Narrative (not to exceed 5 pages). See IV.2.B Budget Narrative for instructions.
- Letter of Support from the organization's Board of Directors.
- 501(c)(3) Certificate.
- Biographical sketches for all Key Personnel (not to exceed one page each).
- Contractor/Consultant proposed scope of work and letter of commitment (not to exceed one page each, if applicable).
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost (IDC) rate agreement (required in order to receive IDC).
- Organizational chart.
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. Applicants can find these on the FAC website: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All federal public policies apply to IHS grants and cooperative agreements with the exception of the Discrimination Policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate document that is no more than 20 pages and must: (1) Have consecutively numbered pages; (2) use black font 12 points or larger; (3) be single-spaced; and (4) be formatted to fit standard letter paper (8½ x 11 inches).

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Criteria) and place all responses and required information in the correct section noted below or they will not be considered or scored. If the narrative exceeds the page limit, the application will be considered not responsive and not be reviewed. The 20-page limit for the narrative does not include the standard forms, line item budgets, budget justifications and narratives, and/or other appendix items.

There are four parts to the project narrative: Part 1—Statement of Need; Part 2—Program Information/Proposed Approach; Part 3—Organizational Capacity and Staffing/Administration; and Part 4—Performance Measurement Plan and Evaluation. See below for additional details about what must be included in the narrative.

Part 1: Statement of Need—Corresponds to Criteria, Section V.1.A.

This section should help reviewers understand the UIOs that will be served

by the proposed project. Summarize the overall need for assistance: (1) The target population and its unmet health needs; and (2) sociocultural determinants of health and health disparities impacting the urban Indian population or communities served and unmet. Demographic data should be used and cited whenever possible to support the information provided.

Part 2: Program Information/Proposed Approach—Corresponds to Criteria, Section V.1.B.

Describe the purpose of the proposed project, including a clear statement of goals and objectives. Clearly state how proposed activities address the needs detailed in the statement of need. You are required to address all Five Core Projects in your project narrative. Address each project with a corresponding time frame.

Part 3: Organizational Capacity and Staffing/Administration—Corresponds to Criteria, Section V.1.C.

Describe your organizational capacity for all Five Core Projects and experience working with UIOs. Outline current staff and future positions for the five program components.

Part 4: Performance Measurement Plan an Evaluation—Corresponds to Criteria, Section V.1.D.

Describe efforts to collect and report project data that will support and demonstrate grant activities for all Five Core Projects. Awardee will be required to collect and report data pertaining to activities, processes, and outcomes. Also describe the plan to evaluate program activities. Describe in the evaluation plan the expected results and any identified metrics to support program effectiveness. Incorporate questions related to outcomes and processes, including documentation of lessons learned.

B. Budget and Budget Narrative—Corresponds to Criteria, Section V.1.E.

Provide a budget narrative that explains the amounts requested for each line of the budget. The budget narrative should specifically describe how each item will support the achievement of all five proposed projects. Be very careful about showing how each item in the ''other'' category is justified. For subsequent budget years, the narrative should highlight the changes from year one or clearly indicate that there are no substantive budget changes during the period of performance. Do NOT use the budget narrative to expand the project narrative. The conference budget and budget narrative will not count as part of the 5-page budget and budget narrative. Please include a line item amount for the conference in the budget and budget narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowed.
- The available funds are inclusive of direct and indirect costs.
- Only one cooperative agreement will be awarded per applicant.

6. Electronic Submission Requirements

All applications must be submitted via *Grants.gov*. Please use the *http://www.Grants.gov* website to submit an application. Find the application by selecting the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If the applicant cannot submit an application through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must: (1) Be documented in writing (emails are acceptable) before submitting an application by some other method, and (2) include clear justification for the need to deviate from the required application submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions. A copy of the written approval must be included with the application that is submitted to the DGM. Applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify the applicant that the application has been received.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

Applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B that uniquely identifies each entity. The DUNS

number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access the request service through *http://fedgov.dnb.com/webform,* or call (866) 705–5711.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS recipients to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that are not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge, but can take several weeks to process. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, are available on the DGM Grants Management, Policy Topics website: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Weights assigned to each section are noted in parentheses. The 20-page project narrative and 5-page budget and budget narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The project narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points.

Note: Additional documentation requested as attachments do not count towards the narratives' page limits, *e.g.* position descriptions, timelines, biographical sketches, etc.

1. Criteria

A. Statement of Need (25 Points)

(1) Describe and document the target population and its unmet needs.

(2) Based on the information and/or data currently available, document the need to implement, sustain, and improve health care services offered to urban Indians.

(3) Based on available data, describe the service gaps and other problems related to the needs of urban Indians. Identify the source of the data. Documentation of need may come from a variety of qualitative and quantitative sources. Examples of data sources for the quantitative data that could be used are epidemiologic data such as Tribal Epidemiology Centers or IHS Area Offices, state data from state needs assessments, and/or national data from the Substance Abuse and Mental Health Services Administration's National Survey on Drug Use and Health or from the National Center for Health Statistics/Centers for Disease Control, and census data. This list is not exhaustive. Applicants may submit other valid data, as appropriate for the applicant's programs.

B. Program Information/Proposed Approach (30 Points)

Describe the purpose of the proposed project, including a clear statement of goals and objectives. Provide a work plan for the first year of the project period that details expected key activities, accomplishments, and includes responsible staff for each of the Five Core Projects. The project narrative is required to address all Five Core Projects of the program, see below:

(1) *Public Policy:* Summarize the public policy opportunities and challenges of UIOs in the implementation of the various laws. Describe efforts to increase awareness and actively seek support for the health care needs of urban Indians. Describe efforts to engage Urban Indian Organization Leaders' participation in policy workgroups, national advisory committees, Urban Confers, budget formulation, and listening sessions.

(2) *Research and Data:* Describe the need to collect and analyze health disparities data, morbidity and mortality data, and urban IHS cost data in order to reduce urban Indian health disparities and identify, improve, evaluate, and document UIOs' efforts through practice-based and evidence-based best practices. Describe efforts to solidify partnerships with UIOs, tribal and urban epidemiology centers, and other data and research partners to improve and increase research and data on urban Indian issues.

(3) *Training and Technical Assistance:* Describe the need for UIOs' training and technical assistance to support new and continuing executive directors and chief executive officers, board of directors and program staff (clinical staff, administration, business office, health information technology, integrated behavioral health, etc.).

(i) Further describe the need for training and technical assistance to support Urban Indian Organization administration in orienting new Urban Indian Organization Leaders and Board of Directors, grant writing, and credentialing and privileging. Describe the need for technical assistance and training for UIOs to effectively engage in the IHS Urban Confer process. Describe the need for UIOs to attract and retain skilled, culturally competent health service providers.

(4) *Education, Public Relations, and Marketing:* Summarize the need to market the UIOs through development of national, regional, and local marketing strategies and campaigns.

(i) Describe efforts to increase awareness of health care needs of urban Indians. Describe efforts to engage UIOs to participate in national health campaigns. Describe the need for enhanced communication among local private and non-profit health care entities. Summarize the need to enhance communication, interaction, and coordination on policy and health care reform activities by initiating and maintaining partnerships and collaborative relationships with other UIOs, national Indian organizations, key state and local health entities, and education and public safety networks. Describe efforts to strengthen the capacity of UIOs to work as a community to improve knowledge sharing.

(5) *Payment System Reform/Monitoring Regulations:* Describe services to be provided, *e.g.,* billing, health information technology, regulations, etc. Describe efforts to support UIOs' efforts to diversify funding and increase third party reimbursement to ensure UIOs' sustainability. Describe technical assistance, training, and tools to be provided on billing and coding best practices, and negotiating with private health insurers and health plans. Describe efforts to establish and enhance third party billing for UIOs that

have limited or no third party billing capabilities. Describe the need to understand, document and analyze current and new federal regulations impacting UIOs for reimbursement. Describe services to be provided to UIOs on regulations. Describe types of regulatory activities needed to support efforts to lessen the impact on UIOs financial and operational systems.

C. Organizational Capacity and Staffing/ Administrationm (15 Points)

(1) Describe the management capability of the National Urban Indian Organization and other participating organizations in administering similar projects.

(2) Identify staff to maintain open and consistent communication with the IHS program official on any financial or programmatic barriers to meeting the requirements of the award.

(3) Identify the department(s) and/or division(s) that will administer all Five Core Projects. Include a description of these department(s) and/or division(s), their functions, and their placement within the National Urban Indian Organization and their direct link to management.

(4) Discuss the National Urban Indian Organization's experience and capacity to provide culturally appropriate and competent services to UIOs and specific populations of focus.

(5) Describe the resources available for the proposed project (*e.g.,* facilities, equipment, information technology systems, and financial management systems).

(6) Identify other organization(s) that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to all Five Core Projects.

(7) Describe how project continuity will be maintained if there is a change in the operational environment (*e.g.,* staff turnover, change in project leadership, etc.) to ensure project stability over the life of the grant.

(8) Provide a list of staff positions for the project and other key personnel, showing the role of each and their level of effort and qualifications for all Five Core Projects. Key personnel include the Chief Executive Officer or Executive Director, Chief Financial Officer, Deputy Director, and Information Officer.

(9) Demonstrate successful project implementation for the level of effort budgeted for the project staff and other key staff.

(10) Include position descriptions as attachments to the application for all key personnel. Position descriptions should not exceed one page each.

(11) For individuals who are currently on staff, include a biographical sketch with their name for each individual that will be listed as the project staff and other key positions. Describe the experience of identified staff in all Five Core Projects. Include each biographical sketch as attachments to the project proposal/application. Biographical sketches should not exceed one page per staff member. Do not include any of the following:

(a) Personally Identifiable Information (social security number and date and place or birth);

(b) Resumes; or

(c) Curriculum Vitae.

D. Performance Measurement Plan and Evaluation (20 Points)

Describe plans to monitor activities under all Five Core Projects, demonstrate progress towards program outcomes, and inform future program decisions over the 3-year project period. Describe how issues will be addressed during the project period, the sequence in which they will be addressed, what approaches and strategies will be used to address them, and how relevant information will be transmitted to specified target audiences and used to enhance project activities and advance the program.

1. Describe proposed data collection efforts (performance measures and associated data) and how you will use the data to answer evaluation questions. This should include (data collection method, data source, data measurement tool, identified staff for data management, and data collection timeline).

2. Identify key program partners and describe how they will participate in the implementation of the evaluation plan (*e.g.,* Tribal Epidemiology Centers, universities, etc.).

3. Describe how evaluating findings will be used at the applicant level. Discuss how data collected (*e.g.,* performance measurement data) will be used and shared by the key program partners.

4. Discuss any barriers or challenges expected for implementing the plan, collecting data (*e.g.,* responding to performance measures), and reporting on evaluation results. Describe how these potential barriers would be overcome. In addition, applicants may also describe other measures to be developed or additional data sources and data collection methods that applicant will use.

E. Budget and Budget Narrative (10 Points)

1. Include a line item budget for all Five Core Projects including expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative for Budget year one only.

2. Provide a categorized budget for all Five Core Projects. If it is anticipated that there will be travel costs to cover the cost of staff and Urban Indian Organization Leaders' attendance at national advisory committees and workgroups, the applicant should ensure the associated travel costs are included in the categorized budget for public policy.

3. Ensure that the budget and budget narrative are aligned with the project narrative. Questions to address include: What resources are needed to successfully carry out and manage the Five Core Projects? What other resources are available from the organization? Will new staff be recruited? Will outside contractors/ consultants be required?

4. Include the total cost for any outside contractors/consultants broken down by activity within each core project.

5. If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the current negotiated IDC rate agreement in the appendix.

Multi-Year Project Requirements

Applications must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project. This attachment will not count as part of the project narrative or the budget narrative.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan or logic model, with time line, for proposed goals and objectives.
- Position descriptions for key staff (not to exceed one page each).
- Biographical sketches for key staff (not to exceed one page each).
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Rate Agreement.
- Organizational chart.
- Additional documents to support narrative (*e.g.,* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds will not be referred to the ORC and will not be funded. The applicant will be notified of this determination.

Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS OUIHP within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The Notice of Award (NoA) is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for one year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

2. Indirect Costs

This section applies to all recipients that request reimbursement of indirect costs (IDC) in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' in Section VII or the main DGM office at (301) 443–5204.

3. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required quarterly, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

Federal Financial Report (FFR or SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* The applicant is also requested to upload a copy of the FFR (SF–425) into our grants management system, GrantSolutions. Failure to submit timely reports may result in adverse award actions blocking access to funds.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Post Conference Grant Reporting

The following requirements were enacted in Section 3003 of the Consolidated Continuing Appropriations Act, 2013, and Section 119 of the Continuing Appropriations Act, 2014; *Office of Management and Budget Memorandum M–12–12:* All HHS/IHS awards containing grants funds allocated for conferences will be required to complete a mandatory post award report for all conferences. Specifically: The total amount of funds provided in this award/cooperative agreement that were spent for ''Conference X'', must be reported in final detailed actual costs *within 15 days of the completion of the conference.* Cost categories to address should be: *(1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration website, (4) Audio Visual, (5) Speakers*

Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other.

D. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by federal agencies. The Transparency Act also includes a requirement for recipients of federal grants to report information about first-tier sub-awards and executive compensation under federal assistance awards.

The IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the period of performance is made up of more than one budget period) and where: (1) The period of performance start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy website at *http://www.ihs.gov/dgm/policytopics/.*

E. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. The HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call (800) 368–1019 or TDD (800) 537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following website: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW, Washington, DC 20201.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS), at *http://www.fapiis.gov,* before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

G. Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line).

Office: (301) 443–5204.

Fax: (301) 594–0899.

Email: Robert.Tarwater@ihs.gov.

and

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *https://oig.hhs.gov/fraud/report-fraud/*, (Include ''Mandatory Grant Disclosures'' in subject line).

Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or

Email: MandatoryGranteeDisclosures@oig.hhs.gov.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Shannon Beyale, Health Information Specialist, Office of Urban Indian Health Programs, 5600 Fishers Lane, Mail Stop: 08E65D, Rockville, MD 20857, Phone: (301) 945–3657, Fax: (301) 443–8446, Email: *Shannon.Beyale@ihs.gov*.

2. Questions on grants management and fiscal matters may be directed to: Donald Gooding, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2298, Fax: (301) 594–0899, Email: *Donald.Gooding@ihs.gov*.

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The Public Health Service strongly encourages all grant, cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

[FR Doc. 2019–08413 Filed 4–25–19; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Final Action Under the NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice of changes to the *NIH Guidelines*.

SUMMARY: This notice sets forth final changes to the *NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules* (*NIH Guidelines*) to streamline oversight for human gene transfer clinical research protocols and reduce duplicative reporting requirements already captured within the existing regulatory framework, as initially outlined by the NIH Office of Science Policy (OSP) in a **Federal Register** notice issued on August 17, 2018. Following the solicitation of public comment on its original proposal, the NIH is amending the *NIH Guidelines* to: (A) Delete the NIH protocol registration submission and reporting requirements under Appendix M of the *NIH Guidelines,* and (B) modify the roles and responsibilities of entities that involve human gene transfer and the Recombinant DNA Advisory Committee (RAC).

DATES: Changes outlined in this notice will be effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional background information about these changes, please contact the NIH by email at *SciencePolicy@od.nih.gov,* or telephone at 301–496–9838. You may also contact Jessica Tucker, Ph.D., Director of the Division of Biosafety, Biosecurity, and Emerging Biotechnology Policy, Office of Science Policy, NIH, at 301–451–4431 or *Jessica.Tucker@nih.gov.*

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice issued on August 17, 2018 (83 FR 41082), the NIH proposed a series of actions to the *NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)* to streamline oversight of human gene transfer research (HGT), and to focus the *NIH Guidelines* more specifically on biosafety issues associated with research involving recombinant or synthetic nucleic acid molecules. The field of HGT has recently experienced a series of advances that has resulted in the translation of research into clinical practice, including Food and Drug Administration (FDA) approvals for licensed products. Additionally, oversight mechanisms for ensuring HGT is appropriately assessed for safety risks have sufficiently evolved to keep pace with new discoveries in this field. At this time, there is duplication in submitting protocols, annual reports, amendments, and serious adverse events for HGT protocols to both the NIH and the FDA that does not exist for other areas of clinical research. It is an opportune time to make changes to the *NIH Guidelines* to make oversight of HGT commensurate with oversight afforded to other areas of clinical research, given the robust infrastructure in place to oversee this type of research.

After careful consideration of public comments, the NIH is amending the *NIH Guidelines* in the following areas:

1. Elimination of HGT protocol submission and reporting requirements to the NIH, and individual HGT protocol review by the Recombinant DNA Advisory Committee (RAC).

2. Modification of roles and responsibilities of investigators, institutions, Institutional Biosafety Committees (IBCs), the RAC, and the NIH to be consistent with these goals including:

a. Modification of roles of IBCs in reviewing HGT to be consistent with review of other covered research.

b. Elimination of roles of the RAC in HGT and biosafety.

The proposed changes outlined above will require amendment of multiple portions of the *NIH Guidelines* (see section below on ''Amendments to the *NIH Guidelines*''). Following deletions, sections and appendices will be relabeled to proceed consecutively throughout the *NIH Guidelines.* Language in the ''Amendments to the *NIH Guidelines*'' section below includes updated references to relabeled section and appendix names, where relevant. Sections of the *NIH Guidelines* also will be amended to include several minor additional changes to provide non-substantive clarifications or for consistency.

Overview of Comments Received in Response to NIH's Proposal To Amend the *NIH Guidelines* (83 FR 41082)

The NIH received 43 comments (available at *https://osp.od.nih.gov/wp-content/uploads/Aug162018_AllComments_r508.pdf*) in response to its proposal to amend the *NIH Guidelines,* posted in the **Federal Register** on August 17, 2018, including from individuals from the general public, academic institutions, and industry; and professional or membership organizations representing the biosafety, gene therapy, biotechnology, patient advocacy, academic, medical, and Institutional Review Board (IRB) communities. Few comments received in response to the **Federal Register** notice (83 FR 41082) (hereafter referred to as the August 17, 2018 FRN) reflected views entirely supportive of or in opposition to the proposal, but instead indicated support

or criticism for specific components. A minority of comments indicated that the existing system for review and reporting of individual protocols and IBC review should remain, as is. All comments, regardless of position, were reviewed and considered by the NIH. These comments, along with the NIH responses, are summarized below.

Elimination of submission and reporting requirements to the NIH. In general, the majority of favorable comments supported eliminating HGT protocol submission and safety reporting requirements to the NIH's Office of Science Policy (NIH/OSP) and streamlining HGT oversight to eliminate overlapping reporting requirements, though a smaller number of comments did not support this proposed change. Some respondents indicated that reporting of HGT protocols to both the FDA, which has regulatory jurisdiction, and the NIH is no longer necessary. After careful analyses of these comments, the NIH will implement the changes to protocol submission and reporting requirements as outlined in the August 17, 2018 FRN. Related to this issue, some comments indicated an interest in maintaining the Genetic Modification Clinical Research Information System (GeMCRIS) or ensuring vector information gets added to *ClinicalTrials.gov* to provide IBCs with a resource for use during their reviews. Of note, the operation of GeMCRIS and its maintenance are not specified in the *NIH Guidelines;* because NIH/OSP will no longer receive HGT protocols and associated reports, GeMCRIS will no longer be updated. The NIH will continue to consider appropriate mechanisms to facilitate information-sharing, and *ClinicalTrials.gov* provides some useful data for those in the HGT community. The NIH notes that the level of detailed information that is currently housed in GeMCRIS is not standard for other clinical research, or other non-clinical research subject to the *NIH Guidelines.*

IBC Roles and Responsibilities. Most comments received from individuals self-identifying as members of the biosafety community were supportive of continued review and oversight of HGT by IBCs. However, many comments noted concerns about the appropriate roles and responsibilities for IBCs, especially in the area of HGT oversight, in light of these proposed changes. In general, the NIH agrees that further consideration of the roles and responsibilities of IBCs in the assessment of biosafety issues associated with HGT is warranted, and the NIH anticipates exploring these issues with the community in more detail. However, the NIH notes that biosafety oversight of HGT protocols has always been the responsibility of IBCs, and they should continue to serve that function. Local oversight is an important component of the *NIH Guidelines,* and IBCs are expected to continue to have the necessary expertise and processes in place to consider biosafety issues associated with HGT protocols, as they do for other research covered under the *NIH Guidelines.* Upon assessment of the comments, the NIH will implement the changes outlined in the August 17, 2018 FRN regarding IBC roles and responsibilities with two exceptions noted below. Specific sub-topics raised in comments received included the duration of IBC oversight, IBC responsibilities and documents to review, and the scope of biosafety review for HGT protocols.

Several comments requested additional clarity from the NIH regarding the expected duration of IBC oversight and whether this oversight should extend beyond the proposed final administration of product. Specifically, some comments questioned whether oversight should be extended until it is reasonable to expect that the vector will no longer be shed, until there is no product at the site of the study, until the trial is no longer enrolling, or throughout handling of biospecimens taken from individuals after the final dose. The NIH acknowledges these issues and notes that biosafety issues that extend beyond product administration should be considered by IBCs during review, but any such risks should generally be addressed and managed by IBCs prior to administration (*e.g.,* establishing monitoring plans for shedding). Additionally, the *NIH Guidelines* set a baseline for IBC oversight requirements, and institutions regularly choose to expand this scope based upon research oversight needs; for example, many IBCs extend oversight to all pathogen research, regardless of whether this research is recombinant or synthetic in origin. As such, institutions and IBCs may always choose to expand the purview of their oversight as needed to maintain appropriate oversight over biosafety issues. The *NIH Guidelines* will be amended in Section IV–B–2–b–(1) to clarify that oversight may conclude after the final administration of product to the final research participant, but institutions and IBCs are permitted to identify an end point for the conclusion of oversight that extends after the final administration of the product to the final research participant.

Many comments requested additional guidance on what documents IBCs should review regarding HGT protocols; a majority of these comments were received from individuals self-identifying as associated with research institutions or biosafety professionals. Specific recommendations included retaining Appendix M–1–A in the *NIH Guidelines* or, as a resource, providing a checklist of documents or developing another guidance document. The *NIH Guidelines,* in general, are intended to provide sufficient clarity, but also sufficient flexibility, to all institutions to establish policies that accommodate local needs while adhering to the principles and expectations detailed in the policy. For both basic research and HGT, institutions should establish policies to ensure that documentation is sufficient for oversight bodies, including IBCs, to conduct review and approval. Because NIH/OSP sometimes issues guidance or points to consider on specific topics relevant to the *NIH Guidelines* when requested by the community, NIH/OSP will make available the parts of Appendix M–1–A that are still relevant, in light of the final changes to the *NIH Guidelines,* as a separate resource for institutions, IBCs, and investigators on the types of information that institutions and IBCs may wish to consider in the review of HGT protocols.

Similarly, many comments requested more guidance on what IBCs should consider when reviewing HGT protocols for biosafety considerations. A small number of respondents suggested that the biosafety review of HGT protocols is no longer needed, is very low risk, or reflects substantial burden without a commensurate benefit. Others indicated that reporting of adverse events to IBCs and IBC review of informed consent documents should be required to enable IBCs to conduct sufficient biosafety reviews. A few comments indicated the proposed changes will more clearly delineate the roles of IBCs and IRBs and supported the notion that review of informed consent documents or adverse events should not be a responsibility of IBCs but is instead the purview of IRBs. Others expressed confusion about whether reporting biosafety incidents to NIH/OSP would be affected by the proposed amendments to the *NIH Guidelines.* The proposed changes ensure that the scope and responsibilities of IBCs reviewing HGT protocols are consistent with their responsibilities for other research covered by the *NIH Guidelines.* As noted previously, institutions may expand the scope of IBC review of

protocols and safety reports beyond that outlined by the *NIH Guidelines,* but in general, review of adverse events and informed consent documents is the purview of other oversight entities. The topics for IBC biosafety review for HGT protocols are articulated in Section IV–B–2–b–(1). No changes were proposed regarding the reporting of biosafety incidents to NIH/OSP for HGT protocols, and this reporting will continue to be required under the *NIH Guidelines* as articulated in Sections IV–B–1–j, IV–B–2–b–(7), and IV–B–7–a–(3).

Some comments indicated that the proposal to eliminate certain protocols conducted under individual patient expanded access investigational new drug applications (INDs) as research subject to the *NIH Guidelines* is not justifiable from a biosafety perspective, since the biohazard risks are not different from those under a conventional human gene therapy IND. This change was proposed to harmonize the *NIH Guidelines* with current FDA policies, which do not require review by the full IRB membership of physician-sponsored individual patient expanded access INDs. Some modifications to the original proposed language will be made to ensure greater consistency with existing FDA guidance. Specific guidance regarding FDA requirements is provided at *https://www.fda.gov/downloads/drugs/guidances/ucm351261.pdf.* Section III–C–1 will be amended to clearly state that any deliberate transfer of recombinant or synthetic nucleic acids into one human participant, when conducted under an FDA-regulated individual patient expanded access IND or protocol, including for emergency use, is not research subject to the *NIH Guidelines.*

Elimination of RAC's Roles in HGT Protocol Review and Biosafety Oversight from the NIH Guidelines, and Future of the RAC. A topic that generated many comments concerned the proposed changes to the role of the RAC as specified in the *NIH Guidelines.* Some comments indicated support for eliminating RAC review of individual HGT protocols and focusing the committee's attention on a broader scope of emerging biotechnologies, whether or not such research involves recombinant or synthetic nucleic acid molecules, because IBCs can adequately perform their HGT oversight independently and the FDA has regulatory authority. Upon assessment of the comments, the NIH will implement the changes outlined in the August 17, 2018 FRN regarding RAC roles with two additions noted below. Specific sub-topics raised in comments received included removal of references to the role of the RAC from the *NIH Guidelines,* the need for a transparent forum for discussion on various scientific, ethical, legal and social issues related to emerging biotechnologies, the loss of the RAC as a biosafety guidance resource for IBCs, potential future roles of the RAC, and which entities should perform current roles of the RAC.

Some respondents indicated that the biosafety roles of the RAC in the *NIH Guidelines* should remain, with some suggesting that the articulation of RAC functions in the *NIH Guidelines* protects the committee's core functions more than a committee charter. The NIH notes that, in general, functions of discretionary Federal Advisory Committee Act (FACA) committees, such as the RAC, are routinely articulated in their charters rather than in policy documents. The NIH is committed to transitioning the RAC in ways that preserve its current forum for public discourse and advice to the NIH Director on the emerging biotechnology issues of today and the future. The NIH will release the revised charter of the committee, which will be renamed the Novel and Exceptional Technology and Research Advisory Committee (NExTRAC), to reflect the shift in focus of the committee while embracing the continuity of this important advisory board. Some historical references to the RAC will remain in the *NIH Guidelines.*

Some comments, particularly those from individuals self-identifying as members of the ethics and oversight communities, indicated the importance of a transparent forum for discourse and advice regarding HGT, Major Actions, biosafety issues, and any changes needed to the *NIH Guidelines.* Some respondents argued that there are still unknown aspects of HGT, especially given the advent of genome editing technologies, and that the existing system of oversight and other relevant mechanisms (*i.e.,* the FDA, IRBs, and *ClinicalTrials.gov*) do not replace the RAC's functions and mission of transparency. Additionally, one commenter suggested that although few individual protocols have been publicly reviewed since the 2016 amendments to the *NIH Guidelines,* the RAC members may have chosen to review more protocols had they been given the opportunity. While no longer specified as responsibilities in the *NIH Guidelines,* the NIH will continue to consult, as needed, with the NExTRAC or other relevant advisory committees regarding issues of emerging biotechnologies, biosafety, or when proposing changes to the *NIH Guidelines* or other relevant policies. The NIH consistently seeks out diverse input, including expert opinions, when considering changes to existing policies, and transparent and open discourse is a critical part of the policy-making process, whether through requests for public comment, workshops, or charges to advisory committees. Integral to the NIH mission is to exemplify and promote the highest level of scientific integrity, public accountability, and social responsibility in the conduct of science, and the NIH has and will continue to rely on mechanisms that allow for advice and public discourse, including review and discussion by FACA committees, when appropriate.

Several comments indicated that the public discussion of HGT protocols by the RAC provided guidance to IBCs in conducting biosafety reviews of these protocols. A few comments indicated that IBCs do not have the necessary expertise to conduct biosafety reviews for clinical protocols and therefore rely on the RAC. Some commenters requested that IBCs should retain flexibility to request RAC review for certain individual HGT protocols, especially those involving pediatric populations. Alternatively, other respondents suggested that the NIH should establish a panel of HGT experts to provide guidance, upon request. While the NIH is sensitive to these concerns and acknowledges that risks are always present in clinical research, the NIH argues that there is not sufficient evidence to justify the unique oversight afforded to this area of research. The NIH maintains, however, that the NExTRAC will continue to serve as a forum for public discourse and discussions on emerging biotechnology issues, which may include—but is not limited to—emerging trends in HGT, rather than the discussion of individual HGT protocols. Furthermore, the NIH emphasizes that all HGT protocols, regardless of whether RAC review was performed, were and are to be reviewed by IBCs. To assert that this function cannot be performed in the absence of RAC review undermines the authority of the IBC and the underlying rationale for establishing the oversight infrastructure. IBCs are expected to include and, as needed, supplement their discussions with *ad hoc* expertise for the local biosafety review of all protocols under their purview, including HGT protocols. For Major Actions and other biosafety issues of significance, the NIH will continue to, as needed, consult with subject matter experts and, if necessary, provide a forum for public discussion to facilitate the review and approval process.

Several comments suggested support for the NIH's intent to continue to utilize the RAC as an emerging biotechnology committee but requested more information about these plans. Similarly, some comments requested that the NIH identify a point of contact to assist in navigating questions that previously would have been considered by the RAC. Regarding the future of the RAC, as noted, the NIH will issue a revised charter and intends to use the NExTRAC as a board for public discussion and advice on the scientific, safety, ethical, legal, and social issues associated with emerging biotechnologies. NIH/OSP continues to serve as a resource for guidance, which it provides to investigators, institutions, biosafety professionals, and members of the public on a daily basis. Questions regarding the *NIH Guidelines* should continue to be directed to *NIHGuidelines@od.nih.gov.*

Two references to the RAC that also should have been proposed for elimination from the *NIH Guidelines* were not included in amendments proposed in the August 17, 2018 FRN. These references will be included for elimination in the final changes; otherwise, all changes outlined in the August 17, 2018 FRN regarding the RAC will be implemented.

Other Topics Outside of this Policy Proposal. Some comments requested additional guidance in the *NIH Guidelines* on specific areas of emerging technology, including CRISPR/Cas9 genome editing and T cell immunotherapy, perhaps by utilizing a task force to provide such guidance. Additionally, a few comments requested further assessment of mature areas of technology to determine if they should still be subject to the *NIH Guidelines.* A small number of comments requested further guidance regarding *in utero* gene therapy. These types of amendments were not the purview of this policy change, but the NIH is undertaking a long-term effort to consider further updates to the *NIH Guidelines,* building upon the July 2017 workshop, *NIH Guidelines:* Honoring the Past, Charting the Future. The NIH will continue to solicit input and facilitate transparent discourse to consider these and similar issues.

Other comments outside the purview of this proposed policy change, but which may be addressed in future efforts, were related to requested modifications of the IBC review and approval process, including allowing expedited review, eliminating the requirement for IBC review at sites lacking IBCs, and greater guidance for coordination between various oversight committees (*e.g.,* IBCs, IRBs, and Institutional Animal Care and Use Committees) or coordination on multisite trials. As noted previously, the NIH is committed to considering the appropriate roles of IBCs in biosafety review of clinical research and will continue to consider these issues.

Amendments to the NIH Guidelines

Section I–A will be amended as follows:

Section I–A. Purpose

The purpose of the *NIH Guidelines* is to specify the biosafety practices and containment principles for constructing and handling: (i) Recombinant nucleic acid molecules, (ii) synthetic nucleic acid molecules, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules, and (iii) cells, organisms, and viruses containing such molecules.

Section I–A–1 will be amended as follows:

Section I–A–1. Any nucleic acid molecule experiment, which according to the *NIH Guidelines* requires approval by NIH, must be submitted to NIH or to another Federal agency that has jurisdiction for review and approval. Once approvals, or other applicable clearances, have been obtained from a Federal agency other than NIH (whether the experiment is referred to that agency by NIH or sent directly there by the submitter), the experiment may proceed without the necessity for NIH review or approval.

Section I–A–1–a will be amended as follows:

Section I–A–1–a. For experiments involving the deliberate transfer of recombinant or synthetic nucleic acid molecules, or DNA or RNA derived from recombinant or synthetic nucleic acid molecules, into human research participants (human gene transfer), no human gene transfer experiment shall be initiated (see definition of initiation in Section I–E–4) until Institutional Biosafety Committee (IBC) approval (from the clinical trial site) has been obtained and all other applicable institutional and regulatory authorization(s) and approvals have been obtained.

Section I–E. General Definitions will be amended to delete the current definitions I–E–4, and I–E–7 through I–E–12 and to include a new definition for ''initiation.''

Section I–E–4 will be amended to define initiation as follows: ''Initiation'' of research is the introduction of recombinant or synthetic nucleic acid molecules into organisms, cells, or viruses.

None of the other sub-sections under Section I. Scope of the NIH Guidelines will be amended.

Section III will be amended as follows:

Section III. Experiments Covered by the *NIH Guidelines*

This section describes six categories of experiments involving recombinant or synthetic nucleic acid molecules: (i) Those that require NIH Director approval and Institutional Biosafety Committee (IBC) approval before initiation (see Section III–A), (ii) those that require NIH OSP approval and Institutional Biosafety Committee approval before initiation (see Section III–B), (iii) those that require Institutional Biosafety Committee approval before initiation of human gene transfer (see Section III–C), (iv) those that require Institutional Biosafety Committee approval before initiation (see Section III–D), (v) those that require Institutional Biosafety Committee notification simultaneous with initiation (see Section III–E), and (vi) those that are exempt from the *NIH Guidelines* (see Section III–F).

Note: *If an experiment falls into Sections III–A, III–B, or III–C and one of the other sections, the rules pertaining to Sections III–A, III–B, or III–C shall be followed.* If an experiment falls into Section III–F and into either Sections III–D or III–E as well, the experiment is considered exempt from the *NIH Guidelines.*

Any change in containment level, which is different from that which is specified in the *NIH Guidelines,* may not be initiated without the express approval of NIH OSP (see Section IV–C–1–b–(2) and its subsections, *Minor Actions*).

Section III–A will be amended as follows:

Section III–A. Experiments That Require NIH Director Approval and Institutional Biosafety Committee Approval Before Initiation (See Section IV–C–1–b–(1), Major Actions)

Section III–A–1. Major Actions Under the *NIH Guidelines*

Experiments considered as *Major Actions* as defined in Section III–A–1–a under the *NIH Guidelines* cannot be initiated without submission of relevant information on the proposed experiment to the Office of Science Policy, National Institutes of Health, preferably by email to: *NIHGuidelines@od.nih.gov,* the publication of the proposal in the **Federal Register** for a minimum of 15 days of comment, and notice of specific approval by NIH. The containment

conditions or stipulation requirements for such experiments will be set by NIH at the time of approval. Such experiments require Institutional Biosafety Committee approval before initiation. Specific experiments already approved are included in Appendix D, *Major Actions Taken under the NIH Guidelines.*

Section III–A–1–a. The deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire the trait naturally (see Section V–B, *Footnotes and References of Sections I–IV*), if such acquisition could compromise the ability to control disease agents in humans, veterinary medicine, or agriculture, will require NIH Director approval.

Consideration should be given as to whether the drug resistance trait to be used in the experiment would render that microorganism resistant to the primary drug available to and/or indicated for certain populations, for example children or pregnant women.

At the request of an Institutional Biosafety Committee, NIH OSP will make a determination regarding whether a specific experiment involving the deliberate transfer of a drug resistance trait falls under Section III–A–1–a and therefore requires NIH Director approval. An Institutional Biosafety Committee may also consult with NIH OSP regarding experiments that do not meet the requirements of Section III–A–1–a but nonetheless raise important public health issues.

Section III–C will be amended as follows:

Section III–C. Experiments Involving Human Gene Transfer That Require Institutional Biosafety Committee Approval Prior to Initiation

Section III–C–1. Experiments Involving the Deliberate Transfer of Recombinant or Synthetic Nucleic Acid Molecules, or DNA or RNA Derived From Recombinant or Synthetic Nucleic Acid Molecules, Into One or More Human Research Participants

Human gene transfer is the deliberate transfer into human research participants of either:

1. Recombinant nucleic acid molecules, or DNA or RNA derived from recombinant nucleic acid molecules, or

2. Synthetic nucleic acid molecules, or DNA or RNA derived from synthetic nucleic acid molecules that meet any one of the following criteria:

a. Contain more than 100 nucleotides; or

b. Possess biological properties that enable integration into the genome (*e.g., cis* elements involved in integration); or

c. Have the potential to replicate in a cell; or

d. Can be translated or transcribed.

Research cannot be initiated until Institutional Biosafety Committee and all other applicable institutional and regulatory authorization(s) and approvals have been obtained.

The deliberate transfer of recombinant or synthetic nucleic acids into one human research participant, conducted under an FDA-regulated individual patient expanded access IND or protocol, including for emergency use, is not research subject to the *NIH Guidelines* and thus does not need to be submitted to an IBC for review and approval.

Section III–D–7–b will be amended as follows:

Section III–D–7–b. Highly Pathogenic Avian Influenza H5N1 strains within the Goose/Guangdong/96-like H5 lineage (HPAI H5N1). Experiments involving influenza viruses containing a majority of genes and/or segments from a HPAI H5N1 influenza virus shall be conducted at BL3 enhanced containment, (see Appendix G–II–C–5, *Biosafety Level 3 Enhanced for Research Involving Risk Group 3 Influenza Viruses*). Experiments involving influenza viruses containing a minority of genes and/or segments from a HPAI H5N1 influenza virus shall be conducted at BL3 enhanced unless a risk assessment performed by the IBC determines that they can be conducted safely at BL2 and after they have been excluded pursuant to 9 CFR 121.3(e). NIH OSP is available to IBCs to provide consultation with influenza virus experts when risk assessments are being made to determine the appropriate biocontainment for experiments with influenza viruses containing a minority of gene/segments from HPAI H5N1. Such experiments may be performed at BL3 enhanced containment or containment may be lowered to BL2, the level of containment for most research with other influenza viruses. (USDA/APHIS regulations and decisions on lowering containment also apply.) In deciding to lower containment, the IBC should consider whether, in at least two animal models (*e.g.,* ferret, mouse, Syrian golden hamster, cotton rat, non-human primate), there is evidence that the resulting influenza virus shows reduced replication and virulence compared to the parental RG3 virus at relevant doses. This should be determined by measuring biological indices appropriate for the specific animal model (*e.g.,* severe weight loss, elevated temperature, mortality or neurological symptoms).

Section III–D–7–d will be amended as follows:

Section III–D–7–d. Antiviral Susceptibility and Containment. The availability of antiviral drugs as preventive and therapeutic measures is an important safeguard for experiments with 1918 H1N1, HPAI H5N1, and human H2N2 (1957–1968). If an influenza virus containing genes from one of these viruses is resistant to both classes of current antiviral agents, adamantanes and neuraminidase inhibitors, higher containment may be required based on the risk assessment considering transmissibility to humans, virulence, pandemic potential, alternative antiviral agents if available, etc.

Experiments with 1918 H1N1, human H2N2 (1957–1968) or HPAI H5N1 that are designed to create resistance to neuraminidase inhibitors or other effective antiviral agents (including investigational antiviral agents being developed for influenza) would be subject to Section III–A–1 (*Major Actions*). As per Section I–A–1 of the *NIH Guidelines,* if the agent is a Select Agent, the NIH will defer to the appropriate Federal agency (HHS or USDA Select Agent Divisions) on such experiments.

Section III–F–6 will be amended as follows:

Section III–F–6. Those that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the NIH Director after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c), *Major Actions*). See Appendices A–I through A–VI, *Exemptions under Section III–F–6—Sublists of Natural Exchangers,* for a list of natural exchangers that are exempt from the *NIH Guidelines.*

Section III–F–8 will be amended as follows:

Section III–F–8. Those that do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c), *Major Actions*), as determined by the NIH Director following appropriate notice and opportunity for public comment. See Appendix C, *Exemptions under Section III–F–8* for other classes of experiments which are exempt from the *NIH Guidelines.*

None of the other sub-sections under Section III. Experiments Covered by the NIH Guidelines will be amended.

Section IV–B–1–f will be amended as follows:

Section IV–B–1–f. Ensure that when the institution participates in or sponsors recombinant or synthetic nucleic acid molecule research involving human participants: (i) The Institutional Biosafety Committee has adequate expertise and training (using *ad hoc* consultants as deemed necessary), and (ii) no human gene transfer experiment shall be initiated until Institutional Biosafety Committee approval has been obtained, and all other applicable institutional and regulatory authorization(s) and approvals have been obtained. Institutional Biosafety Committee approval must be obtained from the clinical trial site.

Section IV–B–2–a–(1) will be amended as follows:

Section IV–B–2–a–(1). The Institutional Biosafety Committee must comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant or synthetic nucleic acid molecule technology and the capability to assess the safety of recombinant or synthetic nucleic acid molecule research and to identify any potential risk to public health or the environment. At least two members shall not be affiliated with the institution (apart from their membership on the Institutional Biosafety Committee) and who represent the interest of the surrounding community with respect to health and protection of the environment (*e.g.,* officials of state or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community). The Institutional Biosafety Committee shall include at least one individual with expertise in plant, plant pathogen, or plant pest containment principles when experiments utilizing Appendix L, *Physical and Biological Containment for Recombinant or Synthetic Nucleic Acid Molecule Research Involving Plants,* require prior approval by the Institutional Biosafety Committee. The Institutional Biosafety Committee shall include at least one scientist with expertise in animal containment principles when experiments utilizing Appendix M, *Physical and Biological Containment for Recombinant or Synthetic Nucleic Acid Molecule Research Involving Animals,* require Institutional Biosafety Committee prior approval. When the institution conducts recombinant or synthetic nucleic acid molecule research at BL3, BL4, or Large Scale (greater than 10 liters), a Biological Safety Officer is mandatory and shall be a member of the Institutional Biosafety Committee (see Section IV–B–3, *Biological Safety Officer*). When the institution participates in or sponsors recombinant or synthetic nucleic acid molecule research involving human research participants, the institution must ensure that the Institutional Biosafety Committee has adequate expertise and training (using *ad hoc* consultants as deemed necessary). Institutional Biosafety Committee approval must be obtained from the clinical trial site.

Note: Individuals, corporations, and institutions not otherwise covered by the *NIH Guidelines,* are encouraged to adhere to the standards and procedures set forth in Sections I through IV (see Section IV–D, *Voluntary Compliance.* The policy and procedures for establishing an Institutional Biosafety Committee under *Voluntary Compliance,* are specified in Section IV–D–2, *Institutional Biosafety Committee Approval*).

Section IV–B–2–b–(1) will be amended as follows:

Section IV–B–2–b–(1). Reviewing recombinant or synthetic nucleic acid molecule research conducted at or sponsored by the institution for compliance with the *NIH Guidelines* as specified in Section III, *Experiments Covered by the NIH Guidelines,* and approving those research projects that are found to conform with the *NIH Guidelines.* This review shall include: (i) Independent assessment of the containment levels required by the *NIH Guidelines* for the proposed research; (ii) assessment of the facilities, procedures, practices, and training and expertise of personnel involved in recombinant or synthetic nucleic acid molecule research; (iii) for recombinant or synthetic nucleic acid molecule research involving human research participants, assessment focused on biosafety issues (*e.g.,* administration, shedding). IBC oversight may conclude after the last participant is administered the final dose of product. However, IBCs may choose to establish other end points for oversight, based on their biosafety assessment of the proposed research.

Section IV–B–2–b–(8) will be amended as follows:

Section IV–B–2–b–(8). The Institutional Biosafety Committee may not authorize initiation of experiments which are not explicitly covered by the *NIH Guidelines* until NIH establishes the containment requirement.

Section IV–B–6 will be amended as follows:

Section IV–B–6. Human Gene Transfer Expertise

When the institution participates in or sponsors recombinant or synthetic nucleic acid molecule research involving human research participants, the institution must ensure that the Institutional Biosafety Committee has adequate expertise and training (using *ad hoc* consultants as deemed necessary).

Section IV–B–7 will be amended as follows:

Section IV–B–7. Principal Investigator (PI)

On behalf of the institution, the Principal Investigator is responsible for full compliance with the *NIH Guidelines* in the conduct of recombinant or synthetic nucleic acid molecule research.

Section IV–B–7–b–(6) will be deleted in its entirety.

Section IV–B–7–e–(5) will be deleted in its entirety.

Section IV–C will be amended as follows:

Section IV–C. Responsibilities of the National Institutes of Health (NIH)

Section IV–C–1. NIH Director

The NIH Director is responsible for: (i) Establishment of the *NIH Guidelines,* (ii) oversight of their implementation, and (iii) their final interpretation. The NIH Director has responsibilities under the *NIH Guidelines* that involve OSP. OSP's responsibilities under the *NIH Guidelines* are administrative. In certain circumstances, there is specific opportunity for public comment with published response prior to final action.

Section IV–C–1–a. General Responsibilities

The NIH Director is responsible for:

Section IV–C–1–a–(1). Promulgating requirements as necessary to implement the *NIH Guidelines;*

Section IV–C–1–a–(2). Establishing and maintaining NIH OSP to carry out the responsibilities defined in Section IV–C–2, *Office of Science Policy;*

Section IV–C–1–a–(3). Conducting and supporting training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers and other institutional experts (if applicable), Principal Investigators, and laboratory staff.

Section IV–C–1–b. Specific Responsibilities

In carrying out the responsibilities set forth in this section, the NIH Director or a designee shall weigh each proposed

action through appropriate analysis and consultation to determine whether it complies with the *NIH Guidelines* and presents no significant risk to health or the environment.

Section IV–C–1–b–(1). Major Actions

To execute *Major Actions,* the NIH Director shall provide an opportunity for public and Federal agency comment. The NIH Director's decision/recommendation (at his/her discretion) may be published in the **Federal Register** for a minimum of 15 days of comment before final action is taken. The NIH Director's final decision/recommendation, along with responses to public comments, shall be published in the **Federal Register**. Institutional Biosafety Committee Chairs shall be notified of the following decisions:

Section IV–C–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the *NIH Guidelines* when a *Major Action* is involved;

Section IV–C–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the *NIH Guidelines* when a *Major Action* is involved;

Section IV–C–1–b–(1)–(c). Promulgating and amending a list of classes of recombinant or synthetic nucleic acid molecules to be exempt from the *NIH Guidelines* because they consist entirely of DNA segments from species that exchange DNA by known physiological processes or otherwise do not present a significant risk to health or the environment;

Section IV–C–1–b–(1)–(d). Permitting experiments specified by Section III–A, *Experiments that Require NIH Director Approval and Institutional Biosafety Committee Approval Before Initiation;*

Section IV–C–1–b–(1)–(e). Certifying new host-vector systems with the exception of minor modifications (*e.g.,* those of minimal or no consequence to the properties relevant to containment) of already certified systems (the standards and procedures for certification are described in Appendix I–II, *Certification of Host-Vector Systems;* and

Section IV–C–1–b–(1)–(f). Adopting other changes in the *NIH Guidelines.*

Section IV–C–1–b–(2). Minor Actions

NIH OSP shall carry out certain functions as delegated to it by the NIH Director (see Section IV–C–2, *Office of Science Policy*). *Minor Actions* will be transmitted to Institutional Biosafety Committee Chairs:

Section IV–C–1–b–(2)–(a). Changing containment levels for experiments that are specified in Section III, *Experiments Covered by the NIH Guidelines* (except when a *Major Action* is involved);

Section IV–C–1–b–(2)–(b). Assigning containment levels for experiments not explicitly considered in the *NIH Guidelines;*

Section IV–C–1–b–(2)–(c). Revising the *Classification of Etiologic Agents* for the purpose of these *NIH Guidelines* (see Section V–A, *Footnotes and References of Sections I–IV*);

Section IV–C–1–b–(2)–(d). Interpreting the *NIH Guidelines* for experiments to which the *NIH Guidelines* do not specifically assign containment levels;

Section IV–C–1–b–(2)–(e). Setting containment under Sections III–D–1–d, *Experiments Using Risk Group 2, Risk Group 3, Risk Group 4, or Restricted Agents as Host-Vector Systems,* and III–D–2–b, *Experiments in which DNA from Risk Group 2, Risk Group 3, Risk Group 4, or Restricted Agents is Cloned into Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems;*

Section IV–C–1–b–(2)–(f). Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II, *Certification of Host-Vector Systems*);

Section IV–C–1–b–(2)–(g). Decertifying already certified host-vector systems;

Section IV–C–1–b–(2)–(h). Adding new entries to the list of molecules toxic for vertebrates (see Appendix F, *Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates*); and

Section IV–C–1–b–(2)–(i). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

Section IV–C–2. Recombinant DNA Advisory Committee (RAC) will be deleted in its entirety.

Section IV–C–3 will be amended as follows:

Section IV–C–2. Office of Science Policy (OSP)

OSP shall serve as a focal point for information on recombinant or synthetic nucleic acid molecule activities and provide advice to all within and outside NIH including institutions, Biological Safety Officers, Principal Investigators, Federal agencies, state and local governments, and institutions in the private sector. OSP shall carry out such other functions as may be delegated to it by the NIH Director. OSP's responsibilities include (but are not limited to) the following:

Section IV–C–2–a. Reviewing and approving experiments involving the cloning of genes encoding for toxin molecules that are lethal for vertebrates at an LD_{50} of less than or equal to 100 nanograms per kilogram body weight in organisms other than *Escherichia coli* K–12 (see Section III–B–1, *Experiments Involving the Cloning of Toxin Molecules with LD_{50} of Less than 100 Nanograms Per Kilogram Body Weight,* Appendix F, *Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates*);

Section IV–C–2–b. Publishing in the **Federal Register**, as needed;

Section IV–C–2–c. Reviewing and approving the membership of an institution's Institutional Biosafety Committee, and where it finds the Institutional Biosafety Committee meets the requirements set forth in Section IV–B–2, *Institutional Biosafety Committee (IBC),* giving its approval to the Institutional Biosafety Committee membership.

Section IV–D–5–a will be amended as follows:

Section IV–D–5–a. General

In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, ''trade secrets and commercial or financial information that is obtained from a person and that is privileged or confidential.'' Under 18 U.S.C. 1905, it is a criminal offense for an officer or employee of the U.S. or any Federal department or agency to publish, divulge, disclose, or make known ''in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, (or) processes . . . of any person, firm, partnership, corporation, or association.'' This provision applies to all employees of the Federal Government, including special Government employees.

In submitting to NIH for purposes of voluntary compliance with the *NIH Guidelines,* an institution may designate those items of information which the institution believes constitute trade secrets, privileged, confidential, commercial, or financial information. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be

released. If NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised and the actual release will be delayed in accordance with 45 Code of Federal Regulations, Section 5.65(d) and (e).

None of the other sub-sections under Section IV. Roles and Responsibilities will be amended.

Section V will be amended as follows:

Section V. Footnotes and References of Sections I Through IV

Section V–A. The NIH Director may revise the classification for the purposes of the *NIH Guidelines* (see Section IV–C–1–b–(2)–(e), *Minor Actions*). The revised list of organisms in each Risk Group is reprinted in Appendix B, *Classification of Human Etiologic Agents on the Basis of Hazard.*

Section V–B. Section III, *Experiments Covered by the NIH Guidelines,* describes a number of places where judgments are to be made. In all these cases, the Principal Investigator shall make the judgment on these matters as part of his/her responsibility to ''make an initial determination of the required levels of physical and biological containment in accordance with the *NIH Guidelines*'' (see Section IV–B–7–c–(1)). For cases falling under Sections III–A through III–E, *Experiments Covered by the NIH Guidelines,* this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make an ''independent assessment of the containment levels required by the *NIH Guidelines* for the proposed research'' (see Section IV–B–2–b–(1), *Institutional Biosafety Committee*). The Institutional Biosafety Committee may refer specific cases to NIH OSP as part of NIH OSP's functions to ''provide advice to all within and outside NIH'' (see Section IV–C–2).

None of the other sub-sections under Section V. Footnotes and References of Sections I Through IV will be amended.

Appendix A will be amended as follows:

Appendix A. Exemptions Under Section III–F–6—Sublists of Natural Exchangers

Certain specified recombinant or synthetic nucleic acid molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent are exempt from these *NIH Guidelines* (see Section III–F–6, *Exempt Experiments*). Institutional Biosafety Committee registration is not required for these exempt experiments. A list of such exchangers will be prepared and periodically revised by the NIH Director after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c), *NIH Director—Specific Responsibilities*). For a list of natural exchangers that are exempt from the *NIH Guidelines,* see Appendices A–I through A–VI, *Exemptions under Section III–F–6 Sublists of Natural Exchangers.* Section III–F–6, *Exempt Experiments,* describes recombinant or synthetic nucleic acid molecules that are: (1) Composed entirely of DNA segments from one or more of the organisms within a sublist, and (2) to be propagated in any of the organisms within a sublist (see *Bergey's Manual of Systematic Bacteriology;* 2nd edition, Springer-Verlag; New York, NY). Although these experiments are exempt, it is recommended that they be performed at the appropriate biosafety level for the host or recombinant/synthetic organism (see *Biosafety in Microbiological and Biomedical Laboratories,* 5th edition, 2009, U.S. DHHS, Public Health Service, Centers for Disease Control and Prevention, and National Institutes of Health).

None of the sub-sections under Appendix A. Exemptions Under III–F–6—Sublists of Natural Exchangers will be amended.

Appendix B will be amended as follows:

Appendix B. Classification of Human Etiologic Agents on the Basis of Hazard

This appendix includes those biological agents known to infect humans as well as selected animal agents that may pose theoretical risks if inoculated into humans. Included are lists of representative genera and species known to be pathogenic; mutated, recombined, and non-pathogenic species and strains are not considered. Non-infectious life cycle stages of parasites are excluded.

This appendix reflects the current state of knowledge and should be considered a resource document. Included are the more commonly encountered agents and is not meant to be all-inclusive. Information on agent risk assessment may be found in the *Agent Summary Statements* of the CDC/NIH publication, Biosafety in Microbiological and Biomedical Laboratories (see Sections V–C, V–D, V–E, and V–F, *Footnotes and References of Sections I through IV*). Further guidance on agents not listed in Appendix B may be obtained through: Centers for Disease Control and Prevention, Biosafety Branch, Atlanta, Georgia 30333, Phone: (404) 639–3883, Fax: (404) 639–2294; National Institutes of Health, Division of Safety, Bethesda, Maryland 20892, Phone: (301) 496–1357; Biosafety Manager, National Animal Disease Center, U.S. Department of Agriculture—ARS, Ames, Iowa 50010, Phone: (515) 337–7772.

None of the sub-sections under Appendix B. Classification of Human Etiologic Agents on the Basis of Hazard nor Table 1 will be amended.

Appendix C will be amended as follows:

Appendix C. Exemptions Under Section III–F–8

Section III–F–8 states that exempt from these *NIH Guidelines* are ''those that do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c), *Major Actions*), as determined by the NIH Director following appropriate notice and opportunity for public comment. See Appendix C, *Exemptions under Sections III–F–8,* for other classes of experiments which are exempt from the *NIH Guidelines.*'' The following classes of experiments are exempt under Section III–F–8:

Appendix C–IX–A. will be amended as follows:

Appendix C–IX–A. The NIH Director may revise the classification for the purposes of these *NIH Guidelines* (see Section IV–C–1–b–(2)–(b), *Minor Actions*). The revised list of organisms in each Risk Group is located in Appendix B.

None of the other sub-sections under Appendix C. Exemptions Under Section III–F–8 will be amended.

Appendix D will be amended as follows:

Appendix D. Major Actions Taken Under The *NIH Guidelines*

As noted in the subsections of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the *NIH Guidelines.* (Entries up to and including D–118 were approved using a process that involved the Recombinant DNA Advisory Committee.) Some of the actions taken to date include the following:

None of the sub-sections under Appendix D. Major Actions Taken Under The NIH Guidelines will be amended.

Appendix I–II will be amended as follows:

Appendix I–II. Certification of Host-Vector Systems

Appendix I–II–A. Responsibility

Host-Vector 1 systems (other than *Escherichia coli* K–12) and Host-Vector 2 systems may not be designated as such until they have been certified by the NIH Director. Requests for certification of host-vector systems may be submitted to the Office of Science Policy, National Institutes of Health, preferably by email to: *NIHGuidelines@od.nih.gov*; additional contact information is also available here and on the OSP website (*www.osp.od.nih.gov*). Proposed host-vector systems will be reviewed based on the construction, properties, and testing of the proposed host-vector system by *ad hoc* experts. The NIH Director is responsible for certification of host-vector systems. Minor modifications to existing host-vector systems (*i.e.,* those that are of minimal or no consequence to the properties relevant to containment) may be certified by the NIH Director (see Section IV–C–1–b–(2)–(f), *Minor Actions*). Once a host-vector system has been

certified by the NIH Director, a notice of certification will be sent by NIH OSP to the applicant and to the Institutional Biosafety Committee Chairs. A list of all currently certified host-vector systems is available from the Office of Science Policy, National Institutes of Health, preferably by submitting a request for this information to: *NIHGuidelines@od.nih.gov*; additional contact information is also available here and on the OSP website (*www.osp.od.nih.gov*). The NIH Director may rescind the certification of a host-vector system (see Section IV–C–1–b–(2)–(g), *Minor Actions*). If certification is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system or use the clones at a higher level of physical containment level, unless NIH determines that the already constructed clones incorporate adequate biological containment. Certification of a host-vector system does not extend to modifications of either the host or vector component of that system. Such modified systems shall be independently certified by the NIH Director. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications to a certified host-vector system require submission of complete testing data.

Appendix I–II–B. Data To Be Submitted for Certification

Appendix I–II–B–1. Host-Vector 1 Systems Other Than *Escherichia coli* K–12

The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction, survival, and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and the type of information exchanged; and any relevant information about its pathogenicity or toxicity; (ii) a description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information; and (iii) a general description of the range of experiments contemplated with emphasis on the need for developing such an Host-Vector 1 system.

Appendix I–II–B–2. Host-Vector 2 Systems

Investigators planning to request Host-Vector 2 systems certification may obtain instructions from NIH OSP concerning data to be submitted (see Appendices I–III–N and O, *Footnotes and References of Appendix I*). In general, the following types of data are required: (i) Description of construction steps with indication of source, properties, and manner of introduction of genetic traits; (ii) quantitative data on the stability of genetic traits that contribute to the containment of the system; (iii) data on the survival of the host-vector system under non-permissive laboratory conditions designed to represent the relevant natural environment; (iv) data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and non-permissive conditions; (v) data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation; and (vi) in some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals or one or more human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments. Data shall be submitted to the Office of Science Policy, National Institutes of Health, preferably by email to: *NIHGuidelines@od.nih.gov*; additional contact information is also available here and on the OSP website (*www.osp.od.nih.gov*). Investigators are encouraged to publish their data on the construction, properties, and testing of proposed Host-Vector 2 systems prior to consideration of the system by NIH. Specific instructions concerning the submission of data for proposed *Escherichia coli* K–12 Host-Vector 2 system (EK2) involving either plasmids or bacteriophage in *Escherichia coli* K–12, are available from the Office of Science Policy, National Institutes of Health, preferably by submitting a request for this information to: *NIHGuidelines@od.nih.gov*; additional contact information is also available here and on the OSP website (*www.osp.od.nih.gov*).

None of the other sub-sections under Appendix I. Biological Containment will be amended.

Appendix L. Gene Therapy Policy Conferences (GTPCS) will be deleted in its entirety.

Appendix M. Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant or Synthetic Nucleic Acid Molecules into One or More Human Research Participants (Points to Consider) will be deleted in its entirety.

Dated: April 10, 2019.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2019–08462 Filed 4–25–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0139]

Certificate of Alternative Compliance for the Tug RANDY McCRANEY

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificate of alternative compliance.

SUMMARY: The Coast Guard announces that the Fifth District, Chief of Prevention Division has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the towing vessel RANDY McCRANEY, Official Number (O.N.) 1292293, Master Boat Builders Hull Number 459. We are issuing this notice because its publication is required by statute. Due to its construction, purpose and service, the towing vessel RANDY McCRANEY cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificate of Alternative Compliance was issued on March 15, 2019.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email LCDR Ronaydee M. Marquez, District Five, Asst. Chief, Inspections and Investigations, U.S. Coast Guard; telephone: 757–398–6682, email: *Ronaydee.M.Marquez@uscg.mil.*

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.[1]

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,[2] and the Chief of the Prevention Division would then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal

[1] 33 U.S.C. 1605.

[2] 33 CFR 81.5.

provisions without interference with the vessel's special function.[3] If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.[4]

The Fifth District, Chief of Prevention Division, U.S. Coast Guard, certifies that the RANDY McCRANEY, O.N. 1292293 is a vessel of special construction or purpose, and that, with respect to the position of the sidelights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, or design of the vessel. The vessel is a dual-mode Articulated Tug (ATB), which intends to operate as an ATB as well as multiple other modes such as towing alongside, harbor ship/barge assist tug and towing on a towline. Placing the sidelights at or near the side of the vessel would interfere with the vessel's purpose and operations, and would place the sidelights as risk of damage during the course of normal operations. The sidelights will be installed on the elevated pilothouse, 6′7″ inboard from the sides of the vessel. The Fifth District, Chief of Prevention Division further finds and certifies that the sidelights are in the closet possible compliance with the applicable provisions of the 72 COLREGS.[5]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: April 18, 2019.

J.R. Barnes,

CAPT, U.S. Coast Guard, Chief, Prevention Division, Fifth Coast Guard District.

[FR Doc. 2019–08406 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

[3] 33 CFR 81.9.

[4] 33 U.S.C. 1605(c) and 33 CFR 81.18.

[5] 33 U.S.C. 1605(a); 33 CFR 81.9.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0092]

Agency Information Collection Activities: Application for Withdrawal of Bonded Stores for Fishing Vessels and Certificate of Use

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 28, 2019) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (83 FR 63522) on December 10, 2018, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection:

Title: Application for Withdrawal of Bonded Stores for Fishing Vessels and Certificate of Use.

OMB Number: 1651–0092.

Form Number: CBP Form 5125.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Abstract: CBP Form 5125, *Application for Withdrawal of Bonded Stores for Fishing Vessel and Certificate of Use,* is used to request the permission of the CBP port director for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels involved in international trade. The applicant must certify on CBP Form 5125 that supplies on board were either consumed, or that all unused quantities remain on board and are adequately secured for use on the next voyage. CBP uses this form to collect information such as the name and identification number of the vessel, ports of departure and destination, and information about the crew members. The information collected on this form is authorized by 19 U.S.C. 1309 and 1317, and is provided for by 19 CFR 10.59(e) and 10.65. CBP Form 5125 is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=5125.*

Affected Public: Carriers.

Estimated Number of Respondents: 500.

Estimated Number of Total Annual Responses: 500.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 165.

Dated: April 23, 2019.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–08431 Filed 4–25–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0044]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Action on an Approved Application or Petition

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 25, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0044 in the body of the letter, the agency name and Docket ID USCIS–2007–0012. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0012;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0012 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–824; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection is used to request a duplicate approval notice, as well as to notify and to verify the U.S. Consulate that a petition has been approved or that a person has been adjusted to permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–824 is 11,500 and the estimated hour burden per response is 0.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 4,830 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,480,625.

Dated: April 22, 2019.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2019–08378 Filed 4–25–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0050]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Hearing on a Decision in Naturalization Proceedings Under Section 336

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting 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. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 28, 2019.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0050 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on February 1, 2019, at 84 FR 1195, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

During the 60-day Notice, USCIS posted to *http://www.regulations.gov* documents that showed an overview of the revised Form and Instructions with red or strike-through text indicating the additions or deletions, as well as Table of Changes highlighting the differences between the currently published versions and the revised versions of the Form and Instructions. The proposed Form included a Part 5, Accommodations for Individuals with Disabilities and/or Impairments, while the Table of Changes indicated that Part 5 was being deleted. USCIS is removing instructions and spaces on forms to request accommodations for individuals with disabilities and/or impairments because we have determined that was an ineffective method for communicating and obtaining that information. The personal notices that are sent to individuals to schedule appointments when a physical appearance at a USCIS office may be necessary is much more effective for instructions about and request for accommodations when needed. Therefore, the language will be removed from the Instructions. The Form PDF and Table of Changes posted for comment in *http://www.regulations.gov* with this notice correctly reflect that Part 5 is being removed from Form N–336.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0020 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Hearing on a Decision in Naturalization Proceedings under Section 336.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–336; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–336 is used by an individual who's Form N–400, Application for Naturalization, was denied to request a hearing before an immigration officer on the denial of the N–400. USCIS uses the information submitted on Form N–336 to locate the requestor's file and schedule a hearing in the correct jurisdiction. It allows USCIS to determine if there is an underlying Form N–400, Application for Naturalization that was denied to warrant the filing of Form N–336. The information collected also allows USCIS to determine if a member of the U.S. armed forces has filed the appeal.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–336 (paper filing) is 4,500 and the estimated hour burden per response is 2.75 hours; the estimated total number of respondents for the information collection N–336 (e-filing) is 500 and the estimated hour burden per response is 2.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 13,625 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,317,500.00.

Dated: April 22, 2019.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2019–08377 Filed 4–25–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0082]

Agency Information Collection Activities; Revision, of a Currently Approved Collection: Application To Replace Permanent Resident Card

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 25, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0082 in the body of the letter, the agency name and Docket ID USCIS–2009–0002. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2009–0002;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2009–0002 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Replace Permanent Resident Card.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–90; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–90 is used by USCIS to determine eligibility to replace a Lawful Permanent Resident Card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–90 (paper) is 444,601 and the estimated hour burden per response is 2 hours; the estimated total number of respondents for the information collection I–90 (electronic) is 296,400 and the estimated hour burden per response is 1.59 hours; and the estimated total number of respondents for the information collection biometrics is 741,001 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,227,449 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $254,163,343.

Dated: April 22, 2019.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2019–08376 Filed 4–25–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0060]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Medical Certification for Disability Exceptions

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general

public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 25, 2019.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0060 in the body of the letter, the agency name and Docket ID USCIS–2008–0021. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0021;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0021 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–648; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. USCIS uses the Form N–648 to substantiate a claim for an exception to the requirements of section 312(a) of the Immigration and Nationality Act. By certifying Form N–648, the doctor states that an applicant filing an Application for Naturalization, Form N–400, is unable to complete the English and/or civics requirements because of a physical or developmental disability or mental impairment(s).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–648 is 4,138 and the estimated hour burden per response is 2.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 10,014 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $213,107.

Dated: April 22, 2019

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2019–08384 Filed 4–25–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7015–N–04]

60-Day Notice of Proposed Information Collection: Enterprise Income Verification (EIV) Systems—Access Authorization Form and Rules of Behavior and User Agreement

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 25, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email

at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: EIV System User Access Authorization Form and Rules of Behavior and User Agreement.

OMB Approval Number: 2577–0267.

Type of Request: Revision of currently approved collection.

Form Number: 52676 and 52676I.

Description of the need for the information and proposed use: In accordance with statutory requirements at 5 U.S.C. 552a, as amended (most commonly known as the Federal Privacy Act of 1974), the Department is required to account for all disclosures of information contained in a system of records. Specifically, the Department is required to keep an accurate accounting of the name and address of the person or agency to which the disclosure is made. The Enterprise Income Verification (EIV) System (HUD/PIH–5) is classified as a System of Records, as initially published on July 20, 2005, in the **Federal Register** at page 41780 (70 FR 41780) and amended and published on August 8, 2006, in the **Federal Register** at page 45066 (71 FR 45066).

As a condition of granting access to the EIV system, each prospective user of the system must (1) request access to the system; (2) agree to comply with HUD's established rules of behavior; and (3) review and signify their understanding of their responsibilities of protecting data protected under the Federal Privacy Act (5 U.S.C. 522a, as amended). As such, the collection of information about the user and the type of system access required by the prospective user is required by HUD to: (1) Identify the user; (2) determine if the prospective user in fact requires access to the EIV system and in what capacity; (3) provide the prospective user with information related to the Rules of Behavior for system usage and the user's responsibilities to safeguard data accessed in the system once access is granted; and (4) obtain the signature of the prospective user to certify the user's understanding of the Rules of Behavior and responsibilities associated with his/her use of the EIV system.

HUD collects the following information from each prospective user: Public Housing Agency (PHA) code, organization name, organization address, prospective user's full name, HUD-assigned user ID, position title, office telephone number, facsimile number, type of work which involves the use of the EIV system, type of system action requested, requested access roles to be assigned to prospective user, public housing development numbers to be assigned to prospective PHA user, and prospective user's signature and date of request. The information is collected electronically and manually (for those who are unable to transmit electronically) via a PDF-fillable or Word-fillable document, which can be emailed, faxed or mailed to HUD. If this information is not collected, the Department will not be in compliance with the Federal Privacy Act and be subject to civil penalties.

ESTIMATE OF THE HOUR OF BURDEN OF THE COLLECTION OF INFORMATION

Information collection	Number of respondents	Frequency of respondents	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–52676	13,192	On occasion	13,703	Initial 1/hr. Periodic 0.25/hr.	10,754	$23.07	$248,094

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 11, 2019.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2019–08460 Filed 4–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–16]

30-Day Notice of Proposed Information Collection: Race and Ethnic Data Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* May 28, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 4, 2018 at 83 FR 62599.

A. Overview of Information Collection

Title of Information Collection: Race and Ethnic Data Collection.

OMB Approval Number: 2535–0113.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: HUD Form 27061.

Description of the need for the information and proposed use: The information collected through HUD's standardized Form for the Collection of Race and Ethnic Data is required under 24 CFR—PART 1—Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of the Title VI of the Civil Rights Act of 1964. HUD's Title VI regulations, specifically 24 CFR 1.6, require recipients of Federal financial assistance to maintain and submit racial and ethnic data so HUD may determine whether such programs comply with Title VI data collection requirements. HUD must offer individuals who are responding to agency data requests for race the option of selecting one or more of five racial categories. HUD must also treat ethnicity as a category separate from race. Title VI requires recipients of HUD funding to maintain records, make them available to responsible Department officials, and if requested, submit compliance reports. For example, HUD grant programs may request information during program monitoring and compliance reviews to ensure compliance with the nondiscrimination requirements of Title VI.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD—27061 Race and Ethnic Data Reporting Form	4,100.00	1.00	4,100.00	0.50	2,050.00	$20.88	$42,804.00
Total	4,100.00	1.00	4,100.00	0.50	2,050.00	20.88	42,804.00

A draft HUD—27061 Race and Ethnic Data Reporting Form is available on HUD's website, *https://www.hud.gov/program_offices/administration/hudclips/forms/,* while HUD proceeds with seeking approval from OMB for this information collection.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 18, 2019.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–08459 Filed 4–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–13]

30-Day Notice of Proposed Information Collection: Public Housing Mortgage Program and Section 30

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* May 28, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400.

Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 27, 2018 at 83 FR 66737.

A. Overview of Information Collection

Title of Information Collection: Public Housing Mortgage Program and Section 30.

OMB Approval Number: 2577–0265.

Type of Request: Extension of an Approved collection.

Form Number: None.

Description of the need for the information and proposed use: Section 516 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Pub. L. 105–276, October 21, 1998) added Section 30, Public Housing Mortgages and Security Interest, to the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437z–2). Section 30 authorizes the Secretary of the Department of Housing and Urban Development (HUD) to approve a Housing Authority's (HA) request to mortgage public housing real property or grant a security interest in other tangible forms of personal property if the proceeds of the loan resulting from the mortgage or security interest are used for low-income housing uses. Public Housing Agencies (PHAs) must provide information to HUD for approval to allow PHAs to grant a mortgage in public housing real estate or a security interest in some tangible form of personal property owned by the PHA for the purposes of securing loans or other financing for modernization or development of low-income housing.

Respondents: Member of Affected Public: State and Local or Local Government and Non-profit organization.

Estimated Number of Respondents: 30.

Estimated Number of Responses: 90.

Frequency of Response: 3.

Average Hours per Response: 41.78.

Total Estimated Burdens: 3760.20.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 18, 2019.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–08461 Filed 4–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7014–N–11]

60-Day Notice of Proposed Information Collection: Multifamily Default Status Report

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 25, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Brian Murray, Acting Director, Office of Asset Management and Portfolio Oversight, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *brian.a.murray@hud.gov* or telephone at (202) 402–2059. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Default Status Report.

OMB Approval Number: 2502–0041.

OMB Expiration Date: 10/31/19.

Type of Request: Revision of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: The regulations at 24 CFR 207.256, 24 CFR 207.256a, and 24 CFR 207.258 require a mortgagee to notify HUD when a mortgage payment is in default (more than 30 days past due), when a mortgage has been reinstated, and to submit an election to assign a defaulted loan to HUD within a specified timeframe from the date of default. The regulation at 24 CFR 200, Subpart B, requires lenders to submit delinquency, default, election to assign, and other related loan information statuses electronically to HUD. Lenders previously used HUD Form 92426 for these submissions, however, with the implementation of the regulation requiring electronic notification, the Multifamily Delinquency and Default Reporting System (MDDR) was established to replace the paper form HUD–92426. HUD uses the information as an early warning mechanism to work with project owners and lenders to develop a plan that will reinstate a loan and avoid an insurance claim. It also provides

HUD staff a mechanism for mortgagee compliance with HUD's loan servicing procedures and assignments.

Respondents (i.e., affected public): respondents are FHA-approved multifamily lenders (business or other for-profit).

Estimated Number of Respondents: 114.

Estimated Number of Responses: 1368.

Frequency of Response: 12.

Average Hours per Response: 10 minutes.

Total Estimated Burden: 228.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 8, 2019.

Vance T. Morris,

Special Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2019–08456 Filed 4–25–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2019–N032; FXES11140100000–190–FF01E00000]

Draft Programmatic Environmental Impact Statement and Draft Habitat Conservation Plan and Amendments; Receipt of Applications for Incidental Take Permits for Four Wind Energy Projects in Hawai'i

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a habitat conservation plan (HCP) and three amendments to existing HCPs in support of requests for new or amended incidental take permits (ITPs) under the Endangered Species Act authorizing the take of endangered species from four similar wind energy projects. The proposed permit actions involve a new HCP for the Pakini Nui Wind Farm on the Island of Hawai'i and major amendments to three existing HCPs—for the Auwahi Wind and Kaheawa Wind Power II projects, both located on Maui, and the Kawailoa Wind project on O'ahu. All four wind energy facilities are already constructed and in operation. The proposed new ITP and ITP amendments would address take of one or more of the following three endangered species: The Hawaiian hoary bat, Hawaiian goose, and the Hawaiian petrel. Also available for review is the Service's draft programmatic environmental impact statement (PEIS), which was prepared in response to these four applications. We are seeking public comments on the draft HCP and draft HCP amendments, and the draft PEIS.

DATES: To ensure consideration, please send your written comments by June 10, 2019. The Service will consider all written or verbal comments on the scope of the analysis that are received or postmarked by this date.

Public Meetings: The Service will host the following public meetings during the public comment and review period:

- O'ahu: Tuesday, May 21, 2019, from 6 to 8 p.m.
- Maui: Wednesday, May 22, 2019, from 6 to 8 p.m.
- Hawai'i: Thursday, May 23, 2019, from 6 to 8 p.m.

ADDRESSES: To view the pertinent documents for this proposal, request further information, or submit written comments, please use one of the following methods. Please include ''Wind Energy HCPs and PEIS'' and reference FWS–R1–ES–2019–N032 in the subject line of your request, message, or comment.

- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850.
- *Email: HIwindPEIS@fws.gov.*
- *Fax:* 808–792–9580, Attn: Field Supervisor.
- *Internet:* You may obtain copies of this notice from the Service's Pacific Islands Fish and Wildlife Office in Honolulu, Hawai'i, or on the internet at *https://www.fws.gov/pacificislands/.*
- *Public meetings:* You may also submit written comments during public meetings. The meetings will be held at the following locations:
  - O'ahu O: Waialua Elementary School, 67–020 Waialua Beach Road, Waialua, HI 96791.
  - Maui: Kula Elementary School, 5000 Kula Highway, Kula, HI 96790.
  - Hawaii: Na'alehu Community Center, 95–5635 Mamalahoa Highway, Na'alehu, HI 96722.
- *Reviewing U.S. Environmental Protection Agency (EPA) comments on the draft HCP, HCP amendments, and PEIS:* See EPA's Role in the EIS Process under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Darren LeBlanc at 808–792–9403, or Michelle Bogardus at 808–792–9473. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 during normal business hours. The FRS is also available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Service received incidental take permit (ITP) applications from four wind energy companies (applicants) in accordance with the requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The proposed ITP and ITP amendments would authorize take of one or more of the following species: The endangered Hawaiian hoary bat ('ōpe'ape'a in Hawaiian; *Lasiurus cinereus semotus*), the endangered Hawaiian goose (nēnē; *Branta sandvicensis*), and the endangered Hawaiian petrel ('ua'u; *Pterodroma sandwichensis*), hereafter collectively referred to as the ''covered species.''

The ITPs, if issued, would authorize the incidental take of covered species caused by the operation of existing land-based wind energy facilities. The applicants are not seeking ITP coverage

for construction of the four projects, which are currently constructed and operational. The draft HCP and HCP amendments describe how impacts to covered species would be minimized and mitigated. The draft HCPs also describe: The covered species' life history and ecology; the HCP biological goals and objectives; the estimated take and its potential impact on covered species' populations; adaptive management and monitoring procedures; and mitigation measures for each project. If the proposed HCP and HCP amendments meet permit issuance criteria, the Service will issue separate ITPs to each of the four permit applicants.

The Service has developed the draft PEIS in response to these ITP applications in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). Two action alternatives and a no-action alternative are analyzed for each project. A programmatic NEPA analysis of similar wind energy project-related permit decisions provides the following benefits: A comprehensive analysis of cumulative impacts across all projects; creation of a single document that the public is more likely to understand; a reduction in duplicative information that would otherwise appear in four EISs; improved consistency in the NEPA analysis; and a more efficient and comprehensive solicitation of public input. The Service provides this notice to (1) advise other Federal and State agencies, local governments, and the public of the availability of the draft HCP, draft HCP amendments, and draft PEIS; (2) announce the initiation of a 45-day comment period; and (3) request comments on the documents.

Endangered Species Act

Section 9 of the ESA and its implementing regulations prohibit ''take'' of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term ''harm,'' as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

Pursuant to section 10(a)(1)(B) of the ESA, the Service may authorize take of federally listed species, if such take occurs incidental to otherwise legal activities and a habitat conservation plan (HCP) has been developed under section 10(a)(2)(A) that describes: (1) The impact that will likely result from such taking; (2) the steps an applicant will take to minimize and mitigate that take to the maximum extent practicable and the funding that will be available to implement such steps; (3) alternative actions to such taking that an applicant considered and the reasons why such alternatives are not being used; and (4) other measures the Service may require as being necessary or appropriate for the purposes of the plan.

Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental to otherwise lawful activities; (2) an applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) an applicant has ensured that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures we require as necessary or appropriate for the purposes of the plan. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. The Service's general permitting regulations, found at 50 CFR 13.1–13.29, also apply to these actions.

National Environmental Policy Act

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), the Service has prepared a draft PEIS to evaluate the project-specific alternatives and cumulative impacts of four ITP decisions addressing a newly proposed HCP for the Pakini Nui Wind Farm and major amendments for three existing HCPs for the Auwahi Wind, Kawailoa Wind Power, and Kaheawa Wind Power II wind energy projects. Three alternatives (No Action, Proposed Action, and Increased Curtailment alternatives) are analyzed for each of the four projects. Each alternative, as well as the existing projects, the amount of take authorized in the original ITPs, and the estimated levels of take in the proposed new or amended HCPs (See Tables 1–3) are briefly described below.

Alternative 1: No Action Alternative

Under the No Action Alternative, the Service would not issue the requested project ITP or ITP amendments and the respective HCP or amendments would not be implemented. The Service expects that the applicants would act in a reasonable manner in order not to be legally liable for unauthorized take of the Hawaiian hoary bat, Hawaiian petrel, and the Hawaiian goose. The Service assumes that (a) all applicants would shut off wind turbine operations at night to fully avoid take of Hawaiian hoary bat, (b) that the three applicants seeking to amend their existing permits would continue operating turbines during the day as long as they continued to be in compliance with their existing ITPs, and (c) that Pakini Nui would implement other reasonable measures to avoid take of listed species. Any take that may occur outside of an existing permit would not be authorized and would remain unmitigated.

Alternative 2: Proposed Action

Auwahi Wind

The Auwahi Wind project began commercial operation on December 28, 2012, and is located on 'Ulupalakua Ranch in east Maui, Hawai'i. Auwahi Wind Energy, LLC, was originally issued an ITP from the Service and an incidental take license (ITL) from the Hawai'i Department of Land and Natural Resources Division of Forestry and Wildlife on February 24, 2012 and February 9, 2012, respectively. The Auwahi Wind project consists of eight Siemens 3.0-megawatt (MW) wind turbines, augmented with an 11–MW battery storage system. Ancillary facilities include an underground electrical collection system, an operation and maintenance facility, an approximately 9-mile 34.5-kilovolt (kV) above-ground generator-tie line, and an interconnection substation.

The original ITP and ITL, with 2014 amendments, authorized the following amounts of incidental take over the 25-year permit term: 21 Hawaiian hoary bats; 87 Hawaiian petrels; 5 Hawaiian geese; and all Blackburn's sphinx moths (*Manduca blackburni*) larvae and eggs within the footprint of the facility. The above levels of take were anticipated to result from project construction and operations, including collision with vehicles, generator tie-lines, substations, wind turbines and other project structures.

Auwahi Wind Energy, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Auwahi Wind Energy, LLC, is requesting incidental take coverage for an additional 119 Hawaiian hoary bats over the 25-year permit term, which expires in 2037. In

addition, Auwahi Wind would implement nighttime low wind speed curtailment (LWSC) year-round at 5.0 m/s cut-in speed and increase the LWSC to 6.9 m/s from August to October, when higher rates of take have occurred. They will also mitigate the take through reforestation and the creation of water features on up to 2,929 acres of ranchland.

TABLES 1–3—ESTIMATED CHANGE IN AUTHORIZED TAKE REQUESTED FOR HAWAIIAN HOARY BAT, HAWAIIAN PETREL, AND HAWAIIAN GOOSE PER PROJECT APPLICANT

Project	Take currently authorized [1] [2]	Change	Total [3]
Table 1: Hawaiian hoary bat			
Auwahi	21	+119	140
Kawailoa	60	+205	265
KWPII	11	+27	38
Pakini Nui	NA	+26	26
Total	92	+377	469
Table 2: Hawaiian petrel [4]			
Auwahi	87	0	87
Kawailoa	0	+24	24
KWPII	43	0	43
Pakini Nui	NA	+3	3
Total	130	+27	157
Table 3: Hawaiian goose [4]			
Auwahi	5	0	5
Kawailoa	0	0	0
KWPII	30	+14	44
Pakini Nui	NA	+3	3
Total	35	+17	52

[1] Take for the Hawaiian hoary bat was originally authorized for adults and juveniles separately.
[2] A clarification issued in 2014 simplified the way in which indirect take (*e.g.,* loss of dependent juveniles) associated with the mortality of a breeding adult was accounted for and tracked. Juveniles were converted to adult equivalencies using calculations based on life-history information included in the respective original HCPs, resulting in authorized take represented as a whole number as opposed to listing adults and juveniles separately.
[3] Represents the currently authorized take plus the new requested take.
[4] Take amounts for these species are summed or combined for adults, subadults, nestlings, or eggs.

Kawailoa Wind Power

The Kawailoa Wind Power project is located approximately 4 miles from Haleiwa town on the north shore of the island of O'ahu, Hawai'i, and began commercial operations in November of 2012. Kawailoa Wind Power, LLC, was issued an ITP and an ITL on December 8, 2011, and January 6, 2012, respectively. The Kawailoa Wind Power project consists of 30 2.3–MW wind turbine generators. Ancillary facilities include an underground electrical collection system, an operation and maintenance facility, and an approximately 4-mile above-ground transmission line.

The original ITP and ITL authorized the following amounts of incidental take over a 20-year permit term: 60 Hawaiian hoary bats; 12 Hawaiian ducks (koloa maoli; *Anas wyvilliana*); 18 Hawaiian moorhen ('alae 'ula; *Gallinula galeata sandvicensis,* also known as the Hawaiian gallinule); 18 Hawaiian coot ('alae kea; *Fulica americana alai*); 24 Hawaiian stilt (ae'o; *Himantopus mexicanus knudseni*); and 15 Newell's shearwater ('a'o; *Puffinus auricularis newelli*). The above levels of take were anticipated to result from project construction and operations, including collision with vehicles, generator tie-lines, substations, wind turbines, and other project structures.

Kawailoa Wind Power, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Kawailoa Wind Power, LLC, is requesting incidental take coverage for an additional estimated 205 Hawaiian hoary bats (for a total of 265 bats) over the 20-year permit term, which expires in 2031. Additionally, Kawailoa Wind Power has documented the take of two Hawaiian petrels at the site. Incidental take of this species was not authorized in their existing ITP or ITL; therefore, Kawailoa Wind Power, LLC, is requesting incidental take authorization for 24 Hawaiian petrels in their permit amendment. In addition, Kawailoa Wind will extend nighttime LWSC to year-round at 5.2 m/s, and test a bat deterrent in collaboration with NRG Systems. They will also provide a portion of the funding for the protection of 2,882 acres in the Ko'olau Mountains of O'ahu, and protect/preserve or restore an additional 3,044 acres for mitigation of bat take impacts. To mitigate Hawaiian Petrel take impacts, Kawailoa Wind will fund the Hawai'i Division of Forestry and Wildlife (DOFAW) to conduct predator control activities within a petrel breeding colony at Hanakāpī'ai, Kaua'i.

Kaheawa Wind Power II

The Kaheawa Wind Power II (KWP II) project is located at Kaheawa Pastures above Ma'alaea town in the southwestern portion of the island of Maui, Hawai'i, and began commercial operations in July 2012. KWP II, LLC, was issued an ITP and an ITL in January 2012. The KWP II project consists of 14,

1.5–MW wind turbine generators. Ancillary facilities include an underground electrical collection and communication system, an operation and maintenance facility, a battery energy storage system, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid.

The original ITP and ITL authorized the following levels of incidental take over the 20-year permit term, which expires in 2032: 11 Hawaiian hoary bats, 30 Hawaiian geese, 8 Newell's shearwaters, and 43 Hawaiian petrels. The above levels of take were anticipated to result from project construction and operations, including bat and bird collisions with vehicles, generator tie-lines, substations, wind turbines and other project structures.

Kaheawa Wind Power II, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat and the Hawaiian goose that has occurred during the first 6 years of operation. Kaheawa Wind Power II, LLC, is requesting incidental take authorization for an additional estimated 27 Hawaiian hoary bats (for a total of 38 bats) over the 20-year permit term. Additionally, KWP II, LLC, is also requesting incidental take authorization for an additional estimated 14 Hawaiian geese (for a total of 44 geese) over the 20-year permit term. KWP II will implement nighttime LWSC at 5.0 m/s year-round and increase LWSC to 5.5 m/s from February 15 to December 15. Mitigation activities for Hawaiian Goose include funding DOFAW to conduct predator control activities at a breeding pen on Maui, at either Pi'iholo Ranch or Haleakalā Ranch. For Hawaiian hoary bat mitigation, KWP II is funding a research project conducted by the U.S. Geological Society to examine home range size, habitat use, diet, and breeding demography at roosting sites on Hawai'i island.

Pakini Nui Wind Farm

The Pakini Nui Wind Farm is operated by Tawhiri Power, LLC, and is located on Ka Lae or South Point on the island of Hawai'i, Hawai'i. The Pakini Nui Wind Farm is currently not covered by a valid ITP or ITL, and Tawhiri Power, LLC, has not previously applied for an ITP or ITL. Tawhiri Power, LLC, has submitted a draft HCP to support their requests for an ITP and an ITL. The Pakini Nui Wind Farm began operations in April 2007 and consists of 14, 1.5–MW wind turbine generators. Ancillary facilities include one mile of underground connector lines, an operation and maintenance building, a substation, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid. The entire project facility footprint is 79.42 acres. Tawhiri Power, LLC, is requesting incidental take authorization for an estimated 26 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese over an 8-year permit term.

Pakini Nui will implement nighttime LWSC at 5.0 m/s year-round to minimize take of Hawaiian hoary bats. To mitigate for bats, they will fund the restoration of 1,200 acres at Hawai'i Volcanoes National Park. Pakini Nui will also fund an increase in predator control and commit funds for maintenance of a 5-mile cat barrier fence encompassing 600 acres of breeding habitat for Hawaiian Petrel on Mauna Loa. For Hawaiian Goose mitigation, they will provide funds for the construction of a new 1.25-acre fenced enclosure by DOFAW at Pi'ihonua on Hawai'i island.

Alternative 3: Increased Curtailment

Under Alternative 3, the Service would issue the ITPs with a condition that the applicant will shut down turbines at night, between April 15 and September 15, when Hawaiian hoary bats are observed to be rearing young and are most active. Mitigation activities would be reduced commensurate with take levels. Low wind speed curtailment activities listed under Alternative 2 would occur during the remainder of the year (September 16–April 14).

Under this alternative, the Service would issue an ITP amendment to Auwahi Wind Power for up to 84 additional Hawaiian hoary bats through the end of its permit term in 2037. Kawailoa Wind would be issued a permit amendment for up to 83 additional Hawaiian hoary bats and 24 Hawaiian petrels through the permit term ending in 2031. KWP II would be issued an ITP amendment for take of an additional 16 Hawaiian hoary bats and 14 Hawaiian geese under alternative 3 for a permit term ending in 2032. Finally, Pakini Nui Wind Farm would be issued a new ITP allowing take of 16 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese through the permit term ending in 2029.

Covered Species

In total, the applicants are requesting incidental take authorization for one or more of the following species: The endangered Hawaiian hoary bat, the endangered Hawaiian goose, and the endangered Hawaiian petrel. Three of the applicants were authorized to take other listed species in their original ITPs; such take authorization would remain unchanged by the currently proposed amendments.

The Hawaiian hoary bat is the only fully terrestrial native mammal in the Hawaiian Islands and was federally listed as endangered under the ESA on October 13, 1970 (35 FR 16047). The Hawaiian hoary bat is small, nocturnal, and solitary, roosts in trees, and is known to collide with wind turbine structures. Take of Hawaiian hoary bats at the three currently permitted wind projects (Auwahi Wind, Kawailoa Wind Power, and KWP II) has been higher than anticipated under their original HCPs. The Service believes that recent project-specific bat fatality data and use of new statistical tools for estimating and predicting take of bats provide confidence that their revised estimates of total project-related take of bats are conservative and are unlikely to be exceeded over the term of these projects.

The Hawaiian goose was listed as endangered under the ESA on March 11, 1967 (32 FR 4001). The Hawaiian goose is found in a variety of habitats, including scrubland, grassland, golf courses, sparsely vegetated slopes, and open lowland country. This species is also known to collide with wind turbine structures. Pakini Nui Wind Farm has requested take of Hawaiian goose in a new ITP, while KWP II has requested an amendment due to slightly higher than anticipated take at the facility.

The Hawaiian petrel was listed as endangered under the ESA on March 11, 1967 (32 FR 4001). The Hawaiian petrel is a seabird that breeds in high-elevation volcanic terrain or in montane mesic and wet forests. When Hawaiian petrels fly over land areas, they are vulnerable to collision with man-made structures, including wind turbines. The Pakini Nui Wind Farm has requested take of the Hawaiian petrel in a new ITP, while Kawailoa Wind Power has requested an amendment to their HCP due to the unanticipated take of a Hawaiian petrel at the facility site.

EPA's Role in the EIS Process

The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs. Therefore, EPA is publishing a notice in the **Federal Register** announcing this EIS, as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official beginning of the public comment period. EPA's notices are published on Fridays. EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed

with EPA. You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

Public Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. 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. Comments and materials we receive, as well as supporting documentation we use in preparing the PEIS, will be available for public inspection by appointment, during normal business hours, at the Service's Pacific Islands Fish and Wildlife Office.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Darren LeBlanc or Michelle Bogardus at the Service's Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** above). To allow sufficient time to process requests, please call no later than 14 days in advance of the meeting dates.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.;* 50 CFR 17.22), and per NEPA and its implementing regulations (40 CFR 1506.6).

Robyn Thorson,

Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2019–08356 Filed 4–25–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2019–0030; FXIA16710900000–190–FF09A30000]

Foreign Endangered Species; Marine Mammals; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by May 28, 2019.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2019–0030.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2019–0030.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2019–0030; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred

wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Applicant: Duke University Lemur Center, Durham, NC; Permit No. 12767D

The applicant requests a permit to export a pair of captive-born Coquerel's sifaka (*Propithecus coquereli*) to Bristol Zoo, Clifton, UK, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Duke University Lemur Center, Durham, NC; Permit No. 12768D

The applicant requests a permit to export a pair of captive-born Coquerel's sifaka (*Propithecus coquereli*) to Chester Zoo, Chester, UK, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Duke University, Durham, NC; Permit No. 217642

The applicant requests a permit to import biological specimens from various non-human primate species (Order Primates), including all species of lemurids, prosimians, New and Old World monkeys, and apes, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tigers for Tomorrow, Atalla, AL; Permit No. 10375D

The applicant requests a permit to import one male and five female captive-born tigers (*Panthera tigris*) from ADI Temporary Custody Center, Escuintla, Guatemala, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: IUCN Iguana Specialist Group, Chicago, IL; Permit No. 32153D

The applicant requests a permit for the import of biological specimens for the following species for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Mayaguana iguana	*Cyclura carinata bartschi.*
Turks and Caicos iguana	*Cyclura carinata carinata.*
Jamaican iguana	*Cyclura collei.*
Rhinoceros iguana	*Cyclura cornuta.*
Bahamas iguana	*Cyclura cychlura.*
Cuban ground iguana	*Cyclura nubila.*
Anegada ground iguana	*Cyclura pinguis.*
Ricord's ground iguana	*Cyclura ricordi.*
San Salvador iguana	*Cyclura rileyi.*
Grand Cayman blue iguana.	*Cyclura lewisi.*
Mona ground iguana	*Cyclura stejnegeri.*

Applicant: Wild Animal Sanctuary, Keenesburg, CO; Permit No. 17189D

The applicant requests a permit to import two pairs of captive-born tigers (*Panthera tigris*) from Invictus Foundation, Pachuca, Mexico, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Wild Animal Sanctuary, Keenesburg, CO; Permit No. 18004D

The applicant requests a permit to import a pair of captive-born tigers (*Panthera tigris*) from Zoologico Santiago Del Estero, Del Estero, Argentina, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Southwest Fisheries Science Center, La Jolla, CA; Permit No. 69509B

The applicant requests reissuance of a permit to import and export biological samples collected from wild and captive-bred Kemp's ridley sea turtle (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and olive ridley sea turtle (*Lepidochelys olivacea*) for the purpose of scientific research. Samples are collected form live or salvaged specimens. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Judy May, Water Valley, TX; Permit No. 16838B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Barasingha (*Rucervus duvaucelii*), Red lechwe (*Kobus leche*), Eld's deer (*Rucervus eldii*), and Arabian oryx (*Oryx leucoryx*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Memphis Zoological Garden, Memphis, TN; Permit No. 26429D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Bontebok	*Damaliscus pygargus pygargus.*
Asian elephant	*Elephas maximus.*
Cheetah	*Acinonyx jubatus.*
Amur leopard	*Panthera pardus orientalis.*
Sumatran tiger	*Panthera tigris sumatrae.*
Snow leopard	*Panthera uncia uncia.*
White-cheeked gibbon	*Nomascus leucogenys.*
Siamang	*Symphalangus syndactylus.*
Black and white ruffed lemur.	*Varecia variegata.*
Red ruffed lemur	*Varecia rubra.*

Applicant: Santa Ana Zoo, Santa Ana, CA; Permit No. 06177D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Cotton-top tamarin	*Saguinus oedipus.*
Golden lion tamarin	*Leontopithecus rosalia.*
Golden-headed lion tamarin.	*Leontopithecus chrysomelas.*
Black and white ruffed lemur.	*Varecia variegata.*
Ring-tailed lemur	*Lemur catta.*

Applicant: Jacksonville Zoological Society, Jacksonville, FL; Permit No. 24690D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Bonobo	*Pan paniscus.*
Western lowland gorilla	*Gorilla gorilla.*
Sumatran tiger	*Panthera tigris sumatrae.*
Malayan tiger	*Panthera tigris jacksoni.*
South African cheetah	*Acinonyx jubatus.*
White rhinoceros	*Ceratotherium simum simum.*
Komodo dragon	*Varanus komodoensis.*

Applicant: Ross Popenoe, Redmond, WA; Permit No. 816505

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Madagascar radiated tortoise (*Geochelone radiata*) and Galapagos tortoise (*Geochelone nigra*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: William Burnett, North Little Rock, AR; Permit No. 034408

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Madagascar radiated tortoise (*Geochelone radiata*) and spotted pond turtle (*Geoclemys hamiltonii*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tom Motlow, Dallas, TX; Permit No. 25531D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: J–3 Ranch, Missouri City, TX; Permit No. 23872D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for red lechwe (*Kobus leche*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: North Carolina Zoo, Asheboro, NC; Permit No. 13035D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for komodo island monitor (*Varanus komodoensis*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: ARDENR, LP, San Angelo, TX; Permit No. 07495D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelii*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jackson Zoological Society, Inc., Jackson, MS; Permit No. 24559D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Sumatran tiger (*Panthera tigris sumatrae*), red-ruffed lemur (*Varecia rubra*), Diana monkey (*Cercopithecus diana*), and chimpanzee (*Pan troglodytes*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ricardo Longoria, Natalia, TX; Permit No. 33103D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Arabian oryx (*Oryx leucoryx*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tulsa Zoo, Tulsa, OK; Permit No. 85017C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Fiji banded iguana	*Brachylophus fasciatus.*
Aquatic box turtle	*Terrapene coahuila.*
Radiated Madagascar tortoise.	*Geochelone radiata.*
San Esteban Island chuckwalla.	*Sauromalus varius.*
Komodo island monitor	*Varanus komodoensis.*
Jamaican boa	*Epicrates subflavus.*
Chinese alligator	*Alligator sinensis.*
White Siberian crane	*Grus leucogeranus.*
African penguin	*Spheniscus demersus.*
Golden parakeet	*Aratinga guarouba.*
Rothschild's starling	*Leucopsar rothschildi.*
Asian elephant	*Elephas maximus.*
Black-and-white ruffed lemur.	*Varecia variegata variegata.*
Golden-headed lion tamarin.	*Leontopithecus chrysomelas.*
Diana monkey	*Cercopithecus diana.*
Siamang	*Symphalangus syndactylus.*
Chimpanzee	*Pan troglodytes.*
Black-footed cat	*Felis nigripes.*
Lion	*Panthera leo.*
Malayan tiger	*Panthera tigris jacksoni.*
Snow leopard	*Panthera uncia.*
African wild dog	*Lycaon pictus.*
White rhinoceros	*Ceratotherium simum.*

Applicant: Judy May, Water Valley, TX; Permit No. 85955C

The applicant requests a permit authorizing the culling of excess Barasingha (*Rucervus duvaucelii*), Red lechwe (*Kobus leche*), Eld's deer (*Rucervus eldii*), and Arabian oryx (*Oryx leucoryx*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: J–3 Ranch, Missouri City, TX; Permit No. 28795D

The applicant requests a permit authorizing the culling of excess red lechwe (*Kobus leche*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: ARDENR, LP, San Angelo, TX; Permit No. 07494D

The applicant requests a permit authorizing the culling of excess barasingha (*Rucervus duvaucelii*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Amy Evans, Madera, CA; Permit No. 33093D

Applicant: Philip Geisse Westlin, OR; Permit No. 28644D

Applicant: David Schultz, Waukesha, WI; Permit No. 22128D

Applicant: Madeline Demaske, Greeley, CO; Permit No. 24619D

Applicant: Joseph Hohenthaner, Madison, SD; Permit No. 23082D

Applicant: Jeff Demaske, Greeley, CO; Permit No. 24612D

Applicant: Daniel Meyer, Cypress, TX; Permit No. 26444D

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2019–08408 Filed 4–25–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2019–0042; FXIA16710900000–190–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by May 28, 2019.

ADDRESSES: *Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2019–0042.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2019–0042.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2019–0042; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see *Public Comment Procedures* under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Applicant: Wild Cat Education and Conservation Fund, Occidental, CA; Permit No. 22421D

The applicant requests a permit to purchase in interstate commerce one male captive-bred cheetah (*Acinonyx jubatus*) from Tanganyika Wildlife Park, Goddard, Kansas, for the purpose of enhancing the propagation or survival of the species. This notification is for a single interstate commerce activity.

Applicant: Smithsonian National Zoological Park, Washington, DC; Permit No. 02652D

The applicant requests a permit to import three male captive-bred cheetahs (*Acinonyx jubatus*) from the Toronto Zoo, Toronto, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Chris Peyerk, Shelby Township, MI; Permit No. 15594D

The applicant requests a permit to import the sport-hunted trophy of one male black rhinoceros (*Diceros bicornis*) from Namibia for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Miami-Dade Zoological Park and Gardens, Miami, FL; Permit No. 08804D

The applicant requests a permit to export one captive-bred giant otter (*Pteronura brasiliensis*) to Fundacion Zoologica de Cali in Columbia for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Lynn Sedelhauer, Black River Falls, WI; Permit No. 13850D

The following applicant requests a permit to import a sport-hunted trophy of male cheetah (*Acinonyx jubatus*)

taken in Namibia under the management program of Namibia, for the purpose of enhancing the propagation or survival of the species.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Winston Strawn, Plumerville, AR; Permit No. 22181D

Applicant: Edward Collins, Rye, NY; Permit No. 25473D

Applicant: Martha Bullock, Boerne, TX; Permit No. 11843d

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to regulations.gov and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2019–08409 Filed 4–25–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–SM–2019–N044; FXRS12610700000–189–FF07J00000; FBMS#4500089778; OMB Control Number 1018–0075]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Federal Subsistence Regulations and Associated Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before May 28, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: AMAD–ARM–PPM, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0075 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On September 28, 2018, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on November 27, 2018 (83 FR 49121). We received no comments in response to the **Federal Register** notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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 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.

Abstract: The Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 3111–3126), and regulations in the Code of Federal Regulations (CFR) at 50 CFR part 100 and 36 CFR part 242, require persons engaged in taking fish, shellfish, and wildlife on public lands in Alaska for subsistence uses to apply for and obtain a permit to do so, and comply with reporting provisions of that permit.

We currently use three forms in the recruitment and selection of members for regional advisory councils:

(1) FWS Form 3–2321, ''Federal Subsistence Regional Advisory Council Membership Application/Nomination.''

(2) FWS Form 3–2322, ''Regional Advisory Council Candidate Interview.''

(3) FWS Form 3–2323, ''Regional Advisory Council Reference/Key Contact Interview.''

The member selection process begins with the information that we collect on the application. Ten interagency review panels interview all applicants and nominees, their references, and regional key contacts. These contacts are based on the information that the applicant provides on the application form. The information that we collect through the application form and subsequent interviews is the basis of the Federal Subsistence Board's recommendations to the Secretaries of the Interior and Agriculture for appointment and reappointment of council members.

We are revising this collection to add a fourth form to the collection: FWS Form 3–2300, ''Federal Subsistence Regional Advisory Council Membership Incumbent Application.'' This form asks for less information than the regular initial membership application form (3–2321); we introduce this form in order to reduce the burden on any individuals seeking to continue to serve on the Council.

We use the following forms to collect information from qualified rural residents for subsistence harvest:

(1) FWS Form 3–2326, ''Federal Subsistence Hunt Application, Permit, and Report.''

(2) FWS Form 3–2327, ''Designated Hunter Permit Application, Permit, and Report.''

(3) FWS Form 3–2328, ''Federal Subsistence Fishing Application, Permit, and Report.''

(4) FWS Form 3–2378, ''Designated Fishing Permit Application, Permit, and Report.''

(5) FWS Form 3–2379, ''Federal Subsistence Customary Trade Recordkeeping Form.''

We use the information collected to evaluate:

- Eligibility of applicant.
- Subsistence harvest success.
- Effectiveness of season lengths, harvest quotas, and harvest restrictions.
- Hunting patterns and practices.
- Hunter use.

The Federal Subsistence Board uses the harvest data, along with other information, to set future season dates and harvest limits for Federal subsistence resource users. These seasons and harvest limits are set to meet the needs of subsistence users without adverse impact to the health of existing animal populations.

In addition to the above forms, regulations at 50 CFR part 100 and 36 CFR part 242 contain requirements for the collection of information. We collect nonform information on:

(1) Repeal of Federal subsistence rules and regulations (50 CFR 100.14 and 36 CFR 242.14).

(2) Proposed changes to Federal subsistence regulations (50 CFR 100.18 and 36 CFR 242.18).

(3) Special action requests (50 CFR 100.19 and 36 CFR 242.19).

(4) Requests for reconsideration (50 CFR 100.20 and 36 CFR 242.20).

(5) Requests for permits and reports, such as traditional religious/cultural/educational permits, fishwheel permits, fyke net permits, and under-ice permits (50 CFR 100.25–27 and 36 CFR 242.25–27).

Title of Collection: Federal Subsistence Regulations and Associated Forms, 50 CFR 100 and 36 CFR 242.

OMB Control Number: 1018–0075.

Form Number: FWS Forms 3–2300, 3–2321 through 3–2323, 3–2326 through 3–2328, and 3–2378 through 3–2379.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals; private sector; and State, local, and tribal governments. Most respondents are individuals who are federally defined rural residents in Alaska.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Form/activity	Number of annual respondents	Number of annual responses	Completion time per response	Total annual burden hours *
FWS Form 3–2300 *NEW*	6	6	30 mins	3
FWS Form 3–2321	76	76	2 hours	152
FWS Form 3–2322	76	76	30 mins	38
FWS Form 3–2323 (Individuals)	165	165	15 mins	41
FWS Form 3–2323 (Government)	24	24	15 mins	6
FWS Form 3–2326	11,141	11,141	15 mins	2,785
FWS Form 3–2327	701	701	15 mins	175
FWS Form 3–2328	2,136	2,136	15 mins	534
FWS Form 3–2378	58	58	15 mins	15
FWS Form 3–2379	18	18	15 mins	5
Petition to Repeal	1	1	2 hours	2
Proposed Changes	70	70	30 mins	35
Special Actions Request	17	17	30 mins	9
Request for Reconsideration (Appeal)	741	741	4 hours	2,964
Traditional/Cultural/Educational Permits and Reports	5	5	30 mins	3
Fishwheel, Fyke Net, and Under-Ice Permits and Reports	7	7	15 mins	2
Totals	15,242	15,242		6,769

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 23, 2019.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–08411 Filed 4–25–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYP06000.LL13100000.DB0000]

Notice of Availability of a Supplement to the Draft Environmental Impact Statement for the Converse County Oil and Gas Project, Converse County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) has prepared a Supplement to the Draft Environmental Impact Statement (Draft EIS) released January 26, 2018 that evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts of the proposal to amend the Casper Resource Management Plan (Casper RMP) to allow for timing stipulation relief for non-eagle raptors only within the Converse County Oil and Gas Project area in Converse County, Wyoming. This notice announces a 90-day public comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Converse County Oil and Gas Project Supplement to the Draft EIS within 90 days

following the date of this Notice of Availability in the **Federal Register**. The BLM will announce future meetings and any other public involvement activities at least 15 days in advance through public notices, media releases, mailings, and/or at the BLM website *https://go.usa.gov/xEFvQ.*

ADDRESSES: Written comments on the Converse County Oil and Gas Project may be submitted by any of the following methods:

- *Email: blm_wy_casper_wymail@blm.gov,*
- *Fax:* 307–261–7587,
- *Mail or hand delivery:* BLM Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

Documents pertinent to this proposal may be examined at the following offices:

- BLM Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604;
- BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

Interested persons may also view the documents online at: *https://go.usa.gov/xEFvQ.* Please reference the Converse County Oil and Gas EIS Attn: Mike Robinson, Project Manager, when submitting your comments.

FOR FURTHER INFORMATION CONTACT: Mike Robinson, Project Manager, telephone: 307–261–7520; address: 2987 Prospector Drive, Casper, Wyoming 82604; email: *blm_wy_casper_wymail@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 Mr. Robinson 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: An operator group (OG) comprised of Anadarko Petroleum Company (Anadarko), Chesapeake Energy Corporation (Chesapeake), Devon Energy (Devon), EOG Resources, Inc. (EOG), and Northwoods Energy, propose to develop oil and gas leases within the Converse County Project Area (CCPA) in Converse County, Wyoming.

The CCPA encompasses approximately 1.5 million acres of land, of which approximately 88,466 surface acres (6 percent of the CCPA) are public lands administered by the BLM and approximately 63,911 surface acres (4 percent of the CCPA) are administered by the United States Forest Service. The remaining surface estate consists of approximately 101,012 surface acres (7 percent) administered by the State of Wyoming and approximately 1,247,477 surface acres (83 percent) that are privately owned. The BLM administers approximately 964,525 acres of mineral estate (64 percent) within the CCPA. Split estate lands, lands with private surface and Federal mineral ownership, comprise approximately 812,189 acres of those 964,525 acres (54 of the 64 percent) of the Federal mineral ownership of land within the CCPA.

The Supplement to the Draft EIS describes and analyzes the impacts of the OG's Proposed Action (Alternative B) consisting of five options as amendments to the Casper RMP. The following is a summary of those options:

Option 1: The No Action Option assumes that no amendment would be approved but that Alternative B would be approved with the standard stipulations for non-eagle raptor nest timing limitations applied as directed in the Casper RMP.

Option 2: This option consists of an amendment to the Casper RMP that would modify all existing leases and development within the Converse County Oil and Gas Project area, removing all non-eagle raptor nest timing limitations (lease stipulations, conditions of approval, mitigations or other stipulations) through the operation of the pertinent resource's laws, rules and regulations. Future leases or development within the Converse County Oil and Gas Project area would not apply the non-eagle raptor nest timing limitations.

Option 3: This option consists of an amendment to the Casper RMP that would allow for development within non-eagle raptor nest timing limitations within the Converse County Oil and Gas Project area contingent upon the proponent committing to measures detailed in this option.

Option 4: This option consists of an amendment to the Casper RMP that would allow for development within non-eagle raptor nest timing limitations within the Converse County Oil and Gas Project area contingent upon the proponent's proposed practices or plans that the BLM determines alleviates impacts to non-eagle raptors.

Option 5: This option consists of an amendment to the Casper RMP that would allow for development within non-eagle raptor nest timing limitations within the Converse County Oil and Gas Project area contingent upon completion of a Migratory Bird Conservation Plan with the US Fish and Wildlife Service in coordination with the BLM.

The Notice of Intent to prepare an EIS was published in the **Federal Register** on May 16, 2014. Key issues identified during scoping included: Potential impacts on private landowners over Federal mineral estate; socioeconomic impacts on local communities and residents, particularly from increased noise, traffic, and population growth; potential impacts on air quality and climate change; potential impacts to groundwater and surface water supply and quality; potential impacts to historic trails; enforcement of reclamation and other mitigation on non-Federal lands; impacts to area recreation, grazing, and hunting; the potential to impact sage grouse, migratory birds, big game, and other wildlife; and adequate analysis of cumulative impacts.

The public is encouraged to comment on any and all portions of the document. The BLM asks that those submitting comments make them as specific as possible with reference to chapters, page numbers, and paragraphs in the Supplement to the Draft EIS document. Comments that contain only opinions or preferences will not receive a formal response. The most useful comments will include new technical or scientific information, identification of data gaps in the impact analysis, or technical or scientific rationale for opinions or preference.

Comments and information submitted on the Supplement to the Draft EIS for the Converse County Oil and Gas project including names, email addresses, and street addresses of respondents will be available for public review online at: *https://go.usa.gov/xEFvQ.* The BLM will not accept anonymous comments, false names or unidentified emails.

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

Mary Jo Rugwell,

State Director, Wyoming.

[FR Doc. 2019–08288 Filed 4–25–19; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC06000.L13100000.DS0000.LXSIAREV0000.19XL1109AF.MO#4500131458]

Notice of Availability of the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental Environmental Impact Statement, California

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 Supplemental Environmental Impact Statement (EIS), analyzing the potential impacts of hydraulic fracturing on oil and gas leases within the Bakersfield Field Office planning area, and by this notice the BLM is announcing the opening of the 45-day public comment period.

DATES: To ensure consideration, the BLM must receive written comments on the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register.** The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit written comments related to the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental EIS by any of the following methods:

- *Website: https://go.usa.gov/xE3Nw*
- *Mail:* Bureau of Land Management, Bakersfield Field Office, Attn: Bakersfield Hydraulic Fracturing Analysis, 3801 Pegasus Drive, Bakersfield, CA 93308

Copies of the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental EIS are available during regular business hours in the Bakersfield Field Office.

FOR FURTHER INFORMATION CONTACT: Carly Summers, Supervisory Natural Resources Specialist, telephone: 661–391–6000, email: *csummers@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. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bakersfield Field Office planning area includes Fresno, Kern, Kings, Madera, San Luis Obispo, Santa Barbara, Tulare, and Ventura counties in California and encompasses approximately 400,000 acres of public land and 1.2 million acres of Federal mineral estate.

The supplemental environmental analysis is being conducted in response to a May 2017, U.S. District Court Order.

The BLM presented preliminary resource issues for public scoping review and comment in the August 8, 2018, **Federal Register** Notice of Intent (83 FR 39116). Issues identified by BLM personnel; Federal, State, and local agencies; and other stakeholders and analyzed in the Draft Supplemental EIS include: Air and atmospheric values; water quality and quantity; seismicity; special status species; and mineral resources (oil and gas). The U.S. District Court Order upheld the range of alternatives analyzed in the Proposed RMP/Final EIS. The five management alternatives as analyzed in the Proposed RMP/Final EIS were:

- The No Action alternative (Alternative A) would continue current management under the existing 1997 Caliente RMP and 1984 Hollister RMP, as amended.
- The Proposed Plan (Alternative B) strives to balance resource conservation and ecosystem health with the production of commodities and public use of the land.
- Alternative C emphasizes conserving cultural and natural resources, maintaining functioning natural systems, and restoring natural systems that are degraded.
- Alternative D follows Alternative C in all aspects except with regard to livestock grazing. Alternative D would eliminate livestock grazing from the BLM-managed lands in the planning area for the life of this land use plan.
- Alternative E emphasizes the production of natural resources and commodities while emphasizing public use opportunities.

The results of this draft supplemental analysis analyzing the impacts of hydraulic fracturing, additive to those identified in the 2012 Final EIS, did not show notable increase in total impacts. No conflicts were found between the estimated impacts of hydraulic fracturing and the resource or program management goals and objectives stated in the RMP. The range of alternatives has not changed between the approved 2014 RMP and its 2012 Final EIS and the Draft Supplemental EIS. Therefore, no amendment to the 2014 RMP is necessary.

You may submit comments on the Draft Supplemental EIS in writing to the BLM using one of the methods listed earlier in the **ADDRESSES** section. To be most helpful, you should submit comments by the close of the 45-day comment period.

The BLM will utilize and coordinate the NEPA process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3). The BLM will continue to consult with Indian tribes on a government-to-government basis, in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will continue to be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the comment period.

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 address listed earlier during regular business hours (8 a.m. to 4 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)

Joe Stout,

Acting State Director, California.

[FR Doc. 2019–08282 Filed 4–25–19; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD08000.L12200000.DT0000. 19XL1109AF.LXSSB0010000 (MO#4500135579)]

Notice of Availability of the Final Supplemental Environmental Impact Statement and Proposed Land Use Plan Amendment to the California Desert Conservation Area Plan for the West Mojave Route Network Project, Inyo, Kern, Los Angeles, Riverside, and San Bernardino Counties, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Supplemental Environmental Impact Statement (EIS) and Proposed

Land Use Plan Amendment to the California Desert Conservation Area (CDCA) Plan for the West Mojave Route Network Project (WMRNP), and by this notice is announcing its availability.

DATES: BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Final Supplemental Environmental Impact Statement and Proposed Land Use Plan Amendment. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

ADDRESSES: The Final Supplemental EIS and Proposed Land Use Plan Amendment is available electronically on the BLM ePlanning project website at *https://go.usa.gov/xE6YH.*

Copies of the Final Supplemental EIS and Proposed Land Use Plan Amendment are available for public inspection at the BLM-Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest, CA 93555; the BLM-Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311; and the BLM-California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553.

All protests must be in writing and filed with the BLM Director, either as a hard copy or electronically, via the BLM's ePlanning project website listed previously. To submit a protest electronically, go to the ePlanning project website and follow the protest instructions highlighted at the top of the home page. If submitting a protest in hard copy, it must be mailed to one of the following addresses:

Regular Mail: BLM Director (210), Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024–1383

Overnight Delivery: BLM Director (210), Attention: Protest Coordinator, 20 M Street SE, Room 2134LM, Washington, DC 20003

FOR FURTHER INFORMATION CONTACT: Matt Toedtli, Planning and Environmental Coordinator, telephone: 760–252–6026; address: 2601 Barstow Road, Barstow, CA 92311; email: *mtoedtli@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 Mr. Toedtli during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM prepared the WMRNP Proposed Land Use Plan Amendment and Final Supplemental EIS to comply with a U.S. District Court Order that partially remanded the 2006 West Mojave (WEMO) Plan Amendment Record of Decision (ROD) to the BLM and directed the BLM to reconsider route designations throughout the WEMO Planning Area, as well as other specified issues in the 2006 WEMO Plan. The Court held that the BLM failed to consider regulatory criteria when designating routes, that the WEMO Plan was inconsistent with language of the CDCA Plan, which limits routes to those existing in 1980, and that the EIS did not contain a reasonable range of alternatives and failed to adequately address the No-Action Alternative or analyze impacts to soils, cultural resources, biological resources, and air quality.

The WMRNP involves both a land use plan amendment and implementation-level actions within the WEMO Planning Area. The land use plan amendment addresses specific regulation and policies, including travel management guidance for route designation, and amends language that limits the route network to routes that existed in 1980. Proposed changes to the land use plan include guidelines for stopping, parking, and camping adjacent to designated routes. Alternative 2 also considers changes to the livestock grazing program, which would re-allocate forage from livestock use to wildlife use and ecosystem function in desert tortoise critical habitat. Other plan-level changes considered include identifying travel management areas, modifying off-highway vehicle use on four lakebeds, modifying competitive event access, and eliminating the permit requirement for motorized access to the Rand Mountains-Fremont Valley Management Area. Implementation-level decisions considered include the adoption of travel management plans and a designated route network based on the designation criteria of 43 CFR 8342.1.

The WEMO planning area covers 9.4 million acres of the CDCA in the western portion of the Mojave Desert in southern California, including parts of San Bernardino, Los Angeles, Riverside, Kern, and Inyo counties. The WMRNP applies to the 3.1 million acres of public lands within the WEMO planning area. The 9.4 million-acre WEMO planning area includes several large Department of Defense facilities covering almost 3 million acres, a portion of one National Park, 3 million acres of private lands, and approximately 100,000 acres of State lands, including Red Rock Canyon State Park. Much of the planning area is managed as part of the BLM's National Landscape Conservation System, including portions of the Pacific Crest Trail and the Old Spanish National Historic Trail. The planning area includes 63 Areas of Critical Environmental Concern, 5 California Desert National Conservation Lands, 7 National Register Archaeological and 6 National Register Historic Districts, 4 Critical Habitat Units for the federally listed desert tortoise, and 8 Off-Highway Vehicle Open Areas.

On March 16, 2018, the BLM issued a Draft Land Use Plan Amendment and Supplemental EIS. The Draft Supplemental EIS evaluated four alternatives, including a No-Action Alternative. During the 90-day public comment period, the BLM held four public meetings. The BLM received more than 9,000 public comments of which more than 7,900 were route-specific comments.

Public comments on the Draft Land Use Plan Amendment and Supplemental EIS were considered and incorporated as appropriate into the WMRNP Proposed Land Use Plan Amendment and Final Supplemental EIS. Public comments resulted in changes to the route designation alternatives, including addition of one alternative, additional environmental analysis for several resources, addition of clarifying text, re-organization of text including appendices, and removal of duplicative text. Comments that were not route-specific were organized into categories and responses were developed to each group of comments. The response-to-comment document is provided in Appendix I of the Final Supplemental EIS. The BLM has added and selected Alternative 5 as the Agency Proposed Action in the Proposed Land Use Plan Amendment and Final Supplemental EIS.

Instructions for filing a protest with the Director of the BLM regarding the Proposed Land Use Plan Amendment and Final Supplemental EIS may be found online at *https://go.usa.gov/xE6gN,* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section, or submitted electronically through the BLM ePlanning project website as described earlier. Protests submitted electronically by any means other than the ePlanning project website protest section will be invalid unless a protest is also submitted in hard copy. Protests submitted by fax will also be invalid unless also submitted either through the ePlanning project website protest section or in hard copy.

Unlike land use planning decisions, implementation decisions included in this Proposed Land Use Plan Amendment and Final Supplemental EIS are not subject to protest under the BLM planning regulations, but are subject to an administrative review process through appeals to the Office of Hearings and Appeals, Interior Board of Land Appeals pursuant to 43 CFR part 4 subpart E. Implementation decisions generally constitute the BLM's final approval allowing on-the-ground actions to proceed. Where implementation decisions are made as part of the land use planning process, they are still subject to the appeals process or other administrative review as prescribed by specific resource program regulations once the BLM resolves the protests to land use planning decisions and issues a Record of Decision.

Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest—including your personal identifying information—may be made publically 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, 43 CFR 1610.2, 43 CFR 1610.5, 43 CFR 1610.6)

Danielle Chi,

Deputy State Director, Fire and Resources.

[FR Doc. 2019–08281 Filed 4–25–19; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZG02200.L16100000. DQ0000.LXSS206A0000]

Notice of Availability of the Proposed San Pedro Riparian National Conservation Area Resource Management Plan and Final Environmental Impact Statement, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Tucson Field Office has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the San Pedro Riparian National Conservation Area and by this notice is announcing its availability.

DATES: BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP/Final EIS. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

ADDRESSES: The Proposed RMP and Final EIS is available on the BLM ePlanning project website at *https://go.usa.gov/xQKFU.* Click the ''Documents & Reports'' link on the left side of the screen to find the electronic version of these materials. Hard copies of the Proposed RMP/Final EIS are also available for public inspection at the Arizona State Office, One North Central Ave., Suite 800 (8th Floor), Phoenix, AZ 84004; and the Tucson Field Office, 3201 East Universal Way, Tucson, AZ 85756.

All protests must be in writing and filed with the BLM Director, either as a hard copy or electronically via the BLM's ePlanning project website listed previously. To submit a protest electronically, go to the ePlanning project website and follow the protest instructions highlighted at the top of the home page. If submitting a protest in hard copy, it must be mailed to one of the following addresses:

Regular Mail: BLM Director (210), Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024–1383

Overnight Delivery: BLM Director (210), Attention: Protest Coordinator, 20 M Street SE, Room 2134LM, Washington, DC 20003

FOR FURTHER INFORMATION CONTACT: Amy McGowan, Planning & Environmental Specialist, telephone 520–258–7231; address 3201 East Universal Way, Tucson, AZ 85756; email *blm_az_tfo_sprnca_rmp@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. McGowan during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Conservation Area was established by Public Law 100–696 on November 18, 1988. The planning area is located in Cochise County in southeastern Arizona, and encompasses approximately 55,990 acres of public land administered by the BLM Tucson Field Office. The Proposed RMP/Final EIS was prepared to address long-term management of the Conservation Area, accounting for the requirements of the enabling legislation.

Issues identified as part of the planning process and addressed in the Proposed RMP/Final EIS include management of riparian, water, vegetation, soil resources, fire, threatened and endangered species, wildlife, cultural resources, paleontological resources, educational, scientific, livestock grazing, access, recreation, socio-economics, and lands and realty. It also considers lands with wilderness characteristics, wild and scenic rivers, and Areas of Critical Environmental Concern.

The Proposed RMP/Final EIS evaluates a range of alternatives including the No Action and the proposed plan. A detailed description of these alternatives can be found in Chapter 2 of the Final EIS. The BLM's proposed plan is Alternative C, except that it includes the livestock grazing allocation from Alternative A, which allows grazing on 7,030 acres. This grazing allocation represents current management on the Conservation Area. The BLM's proposed plan represents a balance between resource protection and public access, authorizes livestock grazing on existing allotments, and provides for a diverse mix of recreation opportunities. The proposed plan focuses on active resource management and allows for the broadest array of management tools for ecosystem restoration to meet goals and objectives.

Comments on the Draft RMP/Draft EIS received from cooperators, tribes, other agencies, the public, and internal BLM review were considered and incorporated as appropriate into the proposed plan. In response to public comments, additional information related to increased livestock grazing was analyzed in the Final EIS and showed additional impacts on wildlife habitat and cultural and water resources would occur in areas not currently grazed. As a result, the BLM chose the existing grazing allocation as part of the proposed plan.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP and Final EIS may be found online at *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth previously in the **ADDRESSES** section or submitted

electronically through the BLM ePlanning project website as described earlier. Protests submitted electronically by any means other than the ePlanning project website protest section will be invalid unless a protest is also submitted in hard copy. Protests submitted by fax will also be invalid unless also submitted either through ePlanning project website protest section or in hard copy.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5)

Raymond Suazo,

Arizona State Director.

[FR Doc. 2019–08287 Filed 4–25–19; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1410 (Final)]

Rubber Bands From Thailand

Determination

On the basis of the record [1] developed in the subject investigation, 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 materially injured by reason of imports of rubber bands from Thailand, provided for in subheading 4016.99.35 [2] of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'').[3]

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted this investigation effective January 30, 2018, following receipt of a petition filed with the Commission and Commerce by Alliance Rubber Co., Hot Springs, Arkansas. Effective August 29, 2018, the Commission established a general schedule for the conduct of the final phase of its investigations on rubber bands following notification of a preliminary determination by Commerce that imports of rubber bands from China and Thailand were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation 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 17, 2018 (83 FR 46969).[4] The hearing was held in Washington, DC, on November 13, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel. On February 11, 2019, the Commission issued final affirmative determinations in its antidumping and countervailing duty investigations of rubber bands from China.[5] Following notification of a final determination by Commerce that imports of rubber bands from Thailand were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping duty investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 29, 2019 (84 FR 12001).

The Commission made this determination pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determination in this investigation on April 22, 2019.

The views of the Commission are contained in USITC Publication 4887 (April 2019), entitled *Rubber Bands from Thailand: Investigation No. 731–TA–1410 (Final).*

By order of the Commission.

Issued: April 22, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–08387 Filed 4–25–19; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Merchandise covered by the scope of this investigation may also be imported under HTSUS subheading 4016.99.60.

[3] *Rubber Bands From Thailand: Final Determination of Sales at Less Than Fair Value,* 84 FR 8304, March 7, 2019.

[4] Due to the lapse in appropriations and ensuing cessation of Commission operations, all import injury investigations conducted under authority of Title VII of the Tariff Act of 1930 accordingly were tolled pursuant to 19 U.S.C. 1671d(b)(2), 1673d(b)(2).

[5] *Rubber Bands from China; Determinations,* 84 FR 4534, February 15, 2019; *Rubber Bands from China, Inv. Nos. 701–TA–598 and 731–TA–1408 (Final),* USITC Publication 4863, February 2019.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–447 and 731–TA–1116 (Second Review)]

Circular Welded Carbon-Quality Steel Pipe From China; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping and countervailing duty orders on circular welded carbon-quality steel pipe from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: March 11, 2019.

FOR FURTHER INFORMATION CONTACT: (Christopher Watson (202–205–2684), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On March 11, 2019, the Commission determined that the domestic interested party group response to its notice of institution (83 FR 54936, November 1, 2018) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly,

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any

Continued

the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission tolled its scheduling in these reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on May 7, 2019, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before May 14, 2019 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by May 14, 2019. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's website at *https://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: April 22, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–08388 Filed 4–25–19; 8:45 am]

BILLING CODE 7020–02–P

individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response submitted by Bull Moose Tube Co.; EXLTUBE; Independence Tube Corp., a Nucor company; Southland Tube, Inc., a Nucor company; TMK IPSCO; Wheatland Tube Co.; and Zekelman Industries to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–620 and 731–TA–1445 (Preliminary)]

Wooden Cabinets and Vanities From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of wooden cabinets and vanities from China, provided for in subheadings 9403.40.90, 9403.60.80, and 9403.90.70 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On March 6, 2019, the American Kitchen Cabinet Alliance filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of wooden cabinets and vanities from China and LTFV imports of wooden cabinet and vanities from China. Accordingly, effective March 6, 2019, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–620 and antidumping duty investigation No. 731–TA–1445 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 12, 2019 (84 FR 8890). The conference was held in Washington, DC, on March 27, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 84 FR 12581 (April 2, 2019) and 84 FR 12587 (April 2, 2019).

and filed its determinations in these investigations on April 22, 2019. The views of the Commission are contained in USITC Publication 4891 (April 2019), entitled *Wooden Cabinets and Vanities from China: Investigation Nos. 701–TA–620 and 731–TA–1445 (Preliminary).*

By order of the Commission.

Issued: April 22, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–08386 Filed 4–25–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Comprehensive Environmental Response, Compensation and Liability Act

On April 18, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of North Carolina in the lawsuit entitled *United States* v. *Honeywell International, Inc., and International Paper Co.,* Civil Action No. 7:19–cv–00073–D.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States' complaint names Honeywell International, Inc., and International Paper Co. as defendants. The complaint requests recovery of costs that the United States incurred responding to releases of hazardous substances at the LCP-Holtrachem Site in Riegelwood, Columbus County, North Carolina. The complaint also seeks injunctive relief. The two defendants agree under the decree to perform the remedial action that EPA selected for the site. The defendants will also reimburse the United States for all past and future response costs. In return, the United States agrees not to sue the defendants under sections 106 and 107 of CERCLA or under section 7003 of the Resource Conservation and Recovery Act.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Honeywell International, Inc., et al.,* D.J. Ref. No. 90–11–3–11987. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $105.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $11.75.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–08424 Filed 4–25–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0001]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Application for Cancellation of Removal (42A) for Certain Permanent Residents; and Application for Cancellation of Removal and Adjustment of Status (42B) for Certain Nonpermanent Residents

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day Notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 28, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension with changes to a currently approved collection.

2. *The Title of the Form/Collection:* Application for Cancellation of Removal for Certain Permanent Residents; and Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form numbers are EOIR–42A and EOIR–42B, Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual aliens

determined to be removable from the United States. Other: None. Abstract: This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 27,999 respondents will complete the form annually with an average of 5 hours and 50 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 162,394 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: April 23, 2019.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–08422 Filed 4–25–19; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0026]

Curtis-Strauss LLC: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for Curtis-Strauss LLC (CSL), as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on April 26, 2019.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Curtis-Strauss LLC, as a NRTL. CSL's expansion covers the addition of one test standard to its scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding and, in the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details its scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSL submitted an application, dated January 2, 2018 (OSHA–2009–0026–0079), to expand its recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing CSL's expansion application in the **Federal Register** on December 26, 2018 (83 FR 66311). The agency requested comments by January 10, 2019, but received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of CSL's scope of recognition.

To obtain or review copies of all public documents pertaining to CSL's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210. Docket No. OSHA–2009–0026 contains all materials in the record concerning CSL's recognition.

II. Final Decision and Order

OSHA staff examined CSL's expansion application, the capability to meet the requirements of the test standards, and other pertinent information. Based on a review of this evidence, OSHA finds that CSL meets the requirements of 29 CFR 1910.7 for expansion of the recognition, subject to the specified limitation, and conditions listed. OSHA, therefore, is proceeding with this final notice to grant CSL's scope of recognition. OSHA limits the expansion of CSL's recognition to testing and certification of products for demonstration of conformance to the test standard listed, in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN CSL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 962	Household and Commercial Furnishings.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL

recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, CSL must abide by the following conditions of the recognition:

1. CSL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. CSL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. CSL must continue to meet the requirements for recognition, including all previously published conditions on CSL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of CSL, subject to the limitation and conditions specified above.

III. Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on April 23, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–08433 Filed 4–25–19; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19–021)]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting postponement.

REFERENCE: Federal Register, Vol. 84, No. 71, Friday, April 12, 2019, Notices, page 14976.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a postponement of the meeting of the Human Exploration and Operations Committee of the NASA Advisory Council (NAC) scheduled for April 30, 2019, and May 1, 2019, at NASA Headquarters. This meeting is being postponed due to scheduling conflicts of the key participants. The new dates for this meeting will be scheduled in the near future, and announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Designated Federal Officer, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2245, or *bette.siegel@nasa.gov.*

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2019–08457 Filed 4–25–19; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 29, May 6, 13, 20, 27, June 3, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 29, 2019

Tuesday, April 30, 2019

9:55 a.m. Affirmation Session (Public Meeting) (Tentative), Direct Final Rule: Advanced Power Reactor 1400 Design Certification (RIN 3150–AJ67; NRC–2015–0224) (Tentative).

10:00 a.m. Briefing on the Annual Threat Environment (Closed Ex. 1).

Week of May 6, 2019—Tentative

There are no meetings scheduled for the week of May 6, 2019.

Week of May 13, 2019—Tentative

Tuesday, May 14, 2019

9:00 a.m. Briefing on Digital Instrumentation and Control (Public Meeting) (Contact: Jason Paige: 301–415–1474).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, May 16, 2019

10:00 a.m. Briefing on Security Issues (Closed Ex. 1).

2:00 p.m. Briefing on Security Issues (Closed Ex. 1).

Week of May 20, 2019—Tentative

There are no meetings scheduled for the week of May 20, 2019.

Week of May 27, 2019—Tentative

Thursday, May 30, 2019

9:00 a.m. Briefing on Nuclear Regulatory Research Program (Public Meeting) (Contact: Nicholas DiFrancesco: 301–415–1115).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of June 3, 2019—Tentative

There are no meetings scheduled for the week of June 3, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov.*

Dated at Rockville, Maryland, this 23rd day of April, 2019.

For the Nuclear Regulatory Commission.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–08529 Filed 4–24–19; 11:15 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85698; File No. SR–C2–2019–007]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Continuous Quoting Obligations for Market-Makers

April 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2019, Cboe C2 Exchange, Inc. (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its continuous quoting obligations for Market-Makers. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change to its current continuous quoting requirement for Market-Makers under Rule 8.6(d) (Market-Maker Quotes). This proposed rule change to the continuous quoting requirement is based on existing Nasdaq PHLX LLC (''Phlx''), Nasdaq ISE, LLC (''ISE''), Nasdaq MRX, LLC (''MRX'') and Nasdaq GEMX, LLC (''GEMX'') rules[5] previously filed with the Commission. The proposed rule change also intends to harmonize quoting requirements across C2 and its affiliated exchanges, Cboe BZX Exchange, Inc. (''BZX Options'') and Cboe EDGX Exchange, Inc. (''EDGX Options'').[6] Overall, the Exchange believes that having substantially the same Market-Maker continuous quoting requirements across its affiliated exchanges and other exchanges will reduce the compliance burden and confusion for Market-Makers that are members of multiple exchanges industry-wide. The Exchange also proposes to make non-substantive changes to Rule 8.2, amending an inadvertent error to an inaccurate cross-reference and deleting an obsolete provision that is no longer relevant to the Exchange rules and User functionality.

Specifically, the Exchange proposes to amend a Market-Maker's continuous quoting obligations under Rule 8.6(d) based on existing Phlx, ISE, MRX and GEMX rules, previously filed with the Commission. The proposed amendments to Rule 8.2(d) are substantially similar to the continuous quoting requirement provisions on other exchanges.[7] Current Rule 8.6(d) provides that a Market-Maker must enter continuous bids and offers in series in its appointed classes on a daily basis in 60% of the series of each appointed class for 90% of the trading day. The proposed rule change to Rule 8.6(d) requires a Market-Maker to continuously enter bids and offers in series in its appointed classes (pursuant to Rule 8.6(b)) in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Market-Maker's appointed classes are open, excluding any adjusted series, any intra-day add-on series on the day during which such series are added for trading, any Quarterly Option Series and any series with an expiration of greater than 270 days. Additionally, the proposed change amends current subparagraph (d)(2) to provide for the way in which the Exchange calculates this requirement and is explicit in stating that quoting is not required in every appointed class. An example of the proposed calculation is presented below:

Market-Maker A (''Firm A'')[8] has selected an appointment to quote option class U, in which options U1, U2, U3, U4, and U5 are open for trading.

Firm A also has selected appointments in options classes V and W.

Option U1 opened at 09:30:00[9] and closed at 16:00:00

Firm A quoted U1 at 09:35:30 @13.00(10)–15.00(10)

Firm A updated quote in U1 at 09:50:31 @ 10.00(10)–15.00(20)

Firm A purged quote at 15:55:40

Total quoted time for U1 is: 15:55:40–09:35:30 = (15–9) * 3600 + (55–35) * 60 + (40–30) = 22810 (seconds)

Total available quote time for U1 is: 16:00:00–09:30:00 = (16–9) * 3600 + (60–30) * 60 + (00–00) = 270000 (seconds)

Option U2 opened at 09:30:00 and closed at 16:00:00

Firm A quoted U2 at 10:05:30 @13.00(10)–15.00(10)

Firm A updated quote in U2 at 11:00:01 @ 11.00(10)–16.00(20)

Firm A purged quote at 15:05:40

Total quoted time for U2 is: 15:05:40–10:05:30 = (15–10) * 3600 + (65–05) * 60 + (40–30) = 21610 (seconds)

Total available quote time for U2 is: 16:00:00–09:30:00 = (16–9) * 3600 + (60–30) * 60 + (00–00) = 27000 (seconds)

Option U3 opened at 09:30:00 and closed at 16:15:00

Firm A quoted U3 at 11:10:21 @21.00(10)–24.00(20)

Firm A purged quote at 15:15:05

Total quoted time for U3 is: 15:15:05–11:10:21 = (15–11) * 3600 + (75–10) * 60 + (65–21) = 18344 (seconds)

Total available quote time for U3 is: 16:01:20–09:40:02 = (16–9) * 3600 + (75–30) * 60 + (00–00) = 27900 (seconds)

Option U4 opened at 9:30:00 and closed at 16:00:00

Firm A quoted U4 at 09:34:29 @35.00(10)–37.00(10)

[5] *See* Phlx Rule 1081(c); ISE Rule 804(e); MRX Rule 804(e); and GEMX Rule 804(e). *See also* Securities Exchange Act Release No. 83209 (May 10, 2018), 83 FR 22717 (May 16, 2018) (SR–Phlx–2018–22) (Order Granting Approval of Proposed Rule Change to Amend Phlx's Quoting Requirements, Among Other Changes) (SR–Phlx–2018–22).

[6] The Exchange notes that BZX Options and EDGX Options are simultaneously proposing the same continuous quoting requirements.

[7] *See supra* note 5.

[8] The Exchange notes that a Market-Maker may use multiple Executing Firm IDs (''EFIDs'') to submit quotes in a class. The quoting time from all of a Market-Maker EFIDs' will be considered together when determining compliance with this obligation.

[9] All times in example calculation in Eastern Time.

Firm A updated quote in U4 at 10:30:21 @31.00(10)–37.00(20)
Firm A purged quote in U4 at 15:59:34
Total quoted time for U4 is: 15:59:34–09:34:29 = (15–09) * 3600 + (59–34) * 60 + (34–29) = 23105 (seconds)
Total available quote time is: 16:00:00–09:30:00 = (16–9) * 3600 + (60–30) * 60 + (00–0) = 27000 (seconds)

Option U5 opened at 9:30:00 and closed at 16:00:00
Firm A did not quote U5 thus, the total quoted time for U5 will be: 0 (seconds)
Total available quote time is: 16:00:00–09:30:00 = (16–9) * 3600 + (60–30) * 60 + (00–00) = 27000 (seconds)
Total time Firm A quoted class U: 22810 + 21610 + 18344 + 23105 + 0 = 85869 (seconds)
Total eligible quoting time for Firm A on class U: 27000 + 27000 + 27900 + 27000 + 27000 = 135900 (seconds)

Similarly assume:

Total time for Firm A quoted class V: 80983 (seconds)
Total eligible quoting time for Firm A on class V: 84515 (seconds)
Total time for Firm A quoted class W: 0 (seconds)
Total eligible quoting time for Firm A on underlying W: 46513 (seconds)
Then the total quoting percentage for Firm A is: (85869 + 80983 + 0)/(135900 + 84515 + 46513) = 156852/266928 = 62.5%

As stated, the current rule requires a Market-Maker to quote 60% of the series in which it is registered for 90% of each trading day. By comparison, the proposed rule change permits a Market-Maker to quote any percentage of appointed classes so long as the Market-Maker meets the requirement that it enters quotes aggregating 60% of the cumulative seconds across the total seconds that its appointment classes are open for trading. The proposed rule explicitly provides that a Market-Maker does not necessarily have to quote every appointed class. The Exchange believes the proposed rule better accommodates the occasional issues that may arise in a particular class, whether technical or manual. For example, an issue may arise on the Market-Maker's side in which there is a glitch in its systems or a manual computing error that temporarily disrupts quoting ability. The Exchange notes that the existing requirement may at times discourage liquidity in particular classes because a Market-Maker is forced to focus on a momentary technical lapse in order to meet the higher current thresholds, rather than using the appropriate resources to focus on the classes that need and consume additional liquidity. The proposed rule also adds language that the Exchange may announce in advance a higher percentage than the proposed 60% of the cumulative number of seconds requirement, which the Exchange believes may be appropriate on occasions when doing so would be in the interest of a fair and orderly market. This discretion is the same in the corresponding rules of Phlx, ISE, MRX, and GEMX,[10] as well as within the continuous quoting requirements of the Exchanges' affiliated exchanges, BZX Options and EDGX Options. The proposed rule change also moves the series excluded from a Market-Maker's quoting requirement to Rule 8.6(d) and deletes this same language that is currently in subparagraph (d)(3). The proposed change also amends the current quoting exclusion of any series with an expiration of nine months or greater to an expiration of greater than 270 days. The Exchange notes that Market-Makers generally already monitor expirations by a defined count of 270 days, as opposed to a nine month count in which the number of days continuously varies. Therefore, this proposed change intends to align the Exchange's rules with current industry practice.[11] The proposed rule change also amends the current quoting exclusions to include Quarterly Option series. C2 may list and trade Quarterly Options Series pursuant to Rule 5.5(e) and this exclusion is consistent with corresponding Rule 22.6 (Market Maker Quotations) of the Exchange's affiliated exchanges, BZX Options and EDGX Options,[12] as well as the corresponding rules of Phlx, ISE, MRX, and GEMX.[13] Additionally, the proposed rule change amends the reference to the quoting standard in subparagraph (d)(1) to 60%.

As stated, the Exchange amends its continuous quoting requirements to be substantially similar to the requirements under other exchanges' rules.[14] The Exchange believes that proposed amendments to its quoting requirements are reasonable because these requirements are already in place on other options exchanges.[15] The Exchange notes that the proposed change to continuous quoting requirements creates a clear, affirmative Market-Maker obligation to hold themselves out as willing to buy and sell securities for their own account on a continuous basis, which justifies favorable Market-Maker treatment and will continue to provide customer trading interest a net benefit. The Exchange further believes having consistent with other exchanges [16] will simplify the regulatory requirements for its Trading Permit Holders (''TPHs'') that are active across multiple exchanges.

Additionally, the Exchange proposes to make non-substantive changes to Rule 8.2. First, the Exchange proposes to amend an inadvertent mistake regarding a cross reference within Rule 8.2(d). Currently, Rule 8.2 states that the Exchange may limit the number of appointments a Market-Maker may have, or the number of Market-Makers that may have appointments in a class, pursuant to Rule 8.1(b). The Exchange notes, however, that Rule 8.1(c), in fact, is the appropriate provision that allows the Exchange to limit the number of appointments. The Exchange believes this change is necessary to correct an inadvertent error in its rule and provide clarity for TPHs. Furthermore, the Exchange proposes to delete Rule 8.2(c), which currently states that a Market-Maker's appointment in a class confers the right of the Market-Maker to quote (using order functionality) in that class. The Exchange notes that it recently discontinued this order functionality and implemented ''bulk messaging'' quoting functionality that is available to all Users, including Market-Makers.[17] As a result, there is no longer a specific quote functionality available only to Market-Makers, therefore the Exchange believes this provision is no longer necessary. This is also consistent with the rule of its affiliated exchanges, BZX Options and EDGX Options. In line with this proposed deletion, the Exchange changes current Rule 8.2(d) to proposed Rule 8.2(c).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the

[10] *See supra* note 5.

[11] The Exchange notes that EDGX Options and BZX Options are simultaneously proposing to amend their corresponding rules to exclude any series with an expiration of 270 days or greater.

[12] *See* Securities Exchange Act Release No. 71129 (December 18, 2013), 78 FR 77736 (December 18, 2013) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify BATS Options Market Maker Continuous Quoting Obligation Rules) (SR–BATS–2013–062), which adopted exclusions, including Quarterly Options series, to Market Maker's quoting obligations and noted that such exclusions were ''consistent with the rules of several other options exchanges'' and ''did not diminish the quoting obligation''. The Exchange also notes that these exclusions were adopted on EDGX Options when that exchange was established.

[13] *See supra* note 5.

[14] *See supra* note 5.

[15] *See supra* note 6. The same quoting requirements will be incorporated into EDGX Options and BZX Options rules.

[16] *Id.*

[17] *See* Securities Exchange Act Release No. 85038 (February 1, 2019), 84 FR 2598 (February 7, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Discontinue Bulk Order Functionality and Implement Bulk Message Functionality) (SR–C2–2018–025). C2 Rule 1.1.

Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[18] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change to amend Market-Makers' continuous quoting obligations will remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change to a Market-Maker's continuous quoting obligations seeks to conform the quoting obligations to that of the rules of other exchanges.[21] The Exchanges currently requires a Market-Maker to quote in at least 60% the options series in which the Market-Maker is registered during 90% of the trading day. The Exchange believes that applying a Market-Maker's cumulative quoting time to the Market-Maker's aggregate appointed classes to meet a threshold of 60% of the cumulative seconds its appointed classes are open for trading (like that of the current requirements on other exchanges) is less stringent than the Exchange's current requirement because of the lower quoting time threshold and because the proposed requirement does not consider a percentage of its appointed classes, so long as the overall 60% time requirement is met. Further, the Exchange notes that the current continuous quoting requirement potentially discourages liquidity at times when a Market-Maker is forced to focus on making up for a momentary lapse in a particular class rather than allocating appropriate resources to focus on the classes that need and consume additional liquidity, and then allowing a Market-Maker to continue quoting in the class that experienced a lapse after correcting the applicable issue.[22] The Exchange believes that this rule change better accommodates these occasional lapses, whether technical or manual, and enables a Market-Maker to provide appropriate liquidity commensurate with the needs of its appointed classes. Moreover, the Exchange believes that it can better attract Market-Makers, add liquidity, and grow its market to the benefit of all investors, if its quoting obligation is more in line with that of other exchanges. The proposed rule change supports the quality of the Exchange's market by helping to ensure that Market-Makers will continue to be obligated to quote in a percentage of their appointed classes. Ultimately, the benefit the proposed rule change confers upon Market-Makers is offset by the continued responsibilities to provide significant liquidity to its appointed classes to the benefit of all market participants. The Exchange believes that the proposed change to continuous quoting requirements creates a clear, affirmative Market-Maker obligation to hold themselves out as willing to buy and sell securities for their own account on a continuous basis, which justifies favorable Market-Maker treatment and will continue to provide customer trading interest a net benefit. The Exchange further notes that the proposed rule text is consistent with the Act because the quoting obligations are substantially the same as quoting obligations on Phlx, ISE, MRX, and GEMX today, previously filed with the Commission.[23] Additionally, the Exchange notes that the proposed rule change including Quarterly Option series among the series excluded from quoting obligations is intended to harmonizing series excluded across the Exchange and its affiliated exchanges,[24] as well as other exchanges,[25] which will provide clarity for Market-Makers participating across multiple exchanges. Furthermore, the Exchange believes the proposed rule change excluding any series with an expiration greater than 270 days, as opposed to nine months or greater, from a Market-Maker's quoting obligations is in line with the way in which Market-Makers currently monitor expiration. As a result, the Exchange believes that this change will foster cooperation and coordination with persons engaged in regulating securities, as well as facilitating transactions in securities. The proposed change will reduce confusion by codifying an industry practice already in place and harmonizing expiration time across the Exchange and its affiliated exchanges.[26] The Exchange also notes that the proposed changes are reasonable and do not affect investor protection because the proposed changes do not present any novel or unique issues, as they have either been previously filed with the Commission or are codifying an industry practice currently in place.

Moreover, the Exchange believes that the amendment to the cross-reference in current Rule 8.2(d) (proposed Rule 8.2(c)) corrects an inadvertent cross-reference error and that the proposed deletion of Rule 8.2(c) updates its rules to reflect the recent discontinuation of the order functionality referenced in Rule 8.2(c) and implementation of bulk messaging functionality, which allows all Users, including Market-Makers, to enter quotes. As a result, these changes provide clarity and reduce confusion for investors.

Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[27] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's TPHs and persons associated with its TPHs with the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange notes that the proposed rule change to a Market-Maker's continuous quoting requirements will serve to harmonize the quoting requirement for Market-Makers across its affiliated exchanges, EDGX Options and BZX Options that are also proposing substantially the same requirements. The Exchange thus believes these proposed changes create uniformity, which allows for the Exchange to organize across affiliated exchanges and to more easily enforce compliance by participants on multiple affiliated exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change to a Market-Maker's continuous quoting requirements under

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *See supra* note 5.

[22] *See also* Exchange Rule 8.6(d)(1). The Exchange already accounts for technical failure or limitation due to the automated trading system the Exchange uses for the trading of option contracts (''System'').

[23] *See supra* note 5.

[24] *See* BZX Options Rule 22.6 and EDGX Options Rule 22.6.

[25] *See supra* note 5.

[26] *See supra* note 9.

[27] 15 U.S.C. 78f(b)(1).

Rule 8.6 does not affect intramarket competition. The proposed applies an affirmative obligation to all Market-Makers to hold themselves out as continuously willing to buy and sell options for their own account, justifying favorable treatment and benefitting the trading interest of all customers. The Exchange believes that the proposed change to continuous quoting requirements does not affect intermarket competition, as this proposal is based on other exchanges' rules previously filed with the Commission.[28] The Exchange also notes that to the degree that other exchanges have varying continuous quoting obligations for Market-Makers, market participants on other exchanges are welcome to become Market-Makers on C2 if they determine that this proposed rule change has made market making on C2 more attractive or favorable. Finally, the Exchange believes that the proposed rule change will relieve any burden on market participants because it serves to provide Market-Makers with affirmative quoting requirements that ensure each appointed class will receive appropriate liquidity to the benefit of all market participants who interact with that liquidity.

Additionally, the proposed rule change to amend Rule 8.2 does not address competitive issues, but rather, as discussed above, is merely intended to correct an inadvertent uses of an inaccurate cross-reference, as well as delete an obsolete provision, which will alleviate potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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[29] and Rule 19b–4(f)(6)[30] 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–C2–2019–007 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–C2–2019–007. 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–C2–2019–007 and should be submitted on or before May 17, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–08398 Filed 4–25–19; 8:45 am]

BILLING CODE 8011–01–P

[28] *See supra* note 5.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85699; File No. SR–MSRB–2019–08]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Certain MSRB Rules To Update Cross-References to the Rules of Other Self-Regulatory Organizations, To Amend Rules With Grammatical or Typographical Errors and To Delete Certain Sections of MSRB Rules That Are Outdated or No Longer Relevant

April 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 10, 2019 the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to amend certain MSRB rules to update cross-references to the rules of other self-regulatory organizations (SROs), to amend rules with grammatical or typographical errors and to delete certain sections of MSRB rules that are outdated or no longer relevant given the expiration or passing of time limitations set forth therein (the ''proposed rule change''). The MSRB is filing the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change under Section 19(b)(3)(A)(iii) [3] of the Act and Rule 19b–4(f)(6) [4] thereunder, as a noncontroversial rule change that renders the proposal effective upon receipt of this filing by the Commission. The operative date of the proposed rule change will be June 3, 2019.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2019-Filings.aspx,* at the MSRB's principal office, 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 MSRB 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 MSRB 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 MSRB has been conducting a retrospective review of its rules in an effort to ensure the rules are effective in their principal goal of protecting investors, issuers and the public interest. The retrospective review also seeks to ensure that MSRB rules are not overly burdensome, are clear and harmonized with the rules of other regulators, as appropriate, and are reflective of current market practices.

In its review, the MSRB identified several instances where cross references to the rules of other SROs are incorrect. In addition, the MSRB has identified two rule sections with date references that are no longer valid. Finally, the MSRB has identified several places where grammatical or typographical corrections are needed. The proposed rule change would make non-substantive changes to address these issues.

Cross-References to Other SRO Rules

The Financial Industry Regulatory Authority (FINRA) is an SRO providing regulatory oversight of brokers and dealers doing business in the United States. It was formed by the consolidation of the member regulation, enforcement and arbitration operations of the New York Stock Exchange, NYSE Regulation, Inc. and the National Association of Securities Dealers (NASD). Prior to this consolidation, the NASD served as a predecessor SRO to FINRA. As a result, many of the MSRB's rules continue to cross-reference outdated NASD rules that have since been updated with the creation of the FINRA rulebook.[5] The proposed rule change would update incorrect NASD rule references in the MSRB rulebook to the correct FINRA rule, by amending:

- Rule G–20, on gifts, gratuities, non-cash compensation and expenses of issuance, to change the reference in subsection (b)(iv) from NASD Rule 2830 to FINRA Rule 2341.
- Rule G–27, on supervision, to change references in subsection (g)(vi) from NASD Rules 2110, 2120, 2310, 2330, 2440, 3010 (failure to supervise only), 3310 and 3330 to FINRA Rules 2010, 2020, 2111, 2150, 2121, 3110 (failure to supervise only), 5210 and 5230, respectively.
- Rule G–35, on arbitration, to delete reference to ''the Code of Arbitration Procedure of the National Association of Securities Dealers, Inc. (''NASD''),'' ''NASD's Code of Arbitration Procedure,'' and ''NASD'' and to change these reference as follows:
  - Code of Arbitration Procedure of the National Association of Securities Dealers, Inc. (''NASD'') would be changed to ''the Financial Industry Regulatory Authority's (FINRA) Code of Arbitration Procedure for Customer Disputes and Code of Arbitration Procedure for Industry Disputes, as appropriate,''
  - NASD's Code of Arbitration Procedure would be changed to ''FINRA's Code of Arbitration Procedure for Customer Disputes and Code of Arbitration Procedure for Industry Disputes, as appropriate,'' and
  - NASD would be changed to ''FINRA''.
- Rule G–41, on anti-money laundering compliance programs, to change the reference therein from NASD Rule 3011 to FINRA Rule 3310.

Outdated Date References

There are two MSRB rules that have date references that are outdated or no longer necessary for purposes of compliance with the rules. To eliminate these outdated or unnecessary references, the proposed rule change would amend:

- Rule G–38, on solicitation of municipal securities business, to delete subsection (c) in its entirety, as this section addresses transitional payments made for solicitation activities that occurred ''on or prior to August 29, 2005.'' In particular, this subsection requires a filing to be made ''by the last day of the month following the end of each calendar quarter during which payments for such solicitations are made or remain pending.'' The MSRB has not received a Form G–38t filing for two years which would indicate payments for solicitations pursuant to subsection (c) are no longer occurring or pending. If such payments were still being made or were pending for activity occurring prior to August 29, 2005, a Form G–38t would have been filed indicating so. As a result, the MSRB believes there is no longer a need for the requirements set forth in subsection (c). The proposed rule change also would delete from section (a) reference to section (c) for consistency.
- Rule G–45, on reporting of information on municipal fund securities, to delete subsection (e), which provides a transition provision for reporting related to the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (''ABLE program''). Rule G–45 requires reporting of information on Form G–45 to the MSRB of certain primary offerings of municipal fund securities. Subsection (e) indicates that for underwriters in primary offerings of an ABLE program, the first submissions due pursuant to the rule ''will be for the reporting period ending June 30, 2018.'' Because this deadline has passed, the proposed rule change would delete this provision as it is no longer necessary for compliance with the rule.

Typographical or Grammatical Errors

The proposed rule change would fix typographical or grammatical errors by amending:

- Rule G–12, on uniform practice, to delete duplicative language from paragraph (h)(ii)(A) on close-out by seller.
- Rule G–26, on customer account transfers, to change the word ''affect'' to ''effect'' as it appears in Supplementary Material .02 Written Procedures.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] In some instances, a single NASD rule subsequently became multiple FINRA rules (*e.g.,* NASD Rule 3010 became FINRA Rules 3110 and 3170). The proposed rule change only references those FINRA rules that are relevant to the particular MSRB rule being amended.

Act,[6] which provides that the MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change would promote just and equitable principles of trade by ensuring that existing rule provisions are accurate and understandable. While the proposed rule change affects rules applicable to brokers, dealers and municipal securities (''dealers''), it is meant to clarify existing MSRB rules and would not impose additional burdens on dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[7] The MSRB 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 Exchange Act because it would apply equally to all dealers.[8]

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.

[6] 15 U.S.C. 78*o*–4(b)(2)(C).

[7] *Id.*

[8] The Board's policy on the use of economic analysis limits its applications regarding those rules for which the Board seeks immediate effectiveness. The scope of the Board's policy on the use of economic analysis in rulemaking provides that: ''[t]his Policy addresses rulemaking activities of the MSRB that culminate, or are expected to culminate, in a filing of a proposed rule change with the SEC under Section 19(b) of the Exchange Act, other than a proposed rule change that the MSRB reasonably believes would qualify for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act if filed as such (*e.g.,* fee filing or facility filing) or as otherwise provided under the exception process of this Policy.'' Policy on the Use of Economic Analysis in MSRB Rulemaking. For those rule changes which the MSRB seeks immediate effectiveness, the MSRB usually focuses exclusively its examination on the burden of competition on regulated entities.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act[9] and Rule 19b-4(f)(6)[10] 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.

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–MSRB–2019–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2019–08. 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 MSRB. 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–MSRB–2019–08 and should be submitted on or before May 17, 2019.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

For the Commission, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

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BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33450; 812–14995]

M–CAM International LLC, et al.

April 23, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: M–CAM International LLC (the ''Initial Adviser''), a Virginia limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940, Listed Funds Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC, (the ''Initial Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on January 3, 2019, and amended on April 1, 2019.

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 May 20, 2019, 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, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: M–CAM International LLC, 210 Ridge McIntire Road, Suite #300, Charlottesville, VA 22903; Listed Funds Trust, c/o U.S. Bancorp Fund Services, LLC, 615 East Michigan Street, Milwaukee, Wisconsin 53202; and Quasar Distributors, LLC, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Senior Counsel, at (202) 551–7345, or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (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.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in

[1] Applicants request that the order apply to the new series of the Trust and any additional series of the Trust and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, the term ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–08468 Filed 4–25–19; 8:45 am]

BILLING CODE 8011–01–P

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 19h–1, SEC File No. 270–247, OMB Control No. 3235–0259

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 19h–1 (17 CFR 240.19h–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 19h–1 prescribes the form and content of notices and applications by self-regulatory organizations (''SROs'') regarding proposed admissions to, or continuances in, membership, participation or association with a member of any person subject to a statutory disqualification.

The Commission uses the information provided in the submissions filed pursuant to Rule 19h–1 to review decisions by SROs to permit the entry into or continuance in the securities business of persons who have committed serious misconduct. The filings submitted pursuant to the Rule also permit inclusion of an application to the Commission for consent to associate with a member of an SRO notwithstanding a Commission order barring such association.

The Commission reviews filings made pursuant to the Rule to ascertain whether it is in the public interest to permit the employment in the securities business of persons subject to statutory disqualification. The filings contain information that is essential to the staff's review and ultimate determination on whether an association or employment is in the public interest and consistent with investor protection.

It is estimated that approximately 20 respondents will make submissions pursuant to this Rule annually. With respect to submissions for Rule 19h–1(a) notices, and based upon past submissions, the staff estimates that respondents will make a total of 11 submissions per year. The staff estimates that the average number of hours necessary to complete a submission pursuant to Rule 19h–1(a) notices is 80 hours (for a total annual burden for all respondents in the amount of 17,600 hours). With respect to submissions for Rule 19h–1(a)(4) notifications, and based upon past submissions, the staff estimates that respondents will make a total of 9 submissions per year. The staff estimates that the average number of hours necessary to complete a submission pursuant to Rule 19h–1(a)(4) notifications is 80 hours (for a total annual burden for all respondents in the amount of 14,400 hours). With respect to submissions for Rule 19h–1(b), and based upon past submissions, the staff estimates that respondents will make a total of 28 submissions per year. The staff estimates that the average number of hours necessary to complete a submission pursuant to Rule 19h–1(b) is 13 hours (for a total annual burden for all respondents in the amount of 7,280 hours). With respect to submissions for Rule 19h–1(d), and based upon past submissions, the staff estimates that respondents will make a total of 5 submissions per year. The staff estimates that the average number of hours necessary to complete a submission pursuant to Rule 19h–1(d) is 80 hours (for a total annual burden for all respondents in the amount of 8,000 hours). The aggregate annual burden for all respondents is thus 47,280 hours (17,600 + 14,400 + 7,280 + 8,000).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief

Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: April 23, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–08469 Filed 4–25–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85701; File No. SR–CboeBZX–2019–016]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Allow the JPMorgan Core Plus Bond ETF of the J.P. Morgan Exchange-Traded Fund Trust To Hold Certain Instruments in a Manner That May Not Comply With Rule 14.11(i), Managed Fund Shares

April 22, 2019.

I. Introduction

On March 5, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') 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 the listing requirements applicable to shares (''Shares'') of the JPMorgan Core Plus Bond ETF (''Fund''), which Shares are currently listed on the Exchange pursuant to the generic listing standards applicable to Managed Fund Shares under BZX Rule 14.11(i) (Managed Fund Shares). The proposed rule change was published for comment in the **Federal Register** on March 22, 2019.[3] On March 28, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change as originally filed.[4] The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 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 [5]

The Shares are currently listed on the Exchange pursuant to the Generic Listing Standards and began trading on January 30, 2019. The Shares are offered by the J.P. Morgan Exchange-Traded Fund Trust (''Trust''), which is registered as an open-end management investment company under the Investment Company Act of 1940 (''1940 Act'').[6] J.P Morgan Investment Management, Inc. is the investment adviser (''Adviser'') to the Fund.[7] JPMorgan Chase Bank, N.A. is the administrator, custodian, and transfer agent for the Trust. JPMorgan Distribution Services, Inc. serves as the distributor for the Trust.

The Exchange states that the Fund is an actively managed exchange-traded fund that seeks a high level of current income by investing primarily in a diversified portfolio of high-, medium-, and low-grade debt securities.[8] The Exchange states that, while the Fund currently meets all of the Generic Listing Standards, the Adviser would like to increase the flexibility of the Fund's holdings in a way that might not meet such requirements. As such, the Exchange has submitted this proposal in order to allow the Shares to continue listing and trading on the Exchange while holding certain instruments in a manner that may not comply with the Generic Listing Standards, as further described below.

A. The Fund's Primary Investments

The Fund seeks to achieve its investment objective by investing, under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85349 (March 18, 2019), 84 FR 10874.

[4] In Amendment No. 1, the Exchange: (a) Clarified that (i) the Shares are currently listed and traded on the Exchange pursuant to the generic listing standards applicable to Managed Fund Shares under BZX Rule 14.11(i) (''Generic Listing Standards''), (ii) the Fund currently meets the Generic Listing Standards, and (iii) the Fund will continue to meet the Generic Listing Standards unless and until the proposed rule change is approved; (b) clarified that the Exchange will measure derivatives holdings using gross notional value of the derivatives as required by the Generic Listing Standards (rather than using mark-to-market value of derivatives); (c) stated that in response to adverse market, economic, or political conditions, the Fund reserves the right to invest in cash and Cash Equivalents (as defined below), without limitation, as determined by the Adviser; (d) clarified the types of mortgage-backed securities that are permitted investments of the Fund; (e) clarified that, consistent with the requirements of BZX Rule 14.11(i)(4)(C)(ii)(e), the Fund will limit aggregate investments in asset-backed securities and Private MBS (as defined below) to 20% of the weight of the fixed income portion of the Fund's portfolio; (f) represented that the Fund's holdings in Cash Equivalents and over-the-counter (''OTC'') derivative instruments will be in compliance with the limitations provided in BZX Rules 14.11(i)(4)(C)(iii) and 14.11(i)(4)(C)(v), respectively, and that both listed and OTC derivative instruments will be in compliance with the limitations of BZX Rule 14.11(i)(4)(C)(vi); (g) clarified that because the Fund will not purchase Equity Holdings (as defined below) and will only hold such instruments if they are issued to the Fund by virtue of its holdings in Bonds (as defined below), Equity Holdings are excluded from the description of the Fund's permitted investments; (h) clarified that while listed derivatives positions are limited to 20% of the Fund's net assets, the gross notional exposure related to such positions can be significantly larger, and thus, the Fund may have gross notional exposure to Eurodollar and G–7 Sovereign Futures and Options (as defined below) in excess of 65%; (i) provided updated data on open interest in Eurodollar and G–7 Sovereign Futures and Options; (j) represented that the Fund will adhere to its stated investment objective under Normal Market Conditions (as defined below); (k) represented that the Exchange, the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, or both may obtain information regarding trading in the Shares and the underlying listed instruments held by the Fund with the Intermarket Surveillance Group (''ISG''), other markets or entities who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement; (l) provided additional justification as to why the proposed changes to the Fund's investments are consistent with the Act even though the Fund's proposed holdings would no longer meet certain of the Generic Listing Standards; and (m) made other clarifications, corrections, and technical changes to the proposal. Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-cboebzx-2019-016/srcboebzx2019016-5299386-183807.pdf.*

[5] Additional information regarding the Fund, the Trust (as defined below), and the Shares can be found in Amendment No. 1 and the Registration Statement. *See supra* note 4 and *infra* note 6.

[6] According to the Exchange, on January 23, 2019, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–191837 and 811–22903) (''Registration Statement''). In addition, according to the Exchange, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No.31990 (February 9, 2016) (File No. 812–13761).

[7] The Exchange represents that the Adviser is not a registered broker-dealer but is affiliated with multiple broker-dealers and has implemented and will maintain ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, the Exchange represents that the Adviser's personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition of and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[8] The Exchange states that the Fund plans to employ a strategy very similar to that currently employed by JPMorgan Core Plus Bond Fund, a mutual fund operated by the Adviser since March 5, 1993.

Normal Market Conditions,[9] at least 80% of its net assets in ''Bonds,'' as defined herein. For purposes of the proposal, the Exchange defines the term ''Bond'' to include only the following instruments:

- Corporate bonds;
- U.S. government and agency debt securities;
- asset-backed securities (''ABS''); [10]
- municipal securities;
- credit linked notes;
- participation notes;
- collateralized debt obligations;
- agency, non-agency, and stripped mortgage-related and mortgage-backed securities (''MBS'') (including adjustable rate mortgage loans); [11]
- convertible securities (including contingent convertible securities);
- preferred stock;
- loan participations and assignments;
- commitments to loan assignments;
- variable and floating rate instruments;
- commercial paper; and
- foreign and emerging market debt securities.

The Exchange states that the Adviser intends to hold ABS and MBS as part of a strategy designed to manage portfolio risk by diversifying away from corporate debt and to take advantage of certain market environments. Consistent with the requirements of BZX Rule 14.11(i)(4)(C)(ii)(e), the Fund will limit aggregate investments in ABS and Private MBS (together, ''ABS/Private MBS'') to 20% of the weight of the fixed income portion of the Fund's portfolio.

The Adviser will invest across the credit spectrum to provide the Fund exposure to various credit ratings. Under Normal Market Conditions, at least 65% of the Fund's assets will be invested in securities that, at the time of purchase, are rated investment grade by a nationally recognized statistical rating organization or in securities that are unrated but are deemed by the Adviser to be of comparable quality. Among others, such securities include U.S. or foreign MBS and U.S. or foreign ABS. Under Normal Market Conditions, the Fund will not invest more than 35% of its assets in securities rated below investment grade. The Fund's average weighted maturity will ordinarily range between five and twenty years.

B. Other Permitted Investments of the Fund

Under Normal Market Conditions, the Fund may also invest up to 20% of its net assets in the following:

- Cash and certain Cash Equivalents [12] that are not otherwise captured under the definition of Bond;
- the following listed derivative instruments:
  - Futures and options (including options on futures) referencing Eurodollars and sovereign debt issued by the United States (*i.e.,* treasury securities) and other ''Group of Seven'' countries,[13] where such futures and options contracts are listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement (''Eurodollar and G–7 Sovereign Futures and Options'');
  - the following additional types of futures: Debt futures, interest rate futures, index futures, foreign exchange futures, and equity futures;
  - the following additional types of options: Equity options, Treasury options, options on Treasury futures, and foreign exchange options; and
  - the following types of swaps: Interest rate swaps, foreign exchange swaps, credit default swaps (including single-name and index reference pools) (''CDS''), loan credit default swap indices, and inflation-linked swaps; and
- the following OTC derivative instruments:
  - The following types of options: Index options and foreign exchange options;
  - swaptions;
  - the following types of swaps: CDS, foreign exchange swaps, loan credit default swap indices, inflation-linked swaps, interest rate swaps, and non-dollar swaps;
  - non-deliverable forward contracts; and
  - foreign exchange forward contracts.

The Exchange states that the Fund's holdings in Cash Equivalents and OTC derivative instruments will be in compliance with the limitations provided in BZX Rules 14.11(i)(4)(C)(iii) [14] and 14.11(i)(4)(C)(v),[15] respectively. In addition, the Exchange states that the Fund's holdings in both listed and OTC derivative instruments will be in compliance with the limitations of BZX Rule 14.11(i)(4)(C)(vi).[16]

The Exchange states that the Fund, by virtue of its Bond holdings, may be issued certain equity instruments (''Equity Holdings'') that may not meet the requirements of Rule

[9] As defined in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. The Exchange states that in response to adverse market, economic, or political conditions, the Fund reserves the right to invest in cash and Cash Equivalents, as defined below, without limitation, as determined by the Adviser.

[10] According to the Exchange, ABS are securitized products in connection with which the securities issued, which may be issued by either a U.S. or a foreign entity, are collateralized by any type of financial asset, such as a consumer or student loan, a lease, or a secured or unsecured receivable. The Exchange states that for purposes of the filing, ABS exclude: (i) MBS (as defined below); (ii) a small business administration backed ABS traded ''To Be Announced'' or in a specified pool transaction as defined in FINRA Rule 6710(x); and (iii) U.S. or foreign collateralized debt obligations.

[11] The Exchange states that MBS are securities that represent direct or indirect participations in, or are collateralized by and payable from, mortgage loans secured by real property and which may be issued or guaranteed by government-sponsored entities (''GSEs''), such as Fannie Mae or Freddie Mac, or issued or guaranteed by agencies of the U.S. government, such as the Government National Mortgage Association (''Ginnie Mae''). The Exchange states that for purposes of the proposal, MBS include only collateralized mortgage obligations (''CMOs''), which are debt obligations collateralized by mortgage loans or mortgage pass-through securities. Typically, CMOs are collateralized by Ginnie Mae, Fannie Mae or Freddie Mac certificates, but they may also be collateralized by whole loans or pass-through securities issued by private issuers (*i.e.,* issuers other than U.S. government agencies or GSEs) (''Private MBS''). Payments of principal and of interest on the mortgage-related instruments collateralizing the MBS, and any reinvestment income thereon, provide the funds to pay debt service on the CMOs. In a CMO, a series of bonds or certificates is issued in multiple classes. Each class of CMOs, often referred to as a ''tranche'' of securities, is issued at a specified fixed or floating coupon rate and has a stated maturity or final distribution date.

[12] As defined in Exchange Rule 14.11(i)(4)(C)(iii)(b), Cash Equivalents are short-term instruments with maturities of less than three months, which includes only the following: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[13] The Exchange states that Group of Seven (or ''G–7'') countries include the United States, Canada, France, Germany, Italy, Japan and the United Kingdom.

[14] Rule 14.11(i)(4)(C)(iii) contains Generic Listing Standards for cash and Cash Equivalents.

[15] Rule 14.11(i)(4)(C)(v) requires that the aggregate gross notional value of OTC derivatives not exceed 20% of the weight of the portfolio (including gross notional exposures).

[16] Rule 14.11(i)(4)(C)(iv) provides that to the extent listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the aggregate gross notional value of such exposure will meet the Generic Listing Standards applicable to equities and fixed income securities (including gross notional exposures), respectively.

14.11(i)(4)(C)(i).[17] The Adviser expects that the Fund will generally acquire such instruments through issuances that it receives by virtue of its other holdings, such as corporate actions or convertible securities. The Exchange states that the Fund will not purchase such instruments and the Fund will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders. The Exchange states that such Equity Holdings will not constitute more than 10% of the Fund's net assets.[18]

C. The Fund's Investment Restrictions

The Exchange states that the Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[19] That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A). The Fund will only use the derivatives described above and the Fund's use of derivative instruments will be collateralized.

D. Application of the Generic Listing Standards

The Exchange has submitted this proposal in order to allow the Fund to hold instruments in a manner that may not comply with the Generic Listing Standards, as further described below. The Exchange represents that, except as described below, the Fund would continue to satisfy all of the Generic Listing Standards under BZX Rule 14.11(i)(4)(C) and to comply with all other applicable continued listing requirements for Managed Fund Shares under BZX Rule 14.11(i). The Exchange represents that the Fund, which is currently listed and trading pursuant to the Generic Listing Standards, will continue to meet the Generic Listing Standards unless and until this proposal is approved.

The Exchange proposes that the Fund will not comply with Rule 14.11(i)(4)(C)(ii)(d), which requires that ''component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.'' The Exchange instead proposes that the fixed income portion of the portfolio, excluding ABS and Private MBS, will satisfy this 90% requirement.

In addition, the Exchange proposes that the Fund will not comply with Rule 14.11(i)(4)(C)(iv)(b), which provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' Specifically, the Exchange proposes that the Fund be exempt from these requirements as they relate to the Fund's holdings in Eurodollar and G–7 Sovereign Futures and Options.[20] The Exchange states that the Fund's holdings in other listed derivatives, when calculated independently of the Fund's holdings in Eurodollar and G–7 Sovereign Futures and Options, will meet the requirements of Rule 14.11(i)(4)(C)(iv)(b).

Finally, the exchange proposes that the Fund will not comply with Rule 14.11(i)(4)(C)(i), which contains Generic Listing Standards for equity securities in the portfolio. As discussed above, the Fund, by virtue of its other holdings, may be issued Equity Holdings that may not meet the requirements of Rule 14.11(i)(4)(C)(i). The Exchange represents that the Fund will not purchase such instruments and will dispose of such holdings as the Adviser determines is in the best interest of the Fund's shareholders. In addition, the Exchange represents that the Equity Holdings will not constitute more than 10% of the Fund's net assets.

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 Act and the rules and regulations thereunder applicable to a national securities exchange.[21] 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,[22] which requires, among other things, that the Exchange's rules 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.

The Shares would continue to satisfy all of the Generic Listing Standards except for the requirements of Rule 14.11(i)(4)(C)(ii)(d), Rule 14.11(i)(4)(C)(iv)(b), and Rule 14.11(i)(4)(C)(i), as described specifically herein.[23]

As discussed above, the Fund will not meet the requirement that securities comprising at least 90% of the fixed income weight of the Fund's portfolio meet one of the criteria set forth in BZX Rule 14.11(i)(4)(C)(ii)(d) because the ABS/Private MBS that the Fund may invest in would not satisfy such requirement.[24] Instead, the Exchange proposes that the fixed income portion

[17] Rule 14.11(i)(4)(C)(i) contains Generic Listing Standards for equity securities.

[18] The Exchange states that the Fund will not purchase Equity Holdings and, as such, they are excluded from both the 80% and the 20% buckets described above.

[19] The Exchange states that the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's board of directors and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. The Exchange states that these procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance.

[20] The Exchange states that, while listed derivatives positions are limited to 20% of the Fund's net assets, the gross notional exposure related to such positions can be significantly larger. As such, the Fund may have gross notional exposure to Eurodollar and G–7 Sovereign Futures and Options in excess of 65%.

[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] *See supra* Section II.D.

[24] The Exchange states that ABS/Private MBS are generally issued by special purpose vehicles, so the criteria in Rule 14.11(i)(4)(C)(ii)(d) regarding an issuer's market capitalization and the remaining principal amount of an issuer's securities are typically unavailable with respect to ABS/Private MBS, even though such ABS/Private MBS may own significant assets. *See* Amendment No. 1, at 46, n. 36.

of the portfolio excluding ABS/Private MBS would satisfy this 90% requirement. The Exchange states that the Fund's investment portfolio will be diverse, and that the Adviser closely monitors investments to ensure maintenance of credit and liquidity standards.[25] The Commission believes the diversification of the Fund's portfolio, and the fact that the fixed income portion of the portfolio, excluding ABS and Private MBS, will comply with Rule 14.11(i)(4)(C)(ii)(d), should mitigate manipulation concerns relating to the Shares. The Commission notes that it recently approved a similar exception to the Generic Listing Standards for an issue of Managed Fund Shares permitted to invest in fixed income securities.[26] The Commission also notes that, consistent with the requirements of BZX Rule 14.11(i)(4)(C)(ii)(e), the Fund will limit aggregate investments in ABS/Private MBS to 20% of the weight of the fixed income portion of the Fund's portfolio.

Also as discussed above, the Fund's investments in Eurodollar and G–7 Sovereign Futures and Options will not comply with the 65% and 35% concentration limits in BZX Rule 14.11(4)(C)(iv)(b). The Commission believes that manipulation concerns relating to the Shares are sufficiently mitigated because Eurodollar and G–7 Sovereign Futures and Options are highly liquid and will be listed on an exchange that is an ISG member or an exchange with which the Exchange has a comprehensive surveillance sharing agreement. In addition, the Exchange represents that all other listed derivatives that the Fund may invest in will comply with the concentration requirements set forth in the Generic Listing Standards.[27] The Commission notes that it recently approved a similar exception to the Generic Listing Standards for an issue of Managed Fund Shares permitted to invest in Eurodollar and G–7 Sovereign Futures and Options.[28]

Finally, the Fund's investments in Equity Holdings will not comply with the Generic Listing Standards for equity securities set forth in BZX Rule 14.11(i)(4)(C)(i). The Commission believes that manipulation concerns relating to the Shares are sufficiently mitigated because the Equity Holdings would be acquired only by virtue of the Fund's other holdings and the Fund would not purchase the Equity Holdings, the Fund would dispose of the Equity Holdings as the Adviser determines is in the best interest of the Fund's shareholders, and the Equity Holdings would be limited to 10% of the Fund's assets.[29]

In support of this proposal, the Exchange has also made the following representations:

(1) The Shares will be subject to BZX Rule 14.11(i), which sets forth the continued listing criteria applicable to Managed Fund Shares. Other than as described above, the Fund will continue to satisfy all of the Generic Listing Standards under BZX Rule 14.11(i)(4)(c) and all other continued listing requirements of BZX Rule 14.11(i).

(2) The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

(3) The Exchange, FINRA, on behalf of the Exchange, or both will communicate, and may obtain information, regarding trading in the Shares and the underlying listed instruments, including listed derivatives and certain Equity Holdings, held by the Fund with the ISG, other markets or entities who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine. Trade price and other information relating to municipal securities is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system.

(4) The Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A). The Fund will only use those derivatives described above and the Fund's use of derivative instruments will be collateralized.

(5) All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of reference asset, and intraday indicative values, and the applicability of Exchange rules specified in this filing shall constitute continued listing requirements for the Fund.

(6) The issuer will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

(7) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(8) The issuer of the Fund is required to comply with Rule 10A–3 under the Act[30] for the initial and continued listing of the Shares.

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 1.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act[31] and Section 11A(a)(1)(C)(iii) of the Act[32] and the rules and regulations thereunder applicable to a national securities exchange.

IV. 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 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–016 on the subject line.

[25] *See* Amendment No. 1, at 46–47.

[26] *See* Securities Exchange Act Release No. 84047 (September 6, 2018), 83 FR 46200 (September 12, 2018) (SR–Nasdaq–2017–128) (approving the listing and trading of shares of the Western Asset Total Return ETF).

[27] *See* Amendment No. 1, at 47–48.

[28] *See supra* note 26.

[29] *See* Amendment No. 1, at 48.

[30] *See* 17 CFR 240.10A–3.

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–016, and should be submitted on or before May 17, 2019.

V. 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**. The Commission notes that Amendment No. 1 clarifies the proposed investments of the Fund, including any limitations on such investments. Amendment No. 1 also provides other clarifications and additional information to the proposed rule change.[33] The changes and additional information in Amendment No. 1 assist the Commission in finding that the proposal is consistent with the Act. 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.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–CboeBZX–2019–016), 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]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–08400 Filed 4–25–19; 8:45 am]

BILLING CODE 8011–01–P

[33] *See supra* note 4.

[34] 15 U.S.C. 78s(b)(2).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85700; File No. SR–EMERALD–2019–18]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100, Definitions

April 22, 2019.

Pursuant to the provisions of 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 April 17, 2019, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

The Exchange is filing a proposal to amend Exchange Rule 100, Definitions, to make a minor non-substantive edit to the rule text.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald's principal office, 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 Exchange Rule 100, Definitions, to make a minor non-substantive edit to the definition for an Electronic Exchange Member in order to provide consistency and clarity within the rule text.

Currently, the rule text for an Electronic Exchange Member in Exchange Rule 100 provides: The term ''Electronic Exchange Member means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act.[3]

The Exchange proposes to amend the definition for an Electronic Exchange Member in Exchange Rule 100 to insert the abbreviation for Electronic Exchange Member as an ''EEM'' to provide consistency and clarity within the rule text. With the proposed change, the definition for an Electronic Exchange Member would provide: The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act.

The proposed change would align the rule text for the definition of an Electronic Exchange Member with the rest of the rule text for MIAX Emerald.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 100.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange is proposing to amend the definition for an Electronic Exchange Member in Exchange Rule 100 to insert the abbreviation for Electronic Exchange Member as an ''EEM'' to provide consistency and clarity within the rule text. The proposed change would align the rule text for the definition of an Electronic Exchange Member with the rest of the rule text for MIAX Emerald. The Exchange believes its proposal will reduce the potential for confusion by ensuring that all references to an Electronic Exchange Member by its abbreviation as an EEM throughout the rule text conforms to the definition for an Electronic Exchange Member in Exchange Rule 100.

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. Specifically, the Exchange believes that, by amending the definition for an Electronic Exchange Member in Exchange Rule 100 to insert the abbreviation for Electronic Exchange Member as an ''EEM'' will provide consistency and clarity within the rule text. The proposed change would align the rule text for the definition of an Electronic Exchange Member with the rest of the rule text for MIAX Emerald.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [6] and Rule 19b–4(f)(6) [7] 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 shall institute proceedings to determine whether the proposed rule 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–EMERALD–2019–18 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 Number SR–EMERALD–2019–18. 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 Number SR–EMERALD–2019–18, and should be submitted on or before May 17, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–08401 Filed 4–25–19; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 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.

[8] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2019–0019]

Privacy Act of 1974; System of Records

AGENCY: Office of Disability Determinations, Deputy Commissioner of Operations, Social Security Administration (SSA).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act, we are issuing public notice of our intent to modify an existing system of records entitled, Completed Determination Record—Continuing Disability Determinations, (60–0050), last published in January 11, 2006. This notice publishes details of the proposed updates as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the routine use, which is effective May 28, 2019. We invite public comment on the routine use or other aspects of this SORN. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments.

Therefore, please submit any comments by May 28, 2019.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401 or through the Federal e-Rulemaking Portal at *http://www.regulations.gov,* please reference docket number SSA–2018–XXXX. All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Marcia O. Midgett, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 966–3219, email: *Marcia.O.Midgett@ssa.gov.*

SUPPLEMENTARY INFORMATION: We use the Completed Determination Record—Continuing Disability Determinations SORN to cover records on allowed disability claimants on which a continuing disability issue has occurred and a decision of continuance or cessation has been approved and Title II and Title XVI disability beneficiaries who have been selected to receive a Ticket-to-Work as part of the Ticket-to-Work and Self-Sufficiency Program.

We are modifying routine use number 8 to include disclosures we make to State Vocational Rehabilitation Agencies (SVRAs). This modification will cover SVRAs who provide services to individuals who are participants in the Ticket-to-Work and Self-Sufficiency Program.

In addition, we are also updating the Policies and Practices for Storage of Records section to more accurately reflect the record storage process at SSA. Finally, we are making minor updates to the System Location section, to comply with revised OMB Circular A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this modified system of records.

Mary Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

System Name and Number

Complete Determination Record—Continuing Disability Determinations, 60–0050

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Social Security Administration, Deputy Commissioner of Operations, Office of Disability Determinations, 6401 Security Boulevard, Baltimore, MD 21235.

SYSTEM MANAGER(S):

Social Security Administration, Deputy Commissioner of Operations, Office of Disability Determinations, 6401 Security Boulevard, Baltimore, MD 21235, *DCO.ODD@ssa.gov.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

8. To contractors for the purpose of assisting SSA in the efficient administration of the Ticket-to-Work and Self-Sufficiency Program (Ticket Program). These contractors would be limited to the Program Manager, which is directly assisting SSA in administering the Ticket Program, and to Employment Networks and State Vocational Rehabilitation Agencies, which are providing services to SSA beneficiaries under the ticket program.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in paper and electronic form.

HISTORY:

71 FR 1813, January 11, 2006.
72 FR 69723, December 10, 2007.
83 FR 54969, November 1, 2018.

[FR Doc. 2019–07452 Filed 4–25–19; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice: 10748]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of State will file to renew the Charter for the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Advisory Committee).

The Advisory Committee was established under the authority of 22 U.S.C. 4503 to provide advice and recommendations to the Secretary of State or his or her designated representative concerning implementation of the Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, Public Law 98–164, as amended (The Act).

The Advisory Committee shall recommend grant policies for the advancement of the objectives of the Act. In proposing recipients for grants under the Act, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of the former Soviet Union and Eastern Europe and in disseminating the results of such.

Sidni J. Dechaine,

Department of State, Designated Federal Officer, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union.

[FR Doc. 2019–08382 Filed 4–25–19; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice: 10751]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''The Allure of Matter: Material Art of China'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''The Allure of Matter: Material Art of China,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about June 6, 2019, until on or about January 5, 2020, at the David and Alfred Smart Museum of Art and the Wrightwood 659 Gallery, both in Chicago, Illinois, from on or about February 4, 2020, until on or about May 3, 2020, at the Seattle Art Museum, Seattle, Washington, from on or about June 25, 2020, until on or about September 13, 2020, at the Peabody

Essex Museum, Salem, Massachusetts, from on or about November 14, 2020, until on or about February 21, 2021, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–08410 Filed 4–25–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10750]

Notice of Determinations; Culturally Significant Object Imported for Exhibition—Determinations: ''Paganini in Columbus'' Exhibition and ''*Il Cannone* With the Columbus Symphony'' Concert Assembly

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition ''Paganini in Columbus,'' and in the concert assembly ''*Il Cannone* with the Columbus Symphony,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the object at the Columbus Museum of Art, Columbus, Ohio, from on or about May 11, 2019, until on or about May 19, 2019, at the Ohio Theatre, Columbus, Ohio, on or about the evening of May 15, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–08412 Filed 4–25–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed highway project, restoration of drainage facilities and bridge replacement at Solstice Canyon Creek on State Route 1/Pacific Coast Highway in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139*(l)(1).* A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 23, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that short time period applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Eduardo Aguilar, Senior Environmental Planner/Branch Chief, Caltrans Division of Environmental Planning, District 7, 100 South Main Street, Los Angeles, CA 90012. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (213) 897–8492 or email *eduardo.aguilar@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139*(l)(1)* by issuing licenses, permits, and approvals for the following highway project in the State of California.

Caltrans proposes a drainage restoration project at nineteen (19) locations on State Route 1 (Pacific Coast Highway) in the cities of Los Angeles, Malibu, and unincorporated areas within Los Angeles County (post miles 37.67 to 62.86) and Ventura County (post miles 0.00 to 0.92). The proposed improvements include repair and rehabilitation of existing drainage facilities along the route to restore full functionality, to prevent further deterioration, and ensure proper drainage in an area subject to erosion. The proposed improvements also include the replacement of the existing bridge/culvert at Solstice Canyon Creek with a new bridge structure with an underlying natural slope creek bottom to provide improved flood water conveyance, and to improve hydraulic conditions to facilitate movement of the endangered Southern steelhead trout population in the project study area. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant impact (FONSI) for the project, issued on March 25, 2019, and in other documents in Caltrans' project records. The FEA, FONSI and other project records are available by contact Caltrans at the addresses provided above. The Caltrans FEA, FONSI and other project records can be viewed and downloaded at the following Caltrans District 7 Environmental Documents website at *http://www.dot.ca.gov/d7/env-docs/.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139*(l)(1).*

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–08475 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0223]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Groendyke Transport, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Groendyke Transport, Inc.'s (Groendyke) application for a limited 5-year exemption to allow the use of an amber brake-activated pulsating lamp on its trailers in addition to the steady-burning brake lamps required by the Federal Motor Carrier Safety Regulations (FMCSR). The FMCSRs require all exterior lamps (both required lamps and any additional lamps) to be steady-burning, except turn signal lamps, hazard warning signal lamps, school bus warning lamps, amber warning lamps or flashing warning lamps on tow trucks and commercial motor vehicles (CMV) transporting oversized loads, and warning lamps on emergency and service vehicles authorized by State or local authorities. The Agency has determined that granting the exemption to allow the use of an amber brake-activated pulsating lamp in addition to the required steady-burning brake lamps on the rear of Groendyke's trailers would likely achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective April 26, 2019 and ending April 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Groendyke's Application for Exemption

Groendyke applied for an exemption from 49 CFR 393.25(e) to allow installation of an amber brake-activated pulsating lamp on the rear of its trailers in addition to the steady-burning brake lamps required by the FMCSRs. A copy of the application is included in the docket referenced at the beginning of this notice.

Groendyke is a carrier of flammable fuel and liquid hazardous materials. Groendyke has a fleet of approximately 900 trucks and 1,440 trailers, and employs over 1,200 individuals, including approximately 900 drivers. In its application, Groendyke states ''Groendyke assessed what it could do to prevent other drivers from rear ending Groendyke trailers, and determined that increasing visibility of Groendyke trailers would be an efficient means to prevent rear ending accidents. To do this, Groendyke searched for ways to cause its braking system to capture the attention of other drivers faster and more completely.''

Section 393.25(e) of the FMCSRs requires all exterior lamps (both

required lamps and any additional lamps) to be steady-burning, except turn signal lamps, hazard warning signal lamps, school bus warning lamps, amber warning lamps or flashing warning lamps on tow trucks and commercial motor vehicles (CMV) transporting oversized loads, and warning lamps on emergency and service vehicles authorized by State or local authorities. In its application, Groendyke seeks an exemption to allow installation of an amber brake-activated pulsating lamp to the rear of its trailers. The brake-activated pulsating lamp would be positioned in the upper center portion of the trailer. In support of its application, Groendyke contends that the addition of the brake-activated pulsating lamp will improve safety, and states that (1) research shows that pulsating brake lamps in addition to steady burning red brake lamps improves visibility and prevents accidents, (2) its own experience has demonstrated that pulsating brake lamps in addition to steady burning red brake lamps has decreased the frequency of rear-end accidents involving its fleet, and (3) similar exemptions exist for other classes of vehicles.

Research. Groendyke cited several studies conducted by the National Highway Traffic Safety Administration, another agency in the U.S. Department of Transportation, on the issues of rear-end crashes, distracted driving, and braking signals. Groendyke stated:

> Research indicates that there are ways to improve the attention-getting qualities of braking systems. Including a pulsating brake lamp on a lead vehicle has quantifiable effect on the drivers of following vehicles and measurably reduces rear-end collisions. Drivers are redirected and altered faster and more efficiently when a pulsating brake lamp draws their attention to the lead vehicle. As a result, rear-end collisions, can be prevented or at least reduced.

Groendyke Experience. Beginning in the second quarter of 2015, Groendyke began an amber brake-activated pulsating lamp on some of its fleet without authorization from FMCSA to compare the frequency of rear-end collisions between (1) trailers equipped with both centrally-mounted amber brake-activated pulsating lamp and the required steady-burning lamps, and (2) trailers equipped with only the steady-burning lamps required by the FMCSRs. As of July 31, 2017, Groendyke had outfitted 632 of its 1,440 trailers with an amber brake-activated pulsating lamp.

Data gathered by Groendyke between January 2015 and July 2017 show that trailers equipped with both the amber brake-activated pulsating lamp and the steady-burning brake lamps were involved in 33.7 percent fewer rear-end collisions as compared to vehicles equipped with only the steady-burning brake lamps. Groendyke also analyzed its data to determine whether the presence of the amber brake-activated pulsating lamp improved outcomes when drivers were slowing or stopping at railroad crossings.[1] Groendyke found that trailers equipped with the amber brake-activated pulsating lamp were not involved in a rear-end crash at a railroad crossing during the same time period. Groendyke stated:

> The results of the Groendyke Brake Warning Device Campaign are clear: The frequency of rear-end collisions is markedly lower when trailers are outfitted with pulsating brake lamps in addition to the steady-burning lamps required by the FMCSRs. The pulsating brake lamps draw other drivers' attention to what is happening with the vehicle in front more effectively and more quickly than steady burning lamps. In the interest of safety and productivity, Groendyke desires to implement the Groendyke Brake Warning Device Campaign on the rest of its fleet without risking violation of the FMCSRs.

Exemptions for Other Classes of Vehicles. In its application, Groendyke noted that the current requirements of 49 CFR 393.25(e) specifically exclude tow trucks and CMVs from the requirements that all exterior lamps be steady-burning. Groendyke contends that ''Allowing an exemption for drivers of hazardous loads would be consistent with the intent of the regulation.''

The exemption would apply only to Groendyke's trailers. If approved, Groendyke would be permitted to install an amber brake-activated pulsating lamp positioned in the upper center portion of the rear of its trailer. Groendyke stated that the additional brake lamp will not have an adverse impact on safety, and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety achieved without the exemption.

Comments

FMCSA published a notice of the application in the **Federal Register** on July 30, 2018, and asked for public comment (83 FR 36662). The Agency received thirty-four comments from: the Truckload Carrier Association (TCA); the National Tank Truck Carriers, Inc. (NTTC); the American Trucking Associations (ATA); and 31 individuals.

TCA, NTTC, and ATA each supported granting the application to allow the use of an amber brake-activated pulsating lamp in addition to the steady-burning brake lamps required by the FMCSRs. TCA cited Groendyke's 33.7 percent reduction in rear-end collisions when using the amber brake-activated pulsating lamp, and the fact that other types of CMVs are permitted to use flashing lights in supporting a decision to grant the exemption. TCA stated that several of its members ''have used these pulsating lamps in the past, and we believe that greater flexibility on using them moving forward would provide meaningful safety improvements for the industry.''

Further, TCA stated:

> Since Groendyke is not requesting to be exempted from the regulations on required steady-burning lamps, but rather is asking to be allowed to install additional equipment with pulsating lights, TCA believes it is in the best interest of the industry for FMCSA to grant Groendyke the requested flexibility. The baseline safety of the required steady-burning lamps will continue to be in place on Groendyke's trucks even if the additional pulsating brake lamps are installed.

NTTC also cited Groendyke's 33.7 percent reduction in rear-end collisions when using the amber brake-activated pulsating lamp, and stated ''This easily meets the regulatory standard that the proposed exemption 'would maintain a level of safety equivalent to, or greater than, the level achieved without an exemption.' '' In addition, NTTC strongly advocates that if FMCSA decides to grant Groendyke's exemption application, that the same relief should be granted to all carriers operating cargo tank truck trailers because ''there is no factor unique to Groendyke's trailers or pulsating brake lamps that cannot be replicated by other motor carriers.'' NTTC states that extending the exemption to all cargo tank trailers will ''maximize safety for the tank truck segment and for the Nation as a whole.'' Finally, NTTC recommends that FMCSA grant the exemption, and then initiate a rulemaking proceeding to formally incorporate the provisions of the exemption into the FMCSRs.

ATA believes that grating the exemption will provide an opportunity to operate enhanced rear signaling (ERS) technology in a wide-range of real-world conditions to gather field data to further substantiate its benefits, and may provide NHTSA with information to assist in developing performance criteria and objective test procedures for ERS.

Specifically, ATA stated:

[1] As cargo tank operators hauling hazardous materials, Groendyke drivers are required to stop or slow significantly at railroad crossings (49 CFR 392.10–392.12). Groendyke notes that railroad crossings are a significant source of rear-end collisions at Groendyke and elsewhere because non-commercial drivers may not anticipate stops at railroad crossings.

FMCSA and NHTSA research have demonstrated the potential benefits of enhanced rear signaling (ERS) systems. NHTSA research on ERS found that use of brake signal configurations on passenger cars which included flashing lights were effective, reducing the crash rate by as much as 5.1%, and the results presented by Groendyke indicate even greater effectiveness for similar ERS on commercial motor vehicles (CMVs). Additionally, FMCSA research on ERS for CMVs showed no unsafe following vehicle driver reactions/behaviors in real world testing.

Consistent with the DOT reports and research, motor carriers like Groendyke recognize the potential of ERS for improving safe operations when compared with traditional standard brake lamps. For example, ERS can provide the following functions beyond what traditional CMV lighting and reflective devices offer: attention to CMVs stopped ahead; awareness of road side breakdowns; emergency braking; and driver confidence from both vehicles. In addition to safety benefits, ERS performance is superior to steady burning brake lamps in severe weather conditions, tail light glare and around infrastructure obstacles. ERS also reduces the chances of damage to both vehicles involved in a rear-end crash, which improves commercial operation uptime, CSA scores for the CMV owner, and traffic inconvenience.

Twenty-one individuals submitted comments in support of granting the exemption. These commenters believe that any technology that has been shown to reduce rear-end crashes should be allowed, and cited various benefits of the amber brake-activated pulsating lamp, including (1) enhanced awareness that the vehicle is making a stop, especially at railroad crossings, and (2) increased visibility in severe winter weather conditions.

Ten individuals submitted comments opposing the granting of the exemption. Commenters stated that use of the amber brake-activated pulsating lamp could potentially be distracting to the motoring public, and that the use of amber brake lights could be confusing as brake lights are required to be red in color.

FMCSA Decision

The FMCSA has evaluated the Groendyke exemption application, and the comments received. The Agency believes that granting the temporary exemption to allow the use of an amber brake-activated pulsating lamp positioned in the upper center portion of the trailer, in addition to the steady burning brake lamps required by the FMCSRs, will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Rear-end crashes generally account for approximately 30 percent of all crashes. These types of crashes often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.[2] [3]

Both FMCSA and NHTSA have conducted research programs regarding alternative rear signaling systems to address rear-end crashes. FMCSA has conducted research and development of an Enhanced Rear Signaling (ERS) system for CMVs.[4] The study noted that while brake lights are activated only with the service brakes, and the visual warning is only provided during conditions when the lead vehicle is decelerating using its braking system, brake lights are not activated during other conditions wherein rear-end collisions can occur (*i.e.,* the CMV is (1) stopped along the roadway or in traffic, (2) traveling slower, or (3) decelerating using an engine retarder). Because of the limitations of the existing brake system described above, along with issues relating to visual distraction, the study examined ways for CMVs to detect rear-end crash threats and to provide drivers of following vehicles a supplemental visual warning—located on the lead vehicle, and in addition to the current brake lights—so following-vehicle drivers can quickly recognize impending collision threats.

During Phase I of this effort, researchers performed crash database analyses to determine causal factors of rear-end collisions and to identify potential countermeasures. Phase II continued through prototype development based on recommendations from Phase I. During Phase II field testing, potential benefits of using such countermeasures were realized. During Phase III, a multi-phased approach was executed to design, develop, and test multiple types of countermeasures on a controlled test track and on public highways. Phase III resulted in positive results for a rear warning prototype system comprising 12 light-emitting diode (LED) units that would flash at 5 Hz to provide a visual warning to the following-vehicle drivers indicating that, with continued closing rate and distance, a collision will occur with the lead vehicle. Finally, the prototype system was further developed and refined to include modification of the system into a unit designed for simple CMV installation, collision-warning activation refinements, and rear lighting brightness adjustments for nighttime conditions. Formal closed test track and real-world testing were then performed to determine the ERS system collision-warning activation performance.

While the efforts described above demonstrated a promising system for follow-on research, FMCSA ultimately decided not to pursue formal field operational testing of the prototype system because of concerns relating to (1) the cost to implement the ERS system as configured, and (2) fleets' willingness to invest in the technology given the cost of the system. Nonetheless, the preliminary research showed that the ERS system performed well at detecting and signaling rear-end crash threats and drawing the gaze of following-vehicle drivers to the forward roadway which if implemented, could potentially reduce the number and frequency of rear-end crashes into the rear of CMVs.

Separately, NHTSA has performed a series of research studies intended to develop and evaluate rear signaling applications designed to reduce the frequency and severity of rear-end crashes via enhancements to rear-brake lighting by redirecting drivers' visual attention to the forward roadway (for cases involving a distracted driver), and/or increasing the saliency or meaningfulness of the brake signal (for attentive drivers).[5] [6]

Initially, the study quantified the attention-getting capability and discomfort glare of a set of candidate rear brake lighting configurations, using driver judgments, as well as eye-drawing metrics. This study served to narrow the set of candidate lighting configurations to those that would most likely be carried forward for additional

[2] U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data; Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012).

[3] U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data; Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018).

[4] U.S. Department of Transportation, Federal Motor Carrier Safety Administration (2014), Expanded Research and Development of an Enhanced Rear Signaling System for Commercial Motor Vehicles, Report No. FMCSA–RRT–13–009, Washington, DC (April 2014).

[5] U.S. Department of Transportation, National Highway Traffic Safety Administration (2009), Traffic Safety Facts—Vehicle Safety Research Notes; Assessing the Attention-Gettingness of Brake Signals: Evaluation of Optimized Candidate Enhanced Braking Signals; Report No. DOT HS 811 129, Washington, DC (May 2009).

[6] U.S. Department of Transportation, National Highway Traffic Safety Administration (2010), Traffic Safety Facts—Vehicle Safety Research Notes; Assessing the Attention-Getting Capability of Brake Signals: Evaluation of Candidate Enhanced Braking Signals and Features; Report No. DOT HS 811 330, Washington, DC (June 2010).

study on-road. Both look-up (eye drawing) data and interview data supported the hypothesis that simultaneous flashing of all rear lighting combined with increased brightness would be effective in redirecting the driver's eyes to the lead vehicle when the driver is looking away with tasks that involve visual load.

Subsequently, the study quantified the attention-getting capability of a set of candidate rear brake lighting configurations, including proposed approaches from automotive companies. This study was conducted to provide data for use in a simulation model to assess the effectiveness and safety benefits of enhanced rear brake light countermeasures. Among other things, this research demonstrated that flashing all lights simultaneously or alternately flashing is a promising signal for use in enhanced brake light applications, even at levels of brightness within the current regulated limits. Specifically, the study concluded that substantial performance gains may be realized by increasing brake lamp brightness levels under flashing configurations; however, increases beyond a certain brightness threshold will not return substantive performance gains.

From the above, both FMCSA and NHTSA have conducted extensive research and development programs to examine alternative rear signaling systems to reduce the incidence of rear-end crashes. However, while these efforts concluded that improvements could be realized through rear lighting systems that flash, neither the FMCSRs nor the Federal Motor Vehicle Safety Standards (FMVSS) currently permit the use of pulsating, brake-activated lamps on the rear of CMVs.

With respect to the use of amber lights, NHTSA has conducted research on the effectiveness of rear turn signal color on the likelihood of being involved in a rear-end crash.[7] FMVSS No. 108 allows rear turn signals to be either red or amber in color. The study concluded that amber signals show a 5.3 percent effectiveness in reducing involvement in two-vehicle crashes where a lead vehicle is rear-struck in the act of turning left, turning right, merging into traffic, changing lanes, or entering/leaving a parking space. The advantage of amber rear turn signals was shown to be statistically significant.

FMCSA acknowledges the concerns of commenters that the amber brake-activated pulsating lamp may be distracting or confusing to some motorists. At the same time, however, the Agency agrees with TCA and NTTC that the 33.7 percent reduction in rear-end crashes documented by Groendyke between January 1, 2015, and July 31, 2017, for its trailers that had been equipped with the additional lights is both persuasive and compelling given the magnitude of the rear-end crash population. FMCSA believes that this real-world experience, along with the FMCSA and NHTSA research programs that demonstrated the ability of alternative rear signaling systems to reduce the frequency and severity of rear-end crashes, is sufficient to conclude that the implementation of an amber brake-activated pulsating lamp on the rear of Groendyke's trailers is likely to provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning April 26, 2019 and ending April 26, 2024. During the temporary exemption period, Groendyke will be allowed to install an amber brake-activated pulsating lamp positioned in the upper center of the rear of the trailer in addition to the steady burning brake lamps required by the FMCSRs.

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Groendyke fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that Groendyke's use of an amber brake-activated pulsating lamp positioned in the upper center of the rear of the trailer in addition to the steady burning brake lamps required by the FMCSRs is not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to Groendyke operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: April 18, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–08463 Filed 4–25–19; 8:45 am]

[7] U.S. Department of Transportation, National Highway Traffic Safety Administration (2009), The Effectiveness of Amber Rear Turn Signals for Reducing Rear Impacts; Report No. DOT HS 811 115, Washington, DC (April 2009).

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 648

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2019 and 2020 Sector Operations Plans and 2019 Allocation of Northeast Multispecies Annual Catch Entitlements and Common Pool Measures for Fishing Year 2019; Final and Temporary Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190205076–9370–02]

RIN 0648–BI71

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2019 and 2020 Sector Operations Plans and 2019 Allocation of Northeast Multispecies Annual Catch Entitlements

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

ACTION: Final rule.

SUMMARY: This rule approves Northeast multispecies sector operations plans and grants regulatory exemptions for fishing years 2019 and 2020, approves the formation of a new sector, and allocates annual catch entitlements to approved sectors for fishing year 2019. Approval of sector operations plans and contracts and allocation of annual catch entitlements is necessary for sectors to operate. This action is intended to allow limited access permit holders to form sectors, as authorized under the Northeast Multispecies Fishery Management Plan, and to exempt them from certain effort control regulations to improve the efficiency and economics of sector vessels.

DATES: This rule is effective May 1, 2019. Sector operations plans and regulatory exemptions are effective through April 30, 2021. Northeast multispecies annual catch entitlements for sectors are effective through April 30, 2020. The default catch limit for Eastern Georges Bank cod is effective through July 31, 2019, or until the final rule for Framework 58 is implemented if prior to July 31, 2019.

ADDRESSES: Copies of each sector's operations plan and contract, as well as the programmatic environmental assessment for sectors operations in fishing years 2015 to 2020, are available from the NMFS Greater Atlantic Regional Fisheries Office (GARFO): Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the GARFO website: *https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/.*

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Management Specialist, (978) 281–9255.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Multispecies Fishery Management Plan (FMP) defines a sector as ''[a] group of persons (three or more persons, none of whom have an ownership interest in the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) [*sic*] in order to achieve objectives consistent with applicable FMP goals and objectives.'' Sectors are self-selecting, meaning each sector can choose its members.

The Northeast multispecies sector management system allocates a portion of the Northeast multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. Sectors receive allocations of large-mesh Northeast multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout, which are non-allocated species managed under separate effort controls. ACEs are portions of a stock's annual catch limit (ACL) available to commercial Northeast multispecies vessels. A sector determines how to harvest its ACE.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several ''universal'' exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; Northeast multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on Georges Bank (GB); portions of the Gulf of Maine (GOM) Cod Protection Closures; and the at-sea monitoring (ASM) coverage requirement for sector vessels fishing exclusively in the Southern New England (SNE) and Inshore GB Broad Stock Areas (BSA) with extra-large mesh gillnets (10-inch [25.4-cm] or greater). The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the approved sectors, there are several state-operated permit banks, which receive allocations based on the history of the permits held by the states. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with the administrative and procedural requirements for sectors (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of participating permits to us, as specified in the permit bank's Memorandum of Agreement, to determine the ACE allocated to the permit bank. These allocations may be leased to fishermen enrolled in sectors. Although state-operated permit banks are no longer approved through the sector approval process, they are included in this discussion of allocations because they contribute to the total allocation under the sector system.

We received operations plans and preliminary contracts for fishing years 2019 and 2020 from 20 sectors. In the proposed rule, we proposed to approve 20 sectors, 19 of which were previously approved to operate in the groundfish fishery and 1 newly proposed sector. After the proposed rule published, four sectors (Northeast Fishery Sector 1, Northeast Fishery Sector 3, Northeast Coastal Communities Sector, and GB Cod Hook Gear Sector) withdrew their operations plans from consideration. Consequently, this final rule approves fishing year 2019 and 2020 operations plans and contracts for 16 sectors, including 1 new sector. It also allocates ACE to these 16 sectors based on their preliminary fishing year 2019 sector rosters and the fishing year 2019 specifications in Framework Adjustment 57 to the Northeast Multispecies FMP. Copies of the operations plans and contracts, and the environmental assessment (EA), are available (see **ADDRESSES**).

Default Catch Limits for Fishing Year 2019

Last year, Framework 57 set fishing year 2019 catch limits for all groundfish stocks (83 FR 18985; May 1, 2018). The 2019 catch limits for most stocks remain the same as, or similar to, 2018 limits. Framework 57 did not, however, specify a 2019 catch limit for Eastern GB cod. Eastern GB cod is a management unit of the GB cod stock that is jointly managed with Canada, and the shared quota is set annually.

This year, in Framework 58, the Council adopted revised 2019 catch limits for GB cod, GB haddock, GB yellowtail, witch flounder, GB winter flounder, GOM winter flounder, and Atlantic halibut. Due to the 35-day partial Federal government shutdown resulting from a lapse in appropriations, there will be a delay in the rulemaking process for Framework 58, and it will

not be possible to implement these revised catch limits by May 1, 2019.

As a result, the sector and common pool allocations in this rule are based on the 2019 catch limits set in Framework 57 and preliminary 2019 fishing year sector rosters (Table 1). If Framework 58 is approved, the 2019 catch limits for GB cod, GB haddock, GB yellowtail, witch flounder, GB winter flounder, GOM winter flounder, and Atlantic halibut will change. This rule also sets a default catch limit for Eastern GB cod. The groundfish regulations require default catch limits for any stock for which final specifications are not in place by the beginning of the fishing year on May 1. The FMP's default specifications provision sets catch at 35 percent of the previous year's (2018) catch limits beginning on May 1 through July 31, unless replaced by specifications set by Framework 58.

In Framework 58, the Council recommended a total ACL of 103 mt for GB yellowtail flounder in fishing year 2019. This is a 64-percent decrease from the fishing year 2019 ACL previously set in Framework 57, and a 50-percent decrease from the fishing year 2018 ACL. The Council also revised the fishing year 2019 ACL for GB cod to 1,741 mt. This a 14-percent increase from the fishing year 2018 ACL, but a 20-percent decrease from the fishing year 2019 ACL previously set in Framework 57. The adjustments are based on the recommendation of the Transboundary Management Guidance Committee, which is the joint U.S./Canada management body that meets annually to recommend shared quotas for the three transboundary stocks. These recommendations will be further discussed in the Framework 58 rule. We are highlighting these changes in this rule because the GB yellowtail flounder and GB cod ACE allocated to sectors in this rule are based on the higher 2019 catch limits previously approved in Framework 57. If the Council's recommended catch limits become final with no changes, ACE for these stocks will be reduced when Framework 58 is implemented.

Framework 58 would also adjust the GOM cod catch limits for commercial groundfish vessels. The sector sub-ACL for GOM cod would be reduced by 28.8 mt for fishing year 2019. This adjustment is required because the total ACL was exceeded in fishing year 2017. Therefore, sectors' ACE would be reduced when Framework 58 is implemented compared to their May 1 allocations.

TABLE 1—NORTHEAST MULTISPECIES CATCH LIMITS FOR 2019

Stock	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod	1,519	1,360	1,316	44	.....	.....	.....	.....	16	143
GOM Cod	666	610	379	11	220	.....	.....	.....	47	9
GB Haddock	46,312	44,659	43,996	663	.....	680	.....	.....	487	487
GOM Haddock	11,803	11,506	8,218	94	3,194	116	.....	.....	91	91
GB Yellowtail Flounder	291	239	232	7	.....	.....	47	6	0	0
SNE/MA Yellowtail Flounder	66	32	26	6	.....	.....	15	.....	2	17
CC/GOM Yellowtail Flounder	490	398	378	20	.....	.....	.....	.....	51	41
American Plaice	1,532	1,467	1,437	31	.....	.....	.....	.....	32	32
Witch Flounder	948	849	831	18	.....	.....	.....	.....	40	60
GB Winter Flounder	787	731	701	30	.....	.....	.....	.....	0	57
GOM Winter Flounder	428	357	339	17	.....	.....	.....	.....	67	4
SNE/MA Winter Flounder	700	518	447	71	.....	.....	.....	.....	73	109
Redfish	11,208	10,972	10,918	53	.....	.....	.....	.....	118	118
White Hake	2,794	2,735	2,715	20	.....	.....	.....	.....	29	29
Pollock	38,204	37,400	37,159	242	.....	.....	.....	.....	402	402
N. Windowpane Flounder	86	63	.....	63	.....	.....	18	.....	2	3
S. Windowpane Flounder	457	53	.....	53	.....	.....	158	.....	28	218
Ocean Pout	120	94	.....	94	.....	.....	.....	.....	3	23
Atlantic Halibut	100	77	.....	77	.....	.....	.....	.....	21	2
Atlantic Wolffish	84	82	.....	82	.....	.....	.....	.....	1	1

*Catch limit will be replaced when the final rule for Framework 58 becomes effective.

Formation of a New Sector

This action approves the formation of a new sector, Mooncusser Sector, for operation beginning in the 2019 fishing year. Allocations for the Mooncusser Sector are included in Tables 3 and 4 based on sector enrollment information submitted by the March 8 roster deadline. All permits enrolled in this sector, and the vessels associated with those permits, have until April 30, 2019, to withdraw from the sector and fish in the common pool for the 2019 fishing year.

Sector Allocations

This rule allocates ACE to sectors based on preliminary sector rosters submitted by the March 8 roster deadline and the fishing year 2019 catch limits established in Framework 57. Any permits that change ownership after December 1, 2018, retain the ability to join a sector through April 30, 2019. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2019, to withdraw from a sector and fish in the common pool for fishing year 2019, although sectors may set a more restrictive deadline for their members. For fishing year 2020, we will set similar roster deadlines. Permit holders can make the decision to enroll in a sector on an annual basis, independent of the sector operations plans biannual cycle.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 2 shows the preliminary cumulative fishing year 2019 PSC by stock for each sector for fishing year 2019. Tables 3 and 4 show the initial allocations that each sector will be allocated, in pounds and metric

tons, respectively, for fishing year 2019 based on their preliminary fishing year 2019 rosters. At the start of the 2019 fishing year we provide final allocations, to the nearest pound, to each sector based on their final May 1 rosters. We use these final allocations, along with any adjustments, such as for ACE transfers or increases for carryover from fishing year 2018, to monitor sector catch. We have included the common pool sub-ACLs in tables 2 through 4 for comparison.

We do not assign a separate PSC for Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area, but may ''convert,'' or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2019, we withhold 20 percent of each sector's fishing year 2019 allocation until we finalize fishing year 2018 catch information. We expect to finalize 2018 catch information in summer 2019. We will allow sectors to transfer fishing year 2018 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2018 overages. If necessary, we will reduce any sector's fishing year 2019 allocation to account for a remaining overage in fishing year 2018. We will follow the same process for fishing year 2020. For both fishing years 2019 and 2020, we will notify the Council and sector managers of the ACE transfer deadline in writing and announce our final ACE determination on our website at: *http://www.greateratlantic.fisheries.noaa.gov/.*

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Table 2 -- Cumulative PSC (percentage) each sector is receiving by stock for fishing year 2019.*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector/FGS	78	17.18366681	0.76140370	2.68775567	0.21209561	0.84734590	0.72350349	2.16558267	0.66996189	1.25408919	0.07239399	12.69284703	1.37468334	1.03519509	1.15930537	4.03896943
Maine Coast Community Sector	85	2.30148723	10.99859617	3.13669417	8.67708768	1.77753707	1.49822706	3.12188257	12.26252726	9.57580761	1.00837336	3.05323526	1.78497228	8.64268426	13.18135982	12.52090041
Mooncusser Sector	39	11.50040507	3.36773999	3.86091054	3.03403352	0.00599441	0.17617198	2.39244467	0.66169794	1.64591309	0.01018417	2.43054175	1.46947779	2.31464821	5.80813382	5.22401717
Maine Permit Bank	11	0.13360966	1.15405062	0.04432773	1.12451663	0.01377701	0.03180705	0.31772500	1.16407082	0.72688225	0.00021715	0.42643762	0.01789069	0.82190152	1.65422882	1.69505339
NEFS 2	138	6.58906576	27.88150123	10.71719441	23.55339706	1.90930405	1.88587173	25.75411995	11.38098280	14.90280161	3.22036019	25.70462451	4.32853550	15.58877616	9.53613205	15.06232631
NEFS 4	53	4.14715377	10.95728368	5.34210878	8.81058655	2.16161028	2.26122740	6.12165848	9.40642104	8.71637823	0.69180161	7.00769691	0.86851087	6.63468548	8.23850875	6.56549379
NEFS 5	25	0.48056602	0.00068067	0.81554777	0.00357885	1.27619665	21.07476247	0.20605981	0.43243537	0.56259788	0.43636767	0.01753551	12.10790419	0.01454625	0.09451212	0.04251814
NEFS 6	24	3.04705666	3.08690553	3.35165948	4.22042782	2.71473030	4.62121534	3.62074425	4.39493222	5.69558486	1.52608004	4.53984730	1.74528574	6.80464863	4.51264711	3.65402413
NEFS 7	55	11.89058172	3.01624810	10.54825953	7.40207811	24.08192839	7.90202627	9.79489855	9.36742282	9.16015927	29.97498141	2.85940513	14.66599391	9.05212644	6.35623876	6.29405708
NEFS 8	38	7.70083598	1.10297247	7.25423993	0.67593178	13.69282379	8.19547945	5.56729855	2.91966241	3.52831215	21.62082158	4.63264392	10.28947383	0.86435101	1.04127974	1.15284836
NEFS 10	29	0.52584587	2.46878322	0.17673207	1.28204790	0.00114846	0.54787117	4.27772808	1.08109636	2.04601658	0.01083155	9.10191902	0.60102392	0.33492707	0.65504438	0.76336954
NEFS 11	48	0.39910256	12.34432594	0.03485940	2.86938324	0.00149117	0.01948622	2.52120664	1.69908227	1.65446820	0.00312599	2.13205972	0.02150409	1.94329496	4.50105141	8.90552513
NEFS 12	18	0.62874707	2.86786930	0.09374416	1.01355350	0.00042969	0.01049524	7.83165685	0.50289552	0.56772919	0.00043898	7.53639404	0.21702251	0.22673867	0.28137128	0.77537598
NEFS 13	67	11.82287122	0.77944310	20.47977174	0.96904521	34.78602393	23.37069479	6.51191422	8.51804771	9.22901604	17.35217434	2.14234074	15.64030893	4.34571618	2.17829637	2.64418106
New Hampshire Permit Bank	4	0.00082215	1.14430608	0.00003406	0.03234742	0.00002026	0.00001788	0.02179261	0.02847772	0.00615968	0.00000324	0.06067789	0.00003630	0.01940234	0.08135658	0.11135181
Sustainable Harvest Sector 1	23	2.26053718	3.12270341	1.96920548	3.62668945	0.80749099	0.12772692	3.35132189	4.37675268	3.32755932	5.66114479	4.44084348	0.80328436	2.88609220	4.23262121	3.19933670
Sustainable Harvest Sector 2	36	0.98521931	4.82034601	0.97214400	3.14482002	2.64119607	3.11490618	2.69039290	4.27414195	3.42441717	0.63886188	3.04136153	1.98112304	3.41004341	6.32307856	5.87288783
Sustainable Harvest Sector 3	58	15.13587760	7.26760844	27.03114977	28.21807645	10.44879146	5.89421726	8.77484074	24.77319972	21.82223885	13.70220949	3.31792974	18.29562979	34.57404051	29.43178610	20.83189557
Common Pool	495	3.26654834	2.85723235	1.48366132	1.13030321	2.83216011	18.54429212	4.95673157	2.08619151	2.15386884	4.06962855	4.86165888	13.78733891	0.48618162	0.73304775	0.64586815

* The data in this table are based on preliminary fishing year 2019 sector rosters.

Table 3 -- ACE (in 1,000 lb), by stock, for each sector for fishing year 2019.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	34	481	7	924	1,722	39	4	1	19	22	23	1	100	16	250	70	3,330
MCCS	5	64	94	1,079	2,009	1,590	9	1	27	397	179	16	24	20	2,091	795	10,324
MOON	23	322	29	1,328	2,473	556	0	0	21	21	31	0	19	17	560	350	4,307
MPB	0	4	10	15	28	206	0	0	3	38	14	0	3	0	199	100	1,398
NEFS 2	13	185	240	3,686	6,866	4,316	10	1	226	368	279	52	202	49	3,771	575	12,419
NEFS 4	8	116	94	1,837	3,422	1,614	11	2	54	304	163	11	55	10	1,605	497	5,413
NEFS 5	1	13	0	280	522	1	7	15	2	14	11	7	0	138	4	6	35
NEFS 6	6	85	27	1,153	2,147	773	14	3	32	142	107	25	36	20	1,646	272	3,013
NEFS 7	24	333	26	3,628	6,758	1,356	127	6	86	303	171	483	22	167	2,190	383	5,190
NEFS 8	15	216	9	2,495	4,647	124	72	6	49	94	66	348	36	118	209	63	951
NEFS 10	1	15	21	61	113	235	0	0	38	35	38	0	72	7	81	40	629
NEFS 11	1	11	106	12	22	526	0	0	22	55	31	0	17	0	470	271	7,343
NEFS 12	1	18	25	32	60	186	0	0	69	16	11	0	59	2	55	17	639
NEFS 13	23	331	7	7,043	13,120	178	183	17	57	276	173	280	17	179	1,051	131	2,180
NHPB	0	0	10	0	0	6	0	0	0	1	0	0	0	0	5	5	92
SHS 1	4	63	27	677	1,262	665	4	0	29	142	62	91	35	9	698	255	2,638
SHS 2	2	28	41	334	623	576	14	2	24	138	64	10	24	23	825	381	4,842
SHS 3	30	424	62	9,297	17,317	5,171	55	4	77	801	408	221	26	209	8,363	1,775	17,177
Common Pool	6	91	25	510	950	207	15	13	43	67	40	66	38	157	118	44	533
Sector Total	192	2,709	834	33,882	63,113	18,117	511	58	834	3,168	1,831	1,545	748	985	24,071	5,986	81,921

* The data in this table are based on preliminary fishing year 2019 sector rosters and catch limits from Framework 57.

Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector.

Table 4 -- ACE (in metric tons), by stock, for each sector for fishing year 2019.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	15	218	3	419	781	18	2	0	9	10	11	1	45	7	114	32	1,511
MCCS	2	29	43	489	911	721	4	0	12	180	81	7	11	9	948	361	4,683
MOON	10	146	13	602	1,122	252	0	0	10	10	14	0	9	8	254	159	1,954
MPB	0	2	4	7	13	93	0	0	1	17	6	0	2	0	90	45	634
NEFS 2	6	84	109	1,672	3,114	1,958	5	1	103	167	127	24	92	22	1,710	261	5,633
NEFS 4	4	53	43	833	1,552	732	5	1	24	138	74	5	25	4	728	225	2,456
NEFS 5	0	6	0	127	237	0	3	7	1	6	5	3	0	63	2	3	16
NEFS 6	3	39	12	523	974	351	6	1	14	64	48	11	16	9	747	123	1,367
NEFS 7	11	151	12	1,646	3,065	615	57	3	39	137	78	219	10	76	993	174	2,354
NEFS 8	7	98	4	1,132	2,108	56	33	3	22	43	30	158	17	53	95	28	431
NEFS 10	0	7	10	28	51	107	0	0	17	16	17	0	32	3	37	18	286
NEFS 11	0	5	48	5	10	238	0	0	10	25	14	0	8	0	213	123	3,331
NEFS 12	1	8	11	15	27	84	0	0	31	7	5	0	27	1	25	8	290
NEFS 13	11	150	3	3,195	5,951	81	83	8	26	125	78	127	8	81	477	60	989
NHPB	0	0	4	0	0	3	0	0	0	0	0	0	0	0	2	2	42
SHS 1	2	29	12	307	572	301	2	0	13	64	28	41	16	4	317	116	1,197
SHS 2	1	13	19	152	282	261	6	1	11	63	29	5	11	10	374	173	2,196
SHS 3	14	192	28	4,217	7,855	2,345	25	2	35	364	185	100	12	95	3,793	805	7,791
Common Pool	3	41	11	231	431	94	7	6	20	31	18	30	17	71	53	20	242
Sector Total	87	1,229	379	15,369	28,627	8,218	232	26	378	1,437	831	701	339	447	10,918	2,715	37,159

* The data in this table are based on preliminary fishing year 2019 sector rosters and catch limits from Framework 57.

Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector.

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Sector Operations Plans and Contracts

We previously proposed to approve 20 sector operations plans and contracts for fishing years 2019 and 2020. After the proposed rule published, four sectors withdrew their operations plans from consideration. Consequently, this final rule approves fishing year 2019 and 2020 operations plans and contracts for 16 sectors. In order to approve a sector's operations plan for fishing years 2019 and 2020, we consider whether each sector's plan is consistent with regulatory requirements and FMP objectives, and whether the sector has been compliant with reporting requirements from previous years, including the year-end reporting requirements found at § 648.87(b)(1)(vi)(C). Approved operations plans, provided on our website as a single document for each sector, not only contain the rules under which each sector would fish, but also provide the legal contract that binds each member to the sector for the length of the sector's operations plan. Each sector's operations plan, and each sector's members, must comply with the regulations governing sectors, found at § 648.87. In addition, each sector must conduct fishing activities as detailed in its approved operations plan.

Participating vessels are required to comply with all pertinent Federal fishing regulations, except as specifically exempted in the letter of authorization (LOA) issued by the Regional Administrator, which details any approved sector exemptions from the regulations. If, during a fishing year, or between fishing years 2019 and 2020, a sector requests an exemption that we have already granted, or proposes a change to administrative provisions, we may amend the sector operations plans. Should any such amendments require modifications to LOAs, we would include these changes in updated LOAs and provide them to the appropriate sectors.

As in previous years, we retain the right to revoke exemptions in-season if: We determine that the exemption jeopardizes management measures, objectives, or rebuilding efforts; the exemption results in unforeseen negative impacts on other managed fish stocks, habitat, or protected resources; the exemption causes enforcement concerns; catch from trips using the exemption cannot adequately be monitored; or a sector is not meeting certain administrative or operational requirements. If it becomes necessary to revoke an exemption, we will do so through a process consistent with the Administrative Procedure Act.

Each sector is required to ensure that it does not exceed its ACE during the fishing year. Sector vessels are required to retain all legal-sized allocated Northeast multispecies stocks, unless a sector is granted an exemption allowing its member vessels to discard legal-sized unmarketable fish at sea. Catch (defined as landings and discards) of all allocated Northeast multispecies stocks by a sector's vessels count against the sector's allocation. Groundfish catch from a sector trip targeting non-groundfish species would be deducted from the sector's ACE because these are groundfish trips using gear capable of catching groundfish. Catch from a non-sector trip in an exempted fishery does not count against a sector's allocation and is assigned to a separate ACL sub-component to account for any groundfish bycatch that occurs in non-groundfish fisheries.

Each sector contract details the method for initial ACE sub-allocations to sector members. For fishing years 2019 and 2020, each sector has proposed that each active sector member could harvest an amount of fish equal to the amount each individual member's permit contributed to the sector, as modified by the sector for reserves or other management measures. Each sector operations plan submitted for fishing years 2019 and 2020 states that the sector would withhold an initial reserve from the sector's ACE sub-allocation to each individual member to prevent the sector from exceeding its ACE. A sector and sector members can be held jointly and severally liable for ACE overages, discarding legal-sized fish, and/or misreporting catch (landings or discards). Each sector contract provides procedures for enforcement of the sector's rules, explains sector monitoring and reporting requirements, provides sector managers with the authority to issue stop fishing orders to sector members who violate provisions of the operations plan and contract, and presents a schedule of penalties that managers may levy for sector plan violations.

Sectors are required to monitor their allocations and catch. To help ensure that a sector does not exceed its ACE, each sector operations plan explains sector monitoring and reporting requirements, including a requirement to submit weekly catch reports to us. If a sector reaches an ACE threshold (specified in the operations plan), the sector must provide us with sector allocation usage reports on a daily basis. Once a sector's allocation for a particular stock is caught, that sector is required to cease all sector fishing operations in that stock area until it acquires more ACE, likely by an ACE transfer between sectors. Within 60 days of when we complete year-end catch accounting, each sector is required to submit an annual report detailing the sector's catch (landings and discards), enforcement actions, and pertinent information necessary to evaluate the biological, economic, and social impacts of each sector.

At-Sea Monitoring

Sectors are responsible for the at-sea portion of costs associated with the sector ASM program, even in years when Federal reimbursement funds are available, and for designing, implementing, and funding an ASM program that will provide the level of ASM coverage specified annually. We are required to specify a level of ASM coverage using a process described in Framework 55 (81 FR 26412; May 2, 2016) that provides a reliable estimate of overall catch by sectors needed for monitoring ACEs and ACLs while minimizing the cost burden to sectors and NMFS to the extent practicable. Using this method, NMFS has determined that the total appropriate target coverage level for fishing year 2019 is 31 percent of eligible sector trips, up from 15 percent required for fishing year 2018. We will use discards derived from these observed and monitored trips to calculate and apply discards to unobserved sector trips. We have published a more detailed summary of the supporting information, explanation, and justification for this decision at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/Sectors/ASM/FY2019_Multispecies_Sector_ASM_Requirements_Summary.pdf.*

In fishing years 2010 and 2011, we funded an ASM program with a target ASM coverage level of 30 percent of all trips. In addition, we provided 8-percent observer coverage through the Northeast Fishery Observer Program (NEFOP), which helps to support the Standardized Bycatch Reporting Methodology (SBRM) and stock assessments. This resulted in an overall target coverage level of 38 percent for fishing years 2010 and 2011, from the combined ASM and NEFOP. Beginning in fishing year 2012, we have conducted an annual analysis to determine the total target coverage level. Table 5 depicts the annual target coverage levels. Industry has been required to pay for their ASM coverage costs since 2012, while we continued to fund NEFOP coverage. However, we were able to fund the industry's portion of ASM

costs in fishing years 2012 through most of 2015. Industry paid for their portion of the ASM program beginning in March 2016. In June 2016, after determining that the SBRM monitoring program could be fully funded with additional funding remaining, we announced that we had funds available to offset some of industry's costs of the groundfish ASM program in 2016. We reimbursed sectors for 85 percent of their ASM costs for 10 months of the 2016 fishing year, distributed through a grant by the Atlantic States Marine Fisheries Commission. In fishing year 2017, using leftover funds from the 2016 grant, we reimbursed sectors for approximately 85 percent of industry costs in fishing year 2017.

TABLE 5—HISTORIC TARGET COVERAGE LEVEL FOR MONITORING

Fishing year	Total target coverage level (percent)	ASM target coverage level (percent)	NEFOP target coverage level (percent)
2010	38	30	8
2011	38	30	8
2012	25	17	8
2013	22	14	8
2014	26	18	8
2015	16	12	4
2016	14	10	4
2017	16	8	8
2018	15	10	5

In fiscal years 2018 and 2019, Congress appropriated $10.3 million for groundfish at-sea monitoring. With Congressionally appropriated funds, we were able to fully reimburse industry costs in fishing year 2018, and we will continue to reimburse 100 percent of industry's ASM costs for fishing year 2019. As in previous years, sectors will contract directly with ASM service providers and reimbursements will be distributed through a grant administered by the Commission.

Sectors submitted draft operations plans in October 2018, which included industry-funded ASM plans to be used for fishing year 2019. As in previous years, we gave sectors the option to design their own programs in compliance with regulations, or elect to adopt the NMFS-designed ASM program that we have used in previous fishing years. As in past years, several sectors chose to adopt the NMFS-designed program while others proposed programs of their own design. Lease-only sectors will not be active in the fishery and are not required to submit industry-funded ASM plans. Sector-designed ASM programs for fishing years 2019 and 2020 were similar to those approved in past years. We reviewed all sector-proposed ASM programs for consistency with ASM requirements and have approved them.

Sustainable Harvest Sectors 1, 2, and 3, GB Cod Fixed Gear Sector, Maine Coast Community Sector, and Northeast Fishery Sectors 5, 10, 11, and 13 will use the ASM program that was developed by NMFS. We are approving this program for these sectors because it is consistent with goals and objectives of monitoring and regulatory requirements. Sectors that operate only as permit banks, and explicitly prohibit fishing in their operations plans, are not required to include provisions for an ASM program.

We are approving the ASM programs proposed by the remaining five active sectors, NEFS 2, 6, 7, 8, and 12, which state that they will: Contract with a NMFS-approved ASM provider; meet the specified coverage level; and utilize the PTNS for random selection of monitored trips and notification to providers. These ASM programs also include additional protocols for ASM coverage waivers, incident reporting, and safety requirements for their sector managers and members. We have determined that the programs are consistent with the goals and objectives of at-sea monitoring and regulatory requirements.

In fishing year 2018, a number of sectors have realized ASM coverage levels below the target coverage level. Since this issue became known during the fishing year, we have been working with the sectors and approved service providers to increase coverage levels. Sectors have been proactive in their efforts to correct the issue. Sectors with low ASM coverage levels have participated in monthly monitoring calls with the Northeast Fisheries Science Center staff and service providers to develop strategies for increasing coverage; conducted targeted outreach with sector members to improve their understanding of ASM requirements; and submitted monthly reports to us documenting their efforts. Two sectors contracted with an additional service provider in an effort to increase the number of monitors available to them to provide coverage. Service providers are also working to improve coverage levels. The Northeast Fisheries Science Center held an ASM cross-training certification course in October 2018 and a full ASM certification course in December 2018 to help service providers increase their staffing levels and, ultimately, support higher levels of ASM deployment. All four approved providers sent staff to these certification courses. Increased staffing levels are expected to help providers meet ASM contract requirements. We will continue to work with sectors and service providers throughout the remainder of the year to increase coverage levels for 2018, and to ensure they meet the specified coverage target in 2019.

Granted Exemptions for Fishing Years 2019 and 2020

Previously Granted Exemptions Granted for Fishing Years 2019 and 2020 (1–19)

We are granting exemptions from the following requirements for fishing years 2019 and 2020, all of which have been requested and granted in previous years: (1) 120-day block out of the fishery required for Day gillnet vessels; (2) 20-day spawning block out of the fishery required for all vessels; (3) limits on the number of gillnets for Day gillnet vessels outside the GOM; (4) prohibition on a vessel hauling another vessel's gillnet gear; (5) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish DAS; (6) limits on the number of hooks that may be fished; (7) DAS Leasing Program length and horsepower restrictions; (8) prohibition on discarding; (9) gear requirements in the Eastern U.S./Canada Management Area; (10) prohibition on a vessel hauling

another vessel's hook gear; (11) the requirement to declare an intent to fish in the Eastern U.S./Canada Special Access Program (SAP) and the Closed Area (CA) II Yellowtail Flounder/Haddock SAP prior to leaving the dock; (12) seasonal restrictions for the Eastern U.S./Canada Haddock SAP; (13) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (14) sampling exemption; (15) 6.5-inch (16.5-cm) minimum mesh size requirement for trawl nets to allow a 5.5-inch (12.7-cm) codend on directed redfish trips; (16) prohibition on combining small-mesh exempted fishery and sector trips in SNE; (17) extra-large mesh requirement to target dogfish on trips excluded from ASM in SNE and Inshore GB BSA; (18) requirement that Handgear A vessels carry a Vessel Monitoring System (VMS) unit when fishing in a single broad stock area; and (19) limits on the number of gillnets for Day gillnet vessels in the GOM. A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable final rules identified in Table 6 below.

Several exemptions available to sectors in previous fishing years were rendered obsolete when the Omnibus Essential Fish Habitat Amendment 2 went into effect (83 FR 15240; April 9, 2018). The amendment removed the GB Seasonal Closure Area and Nantucket Lightship Closed Area, and changed CA I from a year-round closed area to a seasonal spawning closure. Consequently, sector exemptions pertaining to these closed areas are no longer applicable. These exemptions include: GB Seasonal Closure Area in May (previously a ''universal'' exemption); daily catch reporting by sector managers for vessels participating in the CA I Hook Gear Haddock SAP; prohibition on fishing inside and outside the CA I Hook Gear Haddock SAP while on the same trip; and the prohibition on groundfish trips in Nantucket Lightship Closed Area. Sectors did not request any of these exemptions for fishing year 2019.

TABLE 6—EXEMPTIONS FROM PREVIOUS FISHING YEARS THAT ARE GRANTED IN FISHING YEARS 2019 AND 2020

Exemptions	Rulemaking	Date of publication	Citation
1–2, 4–9	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
10–11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
12–14	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
3, 15–16	Fishing Years 2015–2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
17	Framework 55 Final Rule	May 2, 2016	81 FR 26412
18	Amendment 18 Final Rule	April 21, 2017	82 FR 18706
19	Fishing Year 2018 Sector Operations Final Rule	May 1, 2018	83 FR 18965

Northeast Multispecies **Federal Register** documents can be found at *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/.*

Additional Sector Operations Plan Provisions

Inshore GOM Restrictions

Several sectors have proposed an operations plan provision to limit and more accurately document a vessel's behavior when fishing in an area they define as the inshore portion of the GOM BSA, or the area to the west of 70°15′ W long. As in previous years, we are approving this provision, but note that a sector may elect to remove this provision in the final version of its operations plan, and it is not a requirement under NMFS regulations.

Under this provision, a vessel that is carrying an observer or at-sea monitor would remain free to fish in all areas, including the inshore GOM area, without restriction. If a vessel is not carrying an observer or at-sea monitor and fishes any part of its trip in the GOM west of 70°15′ W long., the vessel would be prohibited from fishing outside of the GOM BSA. Also, if a vessel is not carrying an observer or at-sea monitor and fishes any part of its trip outside the GOM BSA, this provision would prohibit a vessel from fishing west of 70°15′ W long. within the GOM BSA. The approved provision includes a requirement that a vessel declare whether it intends to fish in the inshore GOM area through the trip start hail using its VMS unit prior to departure. We provide sector managers with the ability to monitor this provision through the Sector Information Management Module, a website where we also provide roster, trip, discard, and observer information to sector managers. A sector vessel may use a federally funded NEFOP observer or at-sea monitor on these trips because we believe it will not create bias in coverage or discard estimates, as fishing behavior is not expected to change as a result of this provision.

Prohibition on a Vessel Hauling Another Vessel's Trap Gear To Target Groundfish

Several sectors have requested a provision to allow a vessel to haul another vessel's fish trap gear, similar to the current exemptions that allow a vessel to haul another vessel's gillnet gear or hook gear. These exemptions have generally been referred to as ''community'' gear exemptions. Regulations at § 648.84(a) require a vessel to mark all bottom-tending fixed gear, which would include fish trap gear used to target groundfish. To facilitate enforcement of this regulation, we are requiring that any community fish trap gear be tagged by each vessel that plans to haul the gear, similar to how this sector operations plan provision was implemented in fishing years 2014 through 2018. This allows one vessel to deploy the trap gear and another vessel to haul the trap gear, provided both vessels tag the gear prior to deployment. This requirement is included in the sector's operations plan to provide the opportunity for the sector to monitor the use of this provision and facilitate the Office of Law Enforcement and the U.S. Coast Guard's enforcement of the marking requirement.

Comments and Responses

We received a total of five comments from: Northeast Sector Service Network (NESSN); Environmental Defense Fund (EDF); two members of the fishing industry; and one comment from a member of the public. Only comments related to the proposed measures are addressed below.

Allocations

Comment 1: Two individuals provided comments pertaining to quota allocations. One commenter argued that industry harvests more fish than allowed and, therefore, all quotas should be reduced by 50 percent. The other commenter asked NMFS to allocate quotas regionally to ensure that overfishing does not occur on genetically distinct segments of the population. This commenter was also

concerned about the potential impacts quota allocations may have on the recreational fishery.

Response: This rulemaking does not set fishing year 2019 annual catch limits for the groundfish fishery. This action approves sector operations plans for fishing years 2019 and 2020, and distributes ACE to groundfish sectors based on ACLs developed by the New England Fishery Management Council and implemented in Framework 57 to the FMP. The ACLs are set to prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available. Some groundfish species are managed as single unit stocks (*e.g.,* witch flounder, white hake), whereas others are managed in distinct sub-groups by region (*e.g.,* GOM cod, SNE/MA yellowtail flounder), based on our understanding of each species' populations dynamics. Quota is allocated at a stock-level. This action does not allocate quota to the commercial and recreational fisheries; fishing year 2019 allocations are developed in a separate rulemaking.

Sector Operations Plans and Exemptions

Comment 2: NESSN supports approval of fishing year 2019 and 2020 sector operations plans for NEFS 2, 4, 6, 7, 8, and 12.

Response: This rule approves fishing year 2019 and 2020 sector operations plans for NEFS 2, 4, 6, 7, 8, and 12, as proposed.

Comment 3: NESSN supports approval of all the regulatory exemptions as proposed.

Response: This rule approves all 19 regulatory exemptions as described in the proposed rule.

Comment 4: NESSN states that NEFS 1 and 3 opted not to operate in fishing year 2019, but that these sectors may seek approval for fishing year 2020.

Response: This final rule approves fishing year 2019 and 2020 sector operations plans submitted by 16 groundfish sectors. As described in the regulations, sectors that opted not to operate in fishing year 2019, but wish to be considered for approval for fishing year 2020 must submit an operations plan and preliminary contract to the Regional Administrator no later than September 1, 2019. We will notify sectors of this as we approach the deadline.

At-Sea Monitoring

Comment 5: We received several comments on the low realized ASM coverage levels in fishing year 2018. NESSN recommended that NMFS take each sector's corrective actions into account when considering whether to approve their operations plans. A member of the fishing industry inquired as to whether NMFS was assured that sectors had done everything possible to meet the target ASM coverage level. EDF recommended that NMFS not approve sector operations plans for fishing years 2019 and 2020 until and unless the plans were revised to include improvements to the monitoring plans, particularly for sectors that had failed to meet the fishing year 2018 ASM coverage level. EDF also requested that NMFS describe the corrective actions taken by sectors and NMFS in fishing year 2018 to increase sectors' ASM coverage levels.

Response: The issue of low ASM coverage levels for some groundfish sectors first became apparent partway through fishing year 2018. We first notified sector managers of the issue at our in-person sector manager meeting on September 5, 2018. We then sent letters to each of the sectors, which we shared with the Council and ASM service providers, on September 25, 2018. Since that time, sectors and ASM service providers have made a concerted effort to improve their ASM coverage levels, and the overall sector ASM coverage has meaningfully increased.

Sectors have participated in monthly monitoring calls with NMFS and ASM service providers to develop strategies for increasing coverage; conducted targeted outreach with sector members to improve their understanding of ASM requirements; and submitted regular reports to NMFS documenting their efforts. Two sectors contracted with an additional service provider in an effort to increase the number of monitors available to them to provide coverage. The Northeast Fisheries Science Center held an ASM cross-training certification course in October 2018 and a full ASM certification course in December 2018 to help service providers increase their staffing levels and, ultimately, support higher levels of ASM deployment. All four approved providers sent staff to these certification courses.

In September 2018, the average sector ASM coverage level was just under 8 percent, well below the 15 percent target level. As of March 20, 2019, the average sector ASM coverage level is approximately 13 percent, and several sectors have ASM coverage levels at or above the target level. For a variety of reasons, some sectors will be unable to achieve the target coverage level for fishing year 2018, and we recognized these contributing factors in our September 2018 correspondence to sectors. For some sectors, the majority of fishing effort occurs in the summer and little, if any, fishing effort takes place during the remainder of the year; other sectors have vessels operating under special circumstances (*e.g.,* exempted fishing permits) that require NMFS to exclude them from observer coverage calculations; and still others had compliance issues related to the call-in and notification requirements associated with the Extra-Large Mesh Gillnet Option approved in Framework 55, which inflated the estimate of groundfish trips that ostensibly required coverage, but would not have if the trip was properly reported.

When considering approval of these sectors for fishing years 2019 and 2020, we took into consideration the trajectory of each sector's ASM coverage level, whether any of these extenuating circumstances applied, and what, if any, efforts were made by the sector to improve its ASM coverage level. Given this, we made the decision to approve these sector operations plans for fishing years 2019 and 2020. However, we expect sectors to continue to address any outstanding issues contributing to low coverage and meet the ASM target coverage level for fishing year 2019. We retain the right to withdraw approval of a sector's operations plan in the future if we determine that it has taken insufficient steps to address these issues for fishing year 2019.

Comment 6: EDF also stated that NMFS should require higher levels of monitoring prior to approving sector operations plans for fishing years 2019 and 2020.

Response: Each year, NOAA Fisheries sets the target ASM coverage level for groundfish sectors for the coming fishing year that is necessary to meet the required precision standard, a coefficient of variation of 30 percent (CV30) or better at the overall stock level, for each groundfish stock. For fishing year 2019, we have determined that sectors will be required to have monitors on 31 percent of groundfish trips, up from the 15 percent required for 2018. The Council is currently working on Amendment 23, which could affect how coverage levels are set and how coverage is distributed in the future.

Changes From the Proposed Rule

In the proposed rule, we considered approving 20 sectors for fishing years 2019 and 2020, however, several sectors withdrew their operations plans from consideration after the proposed rule published. As a result, this final rule approves and allocates ACE to 16 sectors. The allocations published in the

proposed rule were based on final fishing year 2018 sectors rosters because we had not yet received preliminary rosters for the 2019 fishing year. The preliminary sector roster deadline for fishing year 2019 was March 8, 2019. The ACE allocated to each sector has been updated in the final rule to reflect preliminary sector enrollment for the 2019 fishing year. There are no other changes from the proposed measures.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness so that this final rule may become effective May 1, 2019. If this action is not implemented by the start of the 2019 fishing year on May 1, 2019, sectors would not be approved to operate and, therefore, sector vessels would be unable to fish. Sector vessels would be prohibited from fishing for groundfish until this rule was effective. This would result in significant negative economic impacts.

Sector exemptions provide additional operational flexibility and efficiencies for Northeast multispecies sector vessels. These exemptions provide vessels with flexibility in choosing when to fish, how long to fish, what species to target, and how much catch they may land on any given trip. A delay in implementing this action would forego the flexibility and economic efficiency that sector exemptions are intended to provide. Further, sector vessels could only fish during this delay if they chose to fish in the common pool. Vessels choosing to fish in the common pool to avoid a 30-day delay could not return to a sector for the entire fishing year and would forego the increased flexibility and efficiencies offered by sectors for the fishing year. For all of these reasons outlined above, good cause exists to waive the otherwise applicable requirement to delay implementation of this rule for a period of 30 days.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 22, 2019.

Patricia A. Montanio,

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

For the reasons stated in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.87, revise paragraph (d) to read as follows:

§ 648.87 Sector allocation.

* * * * *

(d) *Approved sector allocation proposals.* Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (26) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

(1) GB Cod Hook Sector.
(2) GB Cod Fixed Gear Sector.
(3) Mooncusser Sector.
(4) Sustainable Harvest Sector.
(5) Sustainable Harvest Sector II.
(6) Sustainable Harvest Sector III.
(7) Port Clyde Community Groundfish Sector.
(8) Northeast Fishery Sector I.
(9) Northeast Fishery Sector II.
(10) Northeast Fishery Sector III.
(11) Northeast Fishery Sector IV.
(12) Northeast Fishery Sector V.
(13) Northeast Fishery Sector VI.
(14) Northeast Fishery Sector VII.
(15) Northeast Fishery Sector VIII.
(16) Northeast Fishery Sector IX.
(17) Northeast Fishery Sector X.
(18) Northeast Fishery Sector XI.
(19) Northeast Fishery Sector XII.
(20) Northeast Fishery Sector XIII.
(21) Tristate Sector.
(22) Northeast Coastal Communities Sector.
(23) State of Maine Permit Banking Sector.
(24) State of Rhode Island Permit Bank Sector.
(25) State of New Hampshire Permit Bank Sector.
(26) State of Massachusetts Permit Bank Sector.

* * * * *

[FR Doc. 2019–08440 Filed 4–25–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XG900

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Common Pool Measures for Fishing Year 2019

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

ACTION: Temporary rule; possession and trip limit implementation.

SUMMARY: This action implements measures for Northeast multispecies common pool vessels for the 2019 fishing year. This action is necessary to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield (OY) for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. These measures include possession and trip limits and the allocation of zero trips into the Closed Area II Yellowtail Flounder/Haddock Special Access Program for common pool vessels to target yellowtail flounder.

DATES: Effective at 0001 hours on May 1, 2019, through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, 978–281–9232.

SUPPLEMENTARY INFORMATION: The Northeast Multispecies Fishery Management Plan (FMP) regulations give the Regional Administrator the authority to implement certain types of management measures for the common pool fishery, the U.S. Canada Management Area, and Special Management Programs. This action implements a number of these management measures for the 2019 fishing year, effective May 1, 2019.

Common Pool Trip Limits

The possession and trip limits for the 2019 fishing year are included in Tables 1 and 2 below. These possession and trip limits were developed based on the common pool sub-Annual Catch Limits (sub-ACLs) set by Framework Adjustment 57 to the Northeast Multispecies FMP that will be in effect on May 1, 2019. We also considered preliminary 2019 sector rosters, expected common pool participation, and common pool fishing activity in previous fishing years. Based on that information, we project that these adjustments will facilitate optimized harvest of the common pool quotas, while preventing early trimester closures, and preventing catch from exceeding the 2019 fishing year sub-ACLs.

The 2019 possession and trip limits are the same as the current 2018 limits, with the exception of Gulf of Maine (GOM) haddock and GOM cod. The limits for GOM haddock are reduced relative to the current 2018 limits to prevent early stock area closures in Trimester 1, as occurred in 2018. The GOM cod limits are also reduced relative to current common pool possession and trip limits. On March 13, 2019, we published an inseason action to increase the GOM cod possession and trip limits for the common pool fishery to 100 lb (45 kg) per day-at-sea (DAS), up to 200 lb (91 kg) per trip, through April 30, 2019 (84 FR 8998). We increased the possession limit because we projected that the common pool fishery would not fully harvest its sub-ACL for GOM cod by the end of the 2018 fishing year. The limits for GOM cod are reduced relative to the current 2018 limits for the stock because they are based on our projection for the entire 2019 fishing year.

For Handgear A and Handgear B vessels, possession and trip limits for Georges Bank (GB) and GOM cod are tied to the possession and trip limits for groundfish days-at-sea DAS vessels. The default cod trip limit is 300 lb (136 kg) for Handgear A vessels and 75 lb (34 kg) for Handgear B vessels. If the GOM or GB cod limit for vessels fishing on a groundfish DAS drops below 300 lb (136 kg), then the respective Handgear A cod trip limit must be reduced to the same limit. Similarly, the Handgear B trip limit must be adjusted proportionally to the DAS limit (rounded up to the nearest 25 lb (11 kg)).

This action sets a GOM cod possession limit of 50 lb (23 kg) per DAS for vessels fishing on a groundfish DAS, which is 94 percent lower than the 800-lb (363-kg) per DAS limit specified in the regulations for these vessels. As a result, the Handgear A trip limit for GOM cod is set at 50 lb (23 kg) per trip. The Handgear B trip limit for GOM cod is reduced proportionally (94-percent reduction) and rounded up to 25 lb (11 kg) per trip.

Additionally, this action sets a GB cod possession limit of 250 lb (113 kg) per DAS for vessels fishing on a groundfish DAS which is 87.5 percent lower than the 2,000-lb (907-kg) per DAS limit specified in the regulations for these vessels. As a result, the Handgear A trip limit for GB cod would be set at 250 lb (113 kg) per trip, and the Handgear B trip limit for GB cod would be reduced proportionally (87.5-percent reduction) and rounded up to a 25 lb (11 kg) per trip.

Vessels with a Small Vessel category permit can possess up to 300 lb (136 kg) of cod, haddock, and yellowtail flounder, combined, per trip. Additionally, for these vessels, the trip limit for all stocks is equal to the landing limits per DAS applicable to multispecies DAS vessels. This is necessary to ensure that the trip limit applicable to the Small Vessel category permit is consistent with reductions to the trip limits for other common pool vessels, as described above.

Weekly quota monitoring reports for the common pool fishery can be found on our website at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, vessel monitoring system catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

TABLE 1—2019 FISHING YEAR COMMON POOL POSSESSION AND TRIP LIMITS

Stock	2019 trip limit
GB Cod (outside Eastern U.S./Canada Area)	250 lb (113 kg) per DAS, up to 500 lb (227 kg) per trip.
GB Cod (inside Eastern U.S./Canada Area).	
GB Cod [Closed Area II Yellowtail Flounder/Haddock SAP (for targeting haddock)].	500 lb (227 kg) per trip.
GOM Cod	50 lb (23 kg) per DAS, up to 100 lb (45 kg) per trip.
GB Haddock	100,000 lb (45, 359 kg) per trip.
GOM Haddock	500 lb (227 kg) per DAS, up to 1,000 lb (454 kg) per trip.
GB Yellowtail Flounder	100 lb (45 kg) per trip.
SNE/MA Yellowtail Flounder	100 lb (45 kg) per DAS, up to 200 lb (91 kg) per trip.
Cape Cod (CC)/GOM Yellowtail Flounder	750 lb (340 kg) per DAS, up to 1,500 lb (680 kg) per trip.
American Plaice	750 lb (340 kg) per DAS, up to 1,500 lb (680 kg) per trip.
Witch Flounder	600 lb (272 kg) per trip.
GB Winter Flounder	250 lb (113 kg) per trip.
GOM Winter Flounder	2,000 lb (907 kg) per trip.
SNE/MA Winter Flounder	2,000 lb (907 kg) per DAS, up to 4,000 lb (1,814 kg) per trip.
Redfish	Unlimited.
White Hake	1,500 lb (680 kg) per trip.
Pollock	Unlimited.
Atlantic Halibut	1 fish per trip.
Windowpane Flounder	Possession Prohibited.
Ocean Pout.	
Atlantic Wolffish.	

TABLE 2—2019 FISHING YEAR COD TRIP LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS

Permit	Initial 2019 trip limit
Handgear A GOM Cod	50 lb (23 kg) per trip.
Handgear A GB Cod	250 lb (113 kg) per trip.
Handgear B GOM Cod	25 lb (11 kg) per trip.
Handgear B GB Cod	25 lb (11 kg) per trip.
Small Vessel Category	300 lb (136 kg) of cod, haddock, and yellowtail flounder combined; additionally, vessels are limited to the common pool DAS limit for all stocks.

As a reminder, Table 3 includes the initial common pool trimester Total Allowable Catches (TACs) for fishing year 2019. These trimester TACS are based on preliminary sector rosters. However, individual permit holders have until the end of the 2018 fishing year (April 30, 2019) to drop out of a sector and fish in the common pool fishery for the 2019 fishing year. Therefore, it is possible that the sector and common pool catch limits, including the trimester TACs, may change due to changes in sector rosters. If changes to sector rosters occur, updated catch limits and/or possession and trip limits will be announced as soon as possible in the 2019 fishing year to reflect the final sector rosters as of May 1, 2019. On April 19, 2019, we also published a proposed rule to request comment on Framework Adjustment 58 measures (84 FR 16441). If approved, that rule could make additional changes to common pool sub-ACLs, as well as common pool possession and trip limits.

TABLE 3—COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES FOR FISHING YEAR 2019 (MT, LIVE WEIGHT)

Stock	Trimester total allowable catches (mt)		
	Trimester 1	Trimester 2	Trimester 3
GB Cod	11.1	13.5	15.1
GOM Cod	5.8	3.9	2.1
GB Haddock	86.1	105.2	127.5
GOM Haddock	25.1	24.1	43.6
GB Yellowtail Flounder	0.7	1.1	1.8
SNE/MA Yellowtail Flounder	1.3	1.7	3.2
CC/GOM Yellowtail Flounder	9.7	4.4	2.9
American Plaice	19.2	2.1	4.7
Witch Flounder	10.1	3.7	4.6
GB Winter Flounder	0.5	1.4	4.1
GOM Winter Flounder	6.5	6.7	4.4
Redfish	12.8	15.9	22.5
White Hake	7.8	6.4	6.4
Pollock	64.4	80.5	85.1

Closed Area II Yellowtail Flounder/Haddock Special Access Program

The regulations at § 648.85(b)(3)(vii) provide the Regional Administrator with authority to determine the total number of trips that may be declared into the Closed Area II Yellowtail Flounder/Haddock Special Access Program (SAP) to target yellowtail flounder. This action allocates zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2019. As a result, this SAP is only open to target haddock, from August 1, 2019, through January 31, 2020. Northeast multispecies vessels fishing in the SAP must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels may not fish in this SAP using flounder trawl nets.

The Regional Administrator (RA) has the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. Allocating trips to target yellowtail flounder in the Closed Area II Yellowtail Flounder/Haddock SAP is discretionary if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit, for a total catch of 2,250,000 lb (1,020,600 kg). This calculation considers projected catch from the area outside the SAP. Based on the fishing year 2019 GB yellowtail flounder groundfish sub-ACL implemented by Framework Adjustment 57 of 526,905 lb (239,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2019 GB yellowtail flounder allocation.

On April 19, 2019, we published a proposed rule to request comment on Framework 58 measures. The New England Fishery Management Council's recommended 2019 GB yellowtail flounder sub-ACL is a 105 mt reduction from the 2019 sub-ACL implemented by Framework 57, which was used in the calculation for the determination not to allocate any trips to the SAP. As a result, we do not expect the final rule implementing Framework 58 would allocate trips to the SAP to target yellowtail flounder.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness

period because it would be contrary to the public interest.

The regulations at § 648.86(o) authorize the RA to adjust the Northeast multispecies possession and trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool quotas. This action sets the common pool possession and trip limits on May 1, 2019, for the 2019 fishing year. The possession and trip limits implemented through this action help to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. Delay of this action would leave the common pool fishery with the possession and trip limits found in § 648.86, which are too high to control catch. This would likely lead to early closure of a trimester and quota overages. Any overage of the quota for either of the first two trimesters must be deducted from the Trimester 3 quota, which could substantially disrupt the trimester structure and intent to distribute the fishery across the entire fishing year. An overage reduction in Trimester 3 would further reduce fishing opportunities for common pool vessels and likely result in early closure of Trimester 3. Additionally, any overage of the annual quota would be deducted from common pool's quota for the next fishing year, to the detriment of this stock.

The regulations at § 648.85(b)(3)(vii) require that the Regional Administrator announce the total number of allowed trips by common pool vessels that may be declared into the Closed Area II Yellowtail Flounder/Haddock SAP on or about June 1. On April 19, 2019, we published the proposed rule for Framework 58 to the Northeast Multispecies FMP, and the final rule for that action may not be implemented by June 1. As such, we have included the announcement in this inseason action to meet this regulatory requirement. Doing so also ensures that the fishing industry has sufficient notice in order to plan their activities in the new fishing year.

For the reasons above, delay of this action for prior notice and the opportunity for public comment and the 30-day delayed effectiveness period would undermine management objectives of the FMP and cause unnecessary negative economic impacts to the common pool fishery.

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

Dated: April 23, 2019.

Karen H. Abrams,

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

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