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Presidential Documents

Title 3—

The President

Proclamation 9913 of July 26, 2019

National Korean War Veterans Armistice Day, 2019

By the President of the United States of America

A Proclamation

In 1953, the Korean Armistice Agreement ended more than 3 years of brutal fighting against communist expansionism and tyranny on the Korean Peninsula. On National Korean War Veterans Armistice Day, we honor the brave patriots who secured freedom and democracy in the Republic of Korea, and we pay tribute to the more than 23,600 Americans who were killed in action and the more than 103,000 who were wounded in that conflict.

The dedication stone at the Korean War Veterans Memorial in Washington, DC, bears the inscription: ''Our Nation honors her sons and daughters who answered the call to defend a country they never knew and a people they never met.'' The memorial includes an honor roll of Americans killed in action and those missing in action, and its unique design features statues of a patrol crossing a Korean rice paddy. These figures represent the heroes of our Armed Forces who valiantly served in the Land of the Morning Calm and fought on battlefields such as Inchon, the Pusan Perimeter, and the Chosin Reservoir. Today, this hauntingly beautiful memorial stands as an enduring reminder of what it costs to defend and preserve the democratic principles we hold dear.

Our ironclad alliance with the Republic of Korea was cemented when the first American troops arrived on its soil to fight for liberty and human dignity. More than six decades after the ceasefire on the Korean Peninsula, the Republic of Korea is flourishing as a prosperous and peace-loving democracy. Since the signing of the armistice at Panmunjom, the United States has worked with the Republic of Korea to preserve peace through strength. Our military, together with our allies, stands vigilant, strong, and ''ready to fight tonight'' on the ground, in the air, and at sea. The phrase ''katchi kapshida''—''we go together''—is on the lips of every service member in Korea, representing generations of Koreans and Americans united by shared sacrifice and a willingness to uphold the cause of freedom no matter the cost.

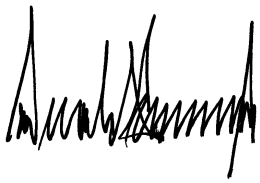
Last month, when I walked across the military demarcation line that runs through the Demilitarized Zone, it was the first time a sitting United States President has ever entered into the territory of the Democratic People's Republic of Korea. I hope these steps will spur progress in the ongoing effort to achieve the complete and verifiable denuclearization of North Korea, establish a permanent peace on the Korean Peninsula, and continue the recovery and repatriation of remains of fallen American soldiers.

Today, we honor our Korean War veterans for service rendered to both the United States and the Republic of Korea, and we remember their families who supported them throughout. Sometimes called ''The Forgotten War,'' we will always remember the immeasurable cost incurred by those who fought on the Korean Peninsula. The bravery, tenacity, and selflessness of our veterans liberated the oppressed, brought peace and prosperity to a freedom-loving people, and helped forge our unshakable bonds with the Republic of Korea.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim July 27, 2019, as National Korean War Veterans Armistice Day. I call upon all Americans to observe this day with appropriate ceremonies and activities that honor and give thanks to our distinguished Korean War Veterans.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-fourth.



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

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

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index (CPI) in effect on June 1, 2019.

DATES: This final rule is effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Kristen Phinnessee, Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Bureau is amending the regulation text and official interpretations for Regulation Z, which implements TILA, to update the dollar amounts of various thresholds that are adjusted annually based on the annual percentage change in the CPI as published by the Bureau of Labor Statistics (BLS). Specifically, for open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at $1.00 in 2020. For open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount in 2020 for the safe harbor for a first violation penalty fee will increase by $1 to $29 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will increase by $1 to $40. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2020 will be $21,980. The adjusted points-and-fees dollar trigger for high-cost mortgages in 2020 will be $1,099. For qualified mortgages, which provide creditors with certain protections from liability under the Ability-to-Repay Rule, the maximum thresholds for total points and fees in 2020 will be 3 percent of the total loan amount for a loan greater than or equal to $109,898; $3,297 for a loan amount greater than or equal to $65,939 but less than $109,898; 5 percent of the total loan amount for a loan greater than or equal to $21,980 but less than $65,939; $1,099 for a loan amount greater than or equal to $13,737 but less than $21,980; and 8 percent of the total loan amount for a loan amount less than $13,737.

I. Background

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds

Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) of Regulation Z implement sections 127(a)(3) and 127(c)(1)(A)(ii)(II) of TILA. Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) require creditors to disclose any minimum interest charge exceeding $1.00 that could be imposed during a billing cycle. These provisions also state that, for open-end consumer credit plans, the minimum interest charge thresholds will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for this adjustment.[1] If the cumulative change in the adjusted minimum value derived from applying the annual CPI–W level to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) has risen by a whole dollar, the minimum interest charge amounts set forth in the regulation will be increased by $1.00. This adjustment analysis is based on the CPI–W index in effect on June 1, 2019, which was reported by BLS on May 10, 2019,[2] and reflects the percentage change from April 2018 to April 2019. The adjustment analysis accounts for a 1.9 percent increase in the CPI–W from April 2018 to April 2019. This increase in the CPI–W when applied to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) does not trigger an increase in the minimum interest charge threshold of at least $1.00, and the Bureau is therefore not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

Safe Harbor Penalty Fees

Section 1026.52(b)(1)(ii)(A) and (B) of Regulation Z implements section 149(e) of TILA, which was added to TILA by the CARD Act.[3] Section 1026.52(b)(1)(ii)(D) provides that the safe harbor provision, which establishes the permissible penalty fee thresholds in § 1026.52(b)(1)(ii)(A) and (B), will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the CPI–W for this adjustment. If the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, if the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has decreased by a whole dollar, those amounts will be decreased by $1.00. See comment 52(b)(1)(ii)–2. The 2020 adjustment analysis is based on the CPI–W index in effect on June 1, 2019, which was reported by BLS on May 10, 2019, and reflects the percentage change from April 2018 to April 2019. The adjustment to the permissible fee

[1] The CPI–W is a subset of the Consumer Price Index for All Urban Consumers (CPI–U) index and represents approximately 29 percent of the U.S. population.

[2] BLS publishes Consumer Price Indices monthly, usually in the middle of each calendar month. Thus, the CPI–W reported on May 10, 2019 was the most current as of June 1, 2019.

[3] Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111–24, 123 Stat. 1734 (2009).

thresholds of $29 for a first violation penalty fee and $40 for a subsequent violation being adopted here reflects a 1.9 percent increase in the CPI–W from April 2018 to April 2019 and is rounded to the nearest $1 increment.

B. HOEPA Annual Threshold Adjustments

Section 1026.32(a)(1)(ii) of Regulation Z implements section 1431 of the Dodd-Frank Act,[4] which amended the HOEPA points-and-fees coverage test. Under § 1026.32(a)(1)(ii)(A) and (B), in assessing whether a transaction is a high-cost mortgage due to points and fees the creditor is charging, the applicable points-and-fees coverage test depends on whether the total loan amount is for $20,000 or more, or for less than $20,000. Section 1026.32(a)(1)(ii) provides that this threshold amount be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment.[5] The 2020 adjustment is based on the CPI–U index in effect on June 1, which was reported by BLS on May 10, 2019, and reflects the percentage change from April 2018 to April 2019. The adjustment to $21,980 here reflects a 2 percent increase in the CPI–U index from April 2018 to April 2019 and is rounded to the nearest whole dollar amount for ease of compliance.

Under § 1026.32(a)(1)(ii)(B) the HOEPA points-and-fees threshold is $1,000. Section 1026.32(a)(1)(ii)(B) provides that this threshold amount will be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment. The 2020 adjustment is based on the CPI–U index in effect on June 1, 2019, which was reported by BLS on May 10, 2019, and reflects the percentage change from April 2018 to April 2019. The adjustment to $1,099 here reflects a 2 percent increase in the CPI–U index from April 2018 to April 2019 and is rounded to the nearest whole dollar amount for ease of compliance.

C. Qualified Mortgages Annual Threshold Adjustments

The Bureau's Regulation Z implements sections 1411 and 1412 of the Dodd-Frank Act, which generally require creditors to make a reasonable, good-faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling and establishes certain protections from liability under this requirement for qualified mortgages. Under § 1026.43(e)(3)(i), a covered transaction is not a qualified mortgage if the transaction's total points and fees exceed: 3 Percent of the total loan amount for a loan amount greater than or equal to $100,000; $3,000 for a loan amount greater than or equal to $60,000 but less than $100,000; 5 percent of the total loan amount for loans greater than or equal to $20,000 but less than $60,000; $1,000 for a loan amount greater than or equal to $12,500 but less than $20,000; or 8 percent of the total loan amount for loans less than $12,500. Section 1026.43(e)(3)(ii) provides that the limits and loan amounts in § 1026.43(e)(3)(i) are recalculated annually for inflation using the CPI–U index in effect on June 1. The 2020 adjustment is based on the CPI–U index in effect on June 1, 2019, which was reported by BLS on May 10, 2019, and reflects the percentage change from April 2018 to April 2019. The adjustment to the 2019 figures[6] being adopted here reflects a 2 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds—§§ 1026.6(b)(2)(iii) and 1026.60(b)(3)

The minimum interest charge amounts for §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) will remain unchanged at $1.00 for the year 2020. Accordingly, the Bureau is not amending these sections of Regulation Z.

Safe Harbor Penalty Fees—§ 1026.52(b)(1)(ii)(A) and (B)

Effective January 1, 2020, the permissible fee threshold amounts increased by $1 and are $29 for § 1026.52(b)(1)(ii)(A) and $40 for § 1026.52(b)(1)(ii)(B). Accordingly, the Bureau is revising § 1026.52(b)(1)(ii)(A) and (B) to state that the fee imposed for violating the terms or other requirements of an account shall not exceed $29 and $40, respectively. The Bureau is also amending comment 52(b)(1)(ii)–2.i to preserve a list of the historical thresholds for this provision.

B. HOEPA Annual Threshold Adjustment—Comments 32(a)(1)(ii)–1 and –3

Effective January 1, 2020, for purposes of determining under § 1026.32(a)(1)(ii) the points-and-fees coverage test under HOEPA to which a transaction is subject, the total loan amount threshold is $21,980, and the adjusted points-and-fees dollar trigger under § 1026.32(a)(1)(ii)(B) is $1,099. If the total loan amount for a transaction is $21,980 or more, and the points-and-fees amount exceeds 5 percent of the total loan amount, the transaction is a high-cost mortgage. If the total loan amount for a transaction is less than $21,980, and the points-and-fees amount exceeds the lesser of the adjusted points-and-fees dollar trigger of $1,099 or 8 percent of the total loan amount, the transaction is a high-cost mortgage. The Bureau is amending comments 32(a)(1)(ii)–1 and –3, which list the adjustments for each year, to reflect for 2020 the new loan amount dollar threshold and the new points-and-fees dollar trigger, respectively.

C. Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2020, a covered transaction is not a qualified mortgage if, pursuant to § 1026.43(e)(3), the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $109,898; $3,297 for a loan amount greater than or equal to $65,939 but less than $109,898; 5 percent of the total loan amount for loans greater than or equal to $21,980 but less than $65,939; $1,099 for a loan amount greater than or equal to $13,737 but less than $21,980; or 8 percent of the total loan amount for loans less than $13,737. The Bureau is amending comment 43(e)(3)(ii)–1, which lists the adjustments for each year, to reflect the new dollar threshold amounts for 2020.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.[7] Pursuant to this final rule, in Regulation Z, § 1026.52(b)(1)(ii)(A) and (B) in subpart G is amended and comments 32(a)(1)(ii)–1.vi and –3.vi, 43(e)(3)(ii)–

[4] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[5] The CPI–U is based on all urban consumers and represents approximately 93 percent of the U.S. population.

[6] For 2020, a covered transaction is not a qualified mortgage if the transaction's total points and fees exceed 3 percent of the total loan amount for a loan amount greater than or equal to $109,898; $3,297 for a loan amount greater than or equal to $65,939 but less than $109,898; 5 percent of the total loan amount for loans greater than or equal to $21,980 but less than $65,939; $1,099 for a loan amount greater than or equal to $13,737 but less than $21,980; or 8 percent of the total loan amount for loans less than $13,737.

[7] 5 U.S.C. 553(b)(B).

1.vi, and 52(b)(1)(ii)–2.i.G in Supplement I are added to update the exemption thresholds. The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[8]

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[9] the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

D. Congressional Review Act

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

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

[8] 5 U.S.C. 603(a), 604(a).

[9] 44 U.S.C. 3506; 5 CFR part 1320.

SUBPART G—SPECIAL RULES APPLICABLE TO CREDIT CARD ACCOUNTS AND OPEN END CREDIT OFFERED TO COLLEGE STUDENTS

■ 2. Amend § 1026.52 by revising paragraphs (b)(1)(ii)(A) and (B) to read as follows:

§ 1026.52 Limitations on fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) $29

(B) $40 if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or

* * * * *

■ 3. In Supplement I to Part 1026:

■ a. Under *Section 1026.32—Requirements for High-Cost Mortgages,* paragraph 32(a)(1)(ii) is revised.

■ b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling,* paragraph 43(e)(3)(ii) is revised.

■ c. Under *Section 1026.52—Limitations on Fees,* section 52(b)(1)(ii) Safe harbors is revised.

The revisions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Section 1026.32—Requirements for High-Cost Mortgages

* * * * *

Paragraph 32(a)(1)(ii).

1. *Annual adjustment of $1,000 amount.* The $1,000 figure in § 1026.32(a)(1)(ii)(B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, $1,020, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $1,017, reflecting a .2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

iii. For 2017, $1,029, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

iv. For 2018, $1,052, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $1,077, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

vi. For 2020, $21,980, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar.

2. *Historical adjustment of $400 amount.* Prior to January 10, 2014, a mortgage loan was covered by § 1026.32 if the total points and fees payable by the consumer at or before loan consummation exceeded the greater of $400 or 8 percent of the total loan amount. The $400 figure was adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1, as follows:

i. For 1996, $412, reflecting a 3.00 percent increase in the CPI–U from June 1994 to June 1995, rounded to the nearest whole dollar.

ii. For 1997, $424, reflecting a 2.9 percent increase in the CPI–U from June 1995 to June 1996, rounded to the nearest whole dollar.

iii. For 1998, $435, reflecting a 2.5 percent increase in the CPI–U from June 1996 to June 1997, rounded to the nearest whole dollar.

iv. For 1999, $441, reflecting a 1.4 percent increase in the CPI–U from June 1997 to June 1998, rounded to the nearest whole dollar.

v. For 2000, $451, reflecting a 2.3 percent increase in the CPI–U from June 1998 to June 1999, rounded to the nearest whole dollar.

vi. For 2001, $465, reflecting a 3.1 percent increase in the CPI–U from June 1999 to June 2000, rounded to the nearest whole dollar.

vii. For 2002, $480, reflecting a 3.27 percent increase in the CPI–U from June 2000 to June 2001, rounded to the nearest whole dollar.

viii. For 2003, $488, reflecting a 1.64 percent increase in the CPI–U from June 2001 to June 2002, rounded to the nearest whole dollar.

ix. For 2004, $499, reflecting a 2.22 percent increase in the CPI–U from June 2002 to June 2003, rounded to the nearest whole dollar.

x. For 2005, $510, reflecting a 2.29 percent increase in the CPI–U from June 2003 to June 2004, rounded to the nearest whole dollar.

xi. For 2006, $528, reflecting a 3.51 percent increase in the CPI–U from June 2004 to June 2005, rounded to the nearest whole dollar.

xii. For 2007, $547, reflecting a 3.55 percent increase in the CPI–U from June 2005 to June 2006, rounded to the nearest whole dollar.

xiii. For 2008, $561, reflecting a 2.56 percent increase in the CPI–U from June

2006 to June 2007, rounded to the nearest whole dollar.

xiv. For 2009, $583, reflecting a 3.94 percent increase in the CPI–U from June 2007 to June 2008, rounded to the nearest whole dollar.

xv. For 2010, $579, reflecting a 0.74 percent decrease in the CPI–U from June 2008 to June 2009, rounded to the nearest whole dollar.

xvi. For 2011, $592, reflecting a 2.2 percent increase in the CPI–U from June 2009 to June 2010, rounded to the nearest whole dollar.

xvii. For 2012, $611, reflecting a 3.2 percent increase in the CPI–U from June 2010 to June 2011, rounded to the nearest whole dollar.

xviii. For 2013, $625, reflecting a 2.3 percent increase in the CPI–U from June 2011 to June 2012, rounded to the nearest whole dollar.

xix. For 2014, $632, reflecting a 1.1 percent increase in the CPI–U from June 2012 to June 2013, rounded to the nearest whole dollar.

3. *Applicable threshold.* For purposes of § 1026.32(a)(1)(ii), a creditor must determine the applicable points and fees threshold based on the face amount of the note (or, in the case of an open-end credit plan, the credit limit for the plan when the account is opened). However, the creditor must apply the allowable points and fees percentage to the ''total loan amount,'' as defined in § 1026.32(b)(4). For closed-end credit transactions, the total loan amount may be different than the face amount of the note. The $20,000 amount in § 1026.32(a)(1)(ii)(A) and (B) is adjusted annually on January 1 by the annual percentage change in the CPI that was in effect on the preceding June 1.

i. For 2015, $20,391, reflecting a 2 percent increase in the CPI–U from June 2013 to June 2014, rounded to the nearest whole dollar.

ii. For 2016, $20,350, reflecting a .2 percent decrease in the CPI–U from June 2014 to June 2015, rounded to the nearest whole dollar.

iii. For 2017, $20,579, reflecting a 1.1 percent increase in the CPI–U from June 2015 to June 2016, rounded to the nearest whole dollar.

iv. For 2018, $21,032, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

v. For 2019, $21,549, reflecting a 2.5 percent increase in the CPI–U from June 2017 to June 2018, rounded to the nearest whole dollar.

vi. For 2020, $21,980, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

Paragraph 43(e)(3)(ii).

1. *Annual adjustment for inflation.* The dollar amounts, including the loan amounts, in § 1026.43(e)(3)(i) will be adjusted annually on January 1 by the annual percentage change in the CPI–U that was in effect on the preceding June 1. The Bureau will publish adjustments after the June figures become available each year.

i. For 2015, reflecting a 2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,953: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,172 but less than $101,953: $3,059;

C. For a loan amount greater than or equal to $20,391 but less than $61,172: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,744 but less than $20,391; $1,020;

E. For a loan amount less than $12,744: 8 percent of the total loan amount.

ii. For 2016, reflecting a .2 percent decrease in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed;

A. For a loan amount greater than or equal to $101,749: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,050 but less than $101,749: $3,052;

C. For a loan amount greater than or equal to $20,350 but less than $61,050: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,719 but less than $20,350; $1,017;

E. For a loan amount less than $12,719: 8 percent of the total loan amount.

iii. For 2017, reflecting a 1.1 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transactions total points and fees do not exceed:

A. For a loan amount greater than or equal to $102,894: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $61,737 but less than $102,894: $3,087;

C. For a loan amount greater than or equal to $20,579 but less than $61,737: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $12,862 but less than $20,579: $1,029;

E. For a loan amount less than $12,862: 8 percent of the total loan amount.

iv. For 2018, reflecting a 2.2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $105,158: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $63,095 but less than $105,158: $3,155;

C. For a loan amount greater than or equal to $21,032 but less than $63,095: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,145 but less than $21,032: $1,052;

E. For a loan amount less than $13,145: 8 percent of the total loan amount.

v. For 2019, reflecting a 2.5 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $107,747: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $64,648 but less than $107,747: $3,232;

C. For a loan amount greater than or equal to $21,549 but less than $64,648: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,468 but less than $21,549: $1,077;

E. For a loan amount less than $13,468: 8 percent of the total loan amount.

vi. For 2020, reflecting a 2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $109,898: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $65,939 but less than $109,898: $3,297;

C. For a loan amount greater than or equal to $21,980 but less than $65,939: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,737 but less than $21,980: $1,099;

E. For a loan amount less than $13,737: 8 percent of the total loan amount.

* * * * *

Section 1026.52—Limitations on Fees

* * * * *

52(b)(1)(ii) Safe harbors

1. Multiple violations of same type. i. Same billing cycle or next six billing cycles. A card issuer cannot impose a fee for a violation pursuant to § 1026.52(b)(1)(ii)(B) unless a fee has previously been imposed for the same type of violation pursuant to § 1026.52(b)(1)(ii)(A). Once a fee has been imposed for a violation pursuant to § 1026.52(b)(1)(ii)(A), the card issuer may impose a fee pursuant to § 1026.52(b)(1)(ii)(B) for any subsequent violation of the same type until that type of violation has not occurred for a period of six consecutive complete billing cycles. A fee has been imposed for purposes of § 1026.52(b)(1)(ii) even if the card issuer waives or rebates all or part of the fee.

A. Late payments. For purposes of § 1026.52(b)(1)(ii), a late payment occurs during the billing cycle in which the payment may first be treated as late consistent with the requirements of this part and the terms or other requirements of the account.

B. Returned payments. For purposes of § 1026.52(b)(1)(ii), a returned payment occurs during the billing cycle in which the payment is returned to the card issuer.

C. Transactions that exceed the credit limit. For purposes of § 1026.52(b)(1)(ii), a transaction that exceeds the credit limit for an account occurs during the billing cycle in which the transaction occurs or is authorized by the card issuer.

D. Declined access checks. For purposes of § 1026.52(b)(1)(ii), a check that accesses a credit card account is declined during the billing cycle in which the card issuer declines payment on the check.

ii. Relationship to §§ 1026.52(b)(2)(ii) and 1026.56(j)(1). If multiple violations are based on the same event or transaction such that § 1026.52(b)(2)(ii) prohibits the card issuer from imposing more than one fee, the event or transaction constitutes a single violation for purposes of § 1026.52(b)(1)(ii). Furthermore, consistent with § 1026.56(j)(1)(i), no more than one violation for exceeding an account's credit limit can occur during a single billing cycle for purposes of § 1026.52(b)(1)(ii). However, § 1026.52(b)(2)(ii) does not prohibit a card issuer from imposing fees for exceeding the credit limit in consecutive billing cycles based on the same over-the-limit transaction to the extent permitted by § 1026.56(j)(1). In these circumstances, the second and third over-the-limit fees permitted by § 1026.56(j)(1) may be imposed pursuant to § 1026.52(b)(1)(ii)(B). See comment 52(b)(2)(ii)-1.

iii. Examples. The following examples illustrate the application of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) with respect to credit card accounts under an open-end (not home-secured) consumer credit plan that are not charge card accounts. For purposes of these examples, assume that the billing cycles for the account begin on the first day of the month and end on the last day of the month and that the payment due date for the account is the twenty-fifth day of the month.

A. Violations of same type (late payments). A required minimum periodic payment of $50 is due on March 25. On March 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on March 26. In order for the card issuer to impose a $35 late payment fee pursuant to § 1026.52(b)(1)(ii)(B), a second late payment must occur during the April, May, June, July, August, or September billing cycles.

1. The card issuer does not receive any payment during the March billing cycle. A required minimum periodic payment of $100 is due on April 25. On April 20, the card issuer receives a $50 payment. No further payment is received during the April billing cycle. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer may impose a $35 late payment fee on April 26. Furthermore, the card issuer may impose a $35 late payment fee for any late payment that occurs during the May, June, July, August, September, or October billing cycles.

2. Same facts as in paragraph A above. On March 30, the card issuer receives a $50 payment and the required minimum periodic payments for the April, May, June, July, August, and September billing cycles are received on or before the payment due date. A required minimum periodic payment of $60 is due on October 25. On October 26, a late payment has occurred because the required minimum periodic payment due on October 25 has not been received. However, because this late payment did not occur during the six billing cycles following the March billing cycle, § 1026.52(b)(1)(ii) only permits the card issuer to impose a late payment fee of $25.

B. *Violations of different types (late payment and over the credit limit).* The credit limit for an account is $1,000. Consistent with § 1026.56, the consumer has affirmatively consented to the payment of transactions that exceed the credit limit. A required minimum periodic payment of $30 is due on August 25. On August 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on August 26. On August 30, the card issuer receives a $30 payment. On September 10, a transaction causes the account balance to increase to $1,150, which exceeds the account's $1,000 credit limit. On September 11, a second transaction increases the account balance to $1,350. On September 23, the card issuer receives the $50 required minimum periodic payment due on September 25, which reduces the account balance to $1,300. On September 30, the card issuer imposes a $25 over-the-limit fee, consistent with § 1026.52(b)(1)(ii)(A). On October 26, a late payment has occurred because the $60 required minimum periodic payment due on October 25 has not been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(B), the card issuer imposes a $35 late payment fee on October 26.

C. *Violations of different types (late payment and returned payment).* A required minimum periodic payment of $50 is due on July 25. On July 26, a late payment has occurred because no payment has been received. Accordingly, consistent with § 1026.52(b)(1)(ii)(A), the card issuer imposes a $25 late payment fee on July 26. On July 30, the card issuer receives a $50 payment. A required minimum periodic payment of $50 is due on August 25. On August 24, a $50 payment is received. On August 27, the $50 payment is returned to the card issuer for insufficient funds. In these circumstances, § 1026.52(b)(2)(ii) permits the card issuer to impose either a late payment fee or a returned payment fee but not both because the late payment and the returned payment result from the same event or transaction. Accordingly, for purposes of § 1026.52(b)(1)(ii), the event or transaction constitutes a single violation. However, if the card issuer imposes a late payment fee, § 1026.52(b)(1)(ii)(B) permits the issuer to impose a fee of $35 because the late payment occurred during the six billing cycles following the July billing cycle. In contrast, if the card issuer imposes a

returned payment fee, the amount of the fee may be no more than $25 pursuant to § 1026.52(b)(1)(ii)(A).

2. *Adjustments based on Consumer Price Index.* For purposes of § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B), the Bureau shall calculate each year price level adjusted amounts using the Consumer Price Index in effect on June 1 of that year. When the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, when the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B) has decreased by a whole dollar, those amounts will be decreased by $1.00. The Bureau will publish adjustments to the amounts in § 1026.52(b)(1)(ii)(A) and (b)(1)(ii)(B).

i. *Historical thresholds.*

A. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $25 under § 1026.52(b)(1)(ii)(A) and $35 under § 1026.52(b)(1)(ii)(B), through December 31, 2013.

B. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $26 under § 1026.52(b)(1)(ii)(A) and $37 under § 1026.52(b)(1)(ii)(B), through December 31, 2014.

C. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2015.

D. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A), through December 31, 2016. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $37 under § 1026.52(b)(1)(ii)(B), through June 26, 2016, and $38 under § 1026.52(b)(1)(ii)(B) from June 27, 2016 through December 31, 2016.

E. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2017.

F. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2018.

G, Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $28 under § 1026.52(b)(1)(ii)(A) and $39 under § 1026.52(b)(1)(ii)(B), through December 31, 2019.

3. *Delinquent balance for charge card accounts.* Section 1026.52(b)(1)(ii)(C) provides that, when a charge card issuer that requires payment of outstanding balances in full at the end of each billing cycle has not received the required payment for two or more consecutive billing cycles, the card issuer may impose a late payment fee that does not exceed three percent of the delinquent balance. For purposes of § 1026.52(b)(1)(ii)(C), the delinquent balance is any previously billed amount that remains unpaid at the time the late payment fee is imposed pursuant to § 1026.52(b)(1)(ii)(C). Consistent with § 1026.52(b)(2)(ii), a charge card issuer that imposes a fee pursuant to § 1026.52(b)(1)(ii)(C) with respect to a late payment may not impose a fee pursuant to § 1026.52(b)(1)(ii)(B) with respect to the same late payment. The following examples illustrate the application of § 1026.52(b)(1)(ii)(C):

i. Assume that a charge card issuer requires payment of outstanding balances in full at the end of each billing cycle and that the billing cycles for the account begin on the first day of the month and end on the last day of the month. At the end of the June billing cycle, the account has a balance of $1,000. On July 5, the card issuer provides a periodic statement disclosing the $1,000 balance consistent with § 1026.7. During the July billing cycle, the account is used for $300 in transactions, increasing the balance to $1,300. At the end of the July billing cycle, no payment has been received and the card issuer imposes a $25 late payment fee consistent with § 1026.52(b)(1)(ii)(A). On August 5, the card issuer provides a periodic statement disclosing the $1,325 balance consistent with § 1026.7. During the August billing cycle, the account is used for $200 in transactions, increasing the balance to $1,525. At the end of the August billing cycle, no payment has been received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $40, which is 3% of the $1,325 balance that was due at the end of the August billing cycle. Section 1026.52(b)(1)(ii)(C) does not permit the card issuer to include the $200 in transactions that occurred during the August billing cycle.

ii. Same facts as above except that, on August 25, a $100 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $37, which is 3% of the unpaid portion of the $1,325 balance that was due at the end of the August billing cycle ($1,225).

iii. Same facts as in paragraph A above except that, on August 25, a $200 payment is received. Consistent with § 1026.52(b)(1)(ii)(C), the card issuer may impose a late payment fee of $34, which is 3% of the unpaid portion of the $1,325 balance that was due at the end of the August billing cycle ($1,125). In the alternative, the card issuer may impose a late payment fee of $35 consistent with § 1026.52(b)(1)(ii)(B). However, § 1026.52(b)(2)(ii) prohibits the card issuer from imposing both fees.

* * * * *

Dated: July 24, 2019.

Thomas Pahl,

Policy Associate Director, Bureau of Consumer Financial Protection.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0567; Product Identifier 2019–NE–21–AD; Amendment 39–19698; AD 2019–15–05]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3 and Trent 1000–R3 engines. This AD requires removal of the affected high-pressure turbine (HPT) disk front cover plate before reaching its new life limit. This AD was prompted by a recent analysis that determined the HPT disk front cover plate may have a safe life below its declared life limit. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 16, 2019.

The FAA must receive comments on this AD by September 16, 2019.

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

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

For service information identified in this final rule, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, United Kingdom, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *corporate.care@rolls-royce.com;* internet: *https://customers.rolls-royce.com/public/rollsroycecare.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0567.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0567; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Besian Luga, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7750; fax: 781–238–7199; email: *Besian.luga@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2018–0164R1, dated March 14, 2019 (corrected copy dated March 21, 2019) (referred to after this as ''the MCAI''), to address an unsafe condition for the specified products. The MCAI states:

> Following a recent analysis of the material condition used in manufacture of these parts, it was established that the HP turbine disc front cover plate may have a safe life below its declared safe cyclic life (DSCL).
>
> This condition, if not corrected, could lead to premature failure of an affected part, possibly resulting in damage to the engine and reduced control of the aeroplane.
>
> To address this potential unsafe condition, RR published the NMSB to provide the new DSCL and replacement instructions. Consequently, EASA issued AD 2018–0164 to require implementation of the reduced DSCL and removal from service of those affected parts that have exceeded the reduced DSCL.
>
> Since that [EASA] AD was issued, further analysis has resulted in the approval of an extended life for the affected parts. RR has published the TLM Task for this extended limit and it is expected the NMSB will be cancelled accordingly.

You may obtain further information by examining the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0567.

Related Service Information

The FAA reviewed Rolls-Royce plc (RR) Alert Service Bulletin (ASB) TRENT1000 72–AK057, Initial Issue, dated April 10, 2018. The service information describes procedures for either removing the engine containing the affected HPT disk front cover plate or replacing the HPT disk front cover plate during a shop visit.

FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because we evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires removal of the affected HPT disk front cover plate from service before reaching its new life limit and replacing it with a part eligible for installation.

Differences Between This AD and the MCAI or Service Information

This AD and EASA AD 2018–0164R1, dated March 14, 2019 (corrected copy dated March 21, 2019) require removal of the affected HPT disk front cover plate before accumulating 1,250 cycles since first installation on an engine. RR ASB Trent1000 72–AK057, Initial Issue, dated April 10, 2018, requires removal of the affected HPT disk front cover plate before accumulating 865 cycles since first installation. Since publication of the ASB, the manufacturer has revised its analysis, which has resulted in an extension of the life limit for this part to 1,250 cycles.

FAA's Justification and Determination of the Effective Date

No domestic operators use this product. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0567 and Product Identifier 2019–NE–21–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace HPT disk front cover plate	7 work-hours × $85 per hour = $595	$307,137	$307,732	$0

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–15–05 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–19698; Docket No. FAA–2019–0567; Product Identifier 2019–NE–21–AD.

(a) Effective Date

This AD is effective August 16, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3 and Trent 1000–R3 engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by recent analysis of the material condition used in the manufacture of these parts that determined the high-pressure turbine (HPT) disk front cover plate may have a safe life below its declared safe cyclic life. The FAA is issuing this AD to prevent failure of the HPT disk front cover plate. The unsafe condition, if not addressed, could result in uncontained release of the HPT turbine disk front cover plate, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Remove the HPT disk front cover plate, part number KH59279, from service prior to it reaching 1,250 engine cycles since first installation on an engine and replace with a part eligible for installation.

(h) Installation Prohibition

Do not install any HPT disk front cover plate, part number KH59279, into any engine, or any engine onto any airplane, if that part has exceeded 1,250 engine cycles since first installation on an engine.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Besian Luga, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7750; fax: 781–238–7199; email: *Besian.luga@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0164R1, dated March 14, 2019 (corrected copy dated March 21, 2019), for more information. You may examine the EASA AD in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2019–0567.

(k) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on July 26, 2019.

Karen M. Grant,

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2019–16329 Filed 7–31–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2018–C–4464]

Listing of Color Additives Exempt From Certification; Soy Leghemoglobin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the color additive regulations to provide for the safe use of soy leghemoglobin as a color additive in ground beef analogue products. We are taking this action in response to a color additive petition (CAP) submitted by Impossible Foods, Inc. (Impossible Foods or petitioner).

DATES: This rule is effective September 4, 2019. See section X for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by September 3, 2019.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before September 3, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 3, 2019. Objections 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 objections in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection 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 objection, that information will be posted on *https://www.regulations.gov.*

• If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection 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 objections submitted to the Dockets Management Staff, FDA will post your objection, 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–C–4464 for ''Listing of Color Additives Exempt From Certification; Soy Leghemoglobin.'' Received objections, 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 with the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections 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.'' We will review this copy, including the claimed confidential information, in our 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: Ellen Anderson, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 240–402–1309.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of December 13, 2018 (83 FR 64045), we announced that we filed a color additive petition (CAP 9C0314) submitted by Impossible Foods, Inc., c/o Exponent, Inc., 1150 Connecticut Avenue NW, Suite 1100, Washington, DC 20036. The petition proposed to amend the color additive regulations in part 73 (21 CFR part 73), ''Listing of Color Additives Exempt from Certification'' to provide for the safe use of soy leghemoglobin as a color additive in ground beef analogue products such that the amount of soy leghemoglobin protein does not exceed 0.8 percent by weight of the uncooked ground beef analogue product. For the purposes of this final rule, the term ''ground beef analogue products'' refers to plant-based or other non-animal derived ground beef-like food products. The petition describes soy leghemoglobin protein as the principal reddish brown coloring component of a stabilized mixture, referred to as soy leghemoglobin preparation. We are establishing soy leghemoglobin as the common or usual name for this color additive and note

that the terms ''soy leghemoglobin'' and ''soy leghemoglobin preparation'' are used interchangeably when referring to the name of the color additive in this final rule and in our review memoranda (Refs. 1 and 2).

II. Background

The color additive that is the subject of this petition is the stabilized product of controlled fermentation of a non-pathogenic and non-toxicogenic strain of the yeast, *Pichia pastoris (P. pastoris),* genetically engineered to express soy leghemoglobin protein, the principal coloring component. Soy leghemoglobin gets its name from its source, the soybean root; it is a hemeprotein present in the nitrogen-fixing root nodules of leguminous plants. The color additive is manufactured by construction of the *P. pastoris* production strain, expression of soy leghemoglobin protein via fermentation, followed by concentration and stabilization of the expressed protein. Based on information in the petition, soy leghemoglobin preparation contains not more than 9 percent soy leghemoglobin protein, minor quantities of *P. pastoris* yeast proteins, and optional stabilizers sodium chloride and sodium ascorbate. The color additive is stored either as a frozen liquid or in a spray dried form. FDA concurs with the petitioner that the genetic modifications made to generate the non-toxigenic and non-pathogenic production strain are well-characterized and the production process conforms to good manufacturing practice (Ref. 1). In addition to specification limits for lead, arsenic, mercury, and cadmium, we are requiring a specification for the minimum purity of soy leghemoglobin protein as a percent of the total protein in the color additive.

We have previously considered the safety of soy leghemoglobin preparation as the result of a submission from Impossible Foods who made its own determination, to which we had no questions, that the use of soy leghemoglobin preparation to optimize flavor in ground beef analogue products intended to be cooked is generally recognized as safe (GRAS). Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321(s)), a substance is GRAS if it is generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food before January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use. Under section 201(s) of the FD&C Act, a substance that is GRAS for a particular use in food is not a food additive and may lawfully be utilized for that use without our review and approval. There is no GRAS exemption, however, to the definition of a color additive in section 201(t) of the FD&C Act. Therefore, we must approve the use of a color additive in food before it is marketed; otherwise, the food containing the color additive is adulterated under section 402(c) of the FD&C Act (21 U.S.C. 342(c)).

A firm may voluntarily submit to FDA information supporting the firm's own conclusion that a substance is GRAS for its intended use in food through our GRAS notification program (see 81 FR 54960 (August 17, 2016)). Through this program, a GRAS notification (GRN) was submitted on behalf of Impossible Foods on October 3, 2017 (GRN 737). This GRN informed FDA that Impossible Foods concluded that the use of soy leghemoglobin preparation to deliver up to 0.8 percent soy leghemoglobin protein by weight in the final food was GRAS for optimizing flavor in ground beef analogue products intended to be cooked. Based on our evaluation of the information provided in GRN 737, as well as other available information, we issued a letter on July 23, 2018, to Impossible Foods stating that we had no questions regarding its conclusion that soy leghemoglobin preparation is GRAS for its intended conditions of use.

Importantly, in our response letter to Impossible Foods, we stated that because soy leghemoglobin preparation is reddish-brown, its use may constitute a color additive use under section 201(t)(1) of the FD&C Act and FDA's implementing regulations in 21 CFR part 70. In the case of the soy leghemoglobin preparation, the reddish color imparted to the uncooked ground beef analogue product is lost when the product is heated, and the soy leghemoglobin protein responsible for imparting the reddish color in the food is denatured by the cooking process. Impossible Foods' GRAS conclusion in GRN 737 was for the use of soy leghemoglobin preparation to optimize flavor in ground beef analogue products intended to be cooked. When soy leghemoglobin preparation is used in ground beef analogue products sold directly to consumers in an uncooked form, the reddish color imparted by the soy leghemoglobin preparation gives the appearance of uncooked ground beef to the ground beef analogue product. This specific use of soy leghemoglobin preparation to impart a reddish color to a food is important to the appearance and marketability of the food. Therefore, FDA determined that this use of soy leghemoglobin preparation requires premarket approval as a color additive (see § 70.3(g) (21 CFR 70.3(g))).

III. Safety Evaluation

Under section 721(b)(4) of the FD&C Act (21 U.S.C. 379e(b)(4)), a color additive may not be listed for a proposed use unless the data and information available to FDA establish that the color additive is safe for that use. Our color additive regulations at § 70.3(i) define ''safe'' to mean that there is convincing evidence establishing with reasonable certainty that no harm will result from the intended use of the color additive.

As part of our safety evaluation to establish with reasonable certainty that a color additive is not harmful under its intended conditions of use, we consider the additive's manufacturing and stability; the projected human dietary exposure to the additive and any impurities resulting from the petitioned use of the additive; the additive's toxicological data; and other relevant information (such as published literature) available to us.

IV. Safety of Petitioned Use of the Color Additive

A. Exposure Estimate

Soy leghemoglobin preparation is composed mainly of soy leghemoglobin protein, minor quantities of *P. pastoris* proteins, water, fat, carbohydrates, and any stabilizers that are used. During our safety review of this petition (CAP 9C0314), we evaluated the petitioner's dietary exposure estimates for the soy leghemoglobin preparation and for the soy leghemoglobin protein component of the preparation. To estimate dietary exposure, the petitioner used nationwide ground beef consumption data collected from 2003 to 2014 as part of the National Health and Nutrition Examination Survey and assumed a 1-to-1 substitution of conventional ground beef with ground beef analogue product containing soy leghemoglobin preparation at its maximum use level. The petitioner estimated the dietary exposure to soy leghemoglobin preparation for the U.S. population (aged 2 years or more) to be 3,556 milligrams/person/day (mg/p/d) at the mean and 7,911 mg/p/d at the 90th percentile. For soy leghemoglobin protein only, the estimated dietary exposure for the U.S population was 320 mg/p/d at the mean and 712 mg/p/d at the 90th percentile. FDA confirmed the petitioner's exposure estimates for soy leghemoglobin protein and soy leghemoglobin preparation and notes

that the estimates assume that all conventional ground beef and ground beef-containing foods are replaced with ground beef analogue product (Ref. 1). FDA estimated the dietary exposure to total protein (soy leghemoglobin protein plus *P. pastoris* proteins) from the petitioned use of the color additive to be 871 mg/p/d (Ref. 1). We also considered U.S. consumers' dietary exposure to iron from the petitioned use of the color additive and determined that no significant change in exposure to dietary iron would occur since the amount of iron from the petitioned use of soy leghemoglobin in ground beef analogue products is similar to the amount of iron found in traditional ground beef (Ref. 1).

B. Toxicological Considerations

To establish that soy leghemoglobin is safe for use as a color additive that provides up to 0.8 percent soy leghemoglobin protein in ground beef analogue products, the petitioner used a weight-of-evidence approach based on: (1) The history of consumption of soy, soy leghemoglobin protein, and *P. pastoris;* (2) the safety of *P. pastoris* as a production strain; (3) 14-day and 28-day feeding studies with soy leghemoglobin preparation in rats; (4) mutagenicity and genotoxicity studies of soy leghemoglobin preparation; and (5) an allergenicity assessment of soy leghemoglobin and *P. pastoris* proteins in the soy leghemoglobin preparation.

Based on our review of this petition (CAP 9C0314), we conclude that the proteins in the soy leghemoglobin preparation are well defined, non-toxic, and that the contribution of total proteins (soy leghemoglobin protein plus *P. pastoris* proteins) from the petitioned use of the color additive to total daily dietary protein would be only 1.7 percent, assuming a daily dietary intake of 50 grams of protein per person per day (Ref. 2). Regarding the *P. pastoris* strain developed by the petitioner for the production of soy leghemoglobin preparation, we conclude that it is non-toxicogenic and non-pathogenic. We evaluated the results from the 14-day dose range finding study and two 28-day toxicity studies in rats fed soy leghemoglobin preparation and conclude that they did not show any toxicologically relevant effects. We also determined that the mutagenicity and genotoxicity studies provided in the petition showed no evidence of mutagenic activity or increased chromosomal aberrations in cells exposed to soy leghemoglobin preparation.

To address the allergenicity potential of soy leghemoglobin preparation, the petition provided results from a study on the digestibility of soy leghemoglobin preparation, bioinformatic analyses of soy leghemoglobin protein and of *P. pastoris* proteins identified in the soy leghemoglobin preparation, and a memorandum from an expert in the field of food allergies on the potential allergenicity of soy leghemoglobin. We conclude that soy leghemoglobin and *P. pastoris* proteins in the soy leghemoglobin preparation are readily digested at acidic pH conditions found in the stomach and denatured at normal cooking temperatures. We also agree with the petitioner that the totality of evidence supports the conclusion that soy leghemoglobin protein and *P. pastoris* proteins present in soy leghemoglobin preparation do not pose risks of allergenicity when consumed, even for people who are allergic to foods containing soybean protein (Ref. 2).

V. Conclusion

Based on the data and information in the petition and other available relevant information, we conclude that the petitioned use of soy leghemoglobin as a color additive in ground beef analogue products is safe, provided the amount of soy leghemoglobin protein does not exceed 0.8 percent by weight of the uncooked product. We further conclude that this color additive will achieve its intended technical effect and is suitable for the petitioned use. Therefore, we are amending the color additive regulations in part 73 to provide for the safe use of this color additive as set forth in this document. In addition, based on the factors in 21 CFR 71.20(b), we conclude that batch certification of soy leghemoglobin is not necessary to protect the public health.

VI. Public Disclosure

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **ADDRESSES**). As provided in § 71.15(b), we will delete from the documents any materials that are not available for public disclosure.

VII. Analysis of Environmental Impact

As stated in the December 13, 2018, **Federal Register** notice of filing, the petitioner claimed that this action is categorically excluded under § 25.32(k) (21 CFR 25.32(k)) because soy leghemoglobin would be added directly to food and is intended to remain in the food through ingestion by consumers and is not intended to replace macronutrients in food. We further stated that if FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments regarding this claim of categorical exclusion. We have considered the petitioner's claim of categorical exclusion and have determined that this action is categorically excluded under § 25.32(k). Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Section 301(ll) of the FD&C Act

Our review of this petition was limited to section 721 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, section 301(ll) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(ll)(1) to (4) of the FD&C Act applies. In our review of this petition, we did not consider whether section 301(ll) of the FD&C Act or any of its exemptions apply to food containing this color additive. Accordingly, this final rule should not be construed to be a statement that a food containing this color additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll) of the FD&C Act. Furthermore, this language is included in all color additive final rules that pertain to food and therefore should not be construed to be a statement of the likelihood that section 301(ll) of the FD&C Act applies.

X. Objections

This rule is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately

number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.* We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

XI. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.*

1. Memorandum from J.R. Srinivasan, Chemistry Review Team, Division of Food Ingredients (DFI), Office of Food Additive Safety (OFAS), Center for Food Safety and Applied Nutrition (CFSAN), FDA to E. Anderson, DFI, OFAS, CFSAN, FDA, June 20, 2019.

2. Memorandum from S. Choudhuri, Toxicology Review Team, DFI, OFAS, CFSAN, FDA to E. Anderson, DFI, OFAS, CFSAN, FDA, June 21, 2019.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

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

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Add § 73.520 to read as follows:

§ 73.520 Soy leghemoglobin.

(a) *Identity.* (1) The color additive soy leghemoglobin is a stabilized product of controlled fermentation of a non-pathogenic and non-toxicogenic strain of the yeast, *Pichia pastoris,* genetically engineered to express soy leghemoglobin protein. Soy leghemoglobin protein is the principal coloring component of the color additive and imparts a reddish-brown color.

(2) Color additive mixtures made with soy leghemoglobin may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* Soy leghemoglobin shall conform to the following specifications and shall be free from impurities, other than those named, to the extent that such impurities may be avoided by good manufacturing practice:

(1) Soy leghemoglobin protein purity on protein basis (weight/weight), not less than 65 percent, as determined by sodium dodecyl sulfate-polyacrylamide gel electrophoresis.

(2) Lead, not more than 0.4 milligrams per kilogram (mg/kg) (0.4 parts per million (ppm)).

(3) Arsenic, not more than 0.05 mg/kg (0.05 ppm).

(4) Mercury, not more than 0.05 mg/kg (0.05 ppm).

(5) Cadmium, not more than 0.2 mg/kg (0.2 ppm).

(c) *Uses and restrictions.* Soy leghemoglobin may be safely used in ground beef analogue products such that the amount of soy leghemoglobin protein does not exceed 0.8 percent by weight of the uncooked ground beef analogue product.

(d) *Labeling.* The label of the color additive and of any mixture prepared therefrom intended solely or in part for coloring purposes must conform to § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the Federal Food, Drug, and Cosmetic Act.

Dated: July 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16374 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 147

[Public Notice: 10775]

RIN 1400–AE35

Information and Communication Technology

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: The Department of State (the Department) updates and revises the rules that implement Section 508 of the Rehabilitation Act of 1973, consistent with updates to accessibility standards from the U.S. Access Board.

DATES: This rule is effective September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney Adviser, Office of Management, Office of the Legal Adviser, (202) 647–2318.

SUPPLEMENTARY INFORMATION:

Background

Section 508 authorizes the Access Board to establish standards for technical and functional performance criteria to ensure that information technologies are accessible to and usable by persons with disabilities. The Department published its initial rules implementing Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d (Section 508), in 2016. 81 FR 32645.

In January of 2017, the Access Board published a ''refresh'' of its existing standards and guidelines for information and communication technology (ICT) covered by Section 508 of the Rehabilitation Act or Section 255 of the Communications Act. The rule jointly updated and reorganized the Section 508 standards and Section 255 guidelines to advance accessibility, facilitate compliance, and harmonize the requirements with other standards in the United States and abroad. 82 FR 5832. Federal agencies, however, need only comply with the revised 508 standards (codified at 38 CFR 1194.1 and Appendices A, C, and D), whereas the revised Section 255 guidelines apply exclusively to telecommunications equipment manufacturers.

Proposed Rule and Comments

On December 13, 2018, the Department published its proposed rule to implement the refreshed Section 508 standards. 83 FR 64046. The Department received five comments in response to the proposed rule, all supportive. Four of the five commenters asserted that the burden or impact on

the public would be minimal, and is outweighed by the benefit to the public from the rule.

Why is the Department promulgating this rule?

The amendments to Part 147 in this rule are intended to align the Department's regulations with the Access Board's revised Section 508 standards. The Department is also adding one new provision (§ 147.9), which provides a prohibition against intimidation or retaliation against anyone who files a complaint, furnishes information, or engages in other lawful activities in furtherance of Section 508, part 147, or other regulations that implement Section 508.

Regulatory Findings

Administrative Procedure Act

This Department published this rule as a proposed rule with a 60-day comment period.

Regulatory Flexibility Act/Executive Order 13272: Consideration of Small Entities in Agency Rulemaking

The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804. With this rulemaking, the Department is making changes to terminology to align its rules with those of the Access Board. The Department is aware of no monetary effect on the economy that would result from this rulemaking, nor will there be any increase in costs or prices; or any effect on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866: Regulatory Planning and Review

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f). The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866.

Executive Orders 12372: Intergovernmental Review of Federal Programs and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

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

Paperwork Reduction Act

The regulations in 22 CFR part 147 are related to OMB Control Number 1405–0220, which is in effect. This rule does not impose new or revised information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 147

Civil rights, Communications equipment, Computer technology, Government employees, Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Accordingly, for the reasons set forth in the preamble, the Department of State amends 22 CFR part 147 as follows:

PART 147—INFORMATION AND COMMUNICATION TECHNOLOGY

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 22 U.S.C. 2651a; 29 U.S.C. 794, 794d; 36 CFR part 1194.

■ 2. Revise the heading for part 147 as set forth above.

Subpart A of Part 147—[Amended]

■ 3. In subpart A of part 147:

■ a. Remove ''electronic and information technology'' and add in its place ''information and communication technology'', wherever it occurs.

■ b. Remove the abbreviation ''EIT'' and add in its place the abbreviation ''ICT'', wherever it occurs.

§ 147.2 [Amended]

■ 4. In § 147.2, remove ''36 CFR 1194.4'' and add in its place ''E103.4 of appendix A to 36 CFR part 1194.''

■ 5. Amend § 147.3, by revising the introductory text and the definition ''*Section 508*'' to read as follows:

§ 147.3 Definitions.

The Department of State adopts the definitions in E103.4 of appendix A to 36 CFR part 1194. In addition, as used in this part:

* * * * *

Section 508 means section 508 of the Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. 794d.

§ 147.4 [Amended]

■ 6. Amend § 147.4 by:

■ a. In paragraph (a), remove ''Electronic and Information Technology Accessibility Standards (36 CFR part 1194)'' and add in its place ''Revised 508 Standards (36 CFR 1194.1 and appendices A, C and D to 36 CFR part 1194).''

■ b. In paragraph (b), remove ''36 CFR part 1194'' and add in its place ''36 CFR 1194.1.''

§ 147.5 [Amended]

■ 7. In § 147.5, remove ''EIT Accessibility Standards'' and add in its place ''Revised 508 Standards.''

■ 8. Revise the heading for § 147.6 to read as follows:

§ 147.6 Information and communication technology requirements.

* * * * *

■ 9. Amend § 147.6 by:

■ a. In paragraph (b), remove ''Electronic and Information Technology Accessibility Standards, 36 CFR part 1194'' and add in its place ''Revised 508 Standards (36 CFR 1194.1 and appendices A, C and D to 36 CFR part 1194).''

■ b. In paragraph (c), remove ''36 CFR part 1194'' and add in its place ''36 CFR 1194.1''.

■ c. In paragraph (d), remove ''36 CFR part 1194'' and add in its place ''36 CFR 1194.1''.

Subpart B—[Amended]

■ 10. In subpart B of part 147 remove the abbreviation ''EIT'' and add in its place the abbreviation ''ICT'', wherever it occurs.

§ 147.7 [Amended]

■ 11. Amend § 147.7(b) by removing ''36 CFR part 1194'' and adding in its place ''36 CFR 1194.1''.

■ 12. Add § 147.9 to read as follows:

§ 147.9 Intimidation and retaliation prohibited.

No person may discharge, intimidate, retaliate, threaten, coerce or otherwise discriminate against any person because such person has filed a complaint, furnished information, assisted or participated in any manner in an investigation, review, hearing or any other activity related to the administration of, or exercise of authority under, or privilege secured by Section 508 and the regulations in this part.

Dated: July 15, 2019.

Gregory B. Smith,

Director, Office of Civil Rights, U.S. Department of State.

[FR Doc. 2019–15853 Filed 7–31–19; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2019–0582]

Special Local Regulations; Marine Events Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation; change of enforcement date.

SUMMARY: The Coast Guard will enforce the special local regulation for the 9th Annual Atlantic City Triathlon on August 10, 2019, from 6 a.m. through 10 a.m., to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Fifth Coast Guard District identifies the regulated area for this event in Atlantic City, NJ. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 100.501 for the special local regulation listed in item (a)(12) in the Table to § 100.501 will be enforced from 6 a.m. through 10 a.m. on August 10, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, you may call or email Petty Officer Thomas Welker, U.S. Coast Guard Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation as described in section (a), row (12) of the table to 33 CFR 100.501 for the 9th Annual Atlantic City Triathlon from 6 a.m. through 10 p.m. on August 10, 2019. The published enforcement periods for this event included the second or third Sunday in August. We are announcing a change of enforcement date for this year's event with this notice of enforcement because August 10, 2019, is the second Saturday in August. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the swim portion of the triathlon. Our regulation for marine events within the Fifth Coast Guard District, table to § 100.501, section (a), row (12), specifies the location of the regulated area as all waters of the New Jersey ICW bounded by a line connecting the following points: Latitude 39°21′20″ N, longitude 074°27′18″ W, thence northeast to latitude 39°21′27.47″ N, longitude 074°27′10.31″ W, thence northeast to latitude 39°21′33″ N, longitude 074°26′57″ W, thence northwest to latitude 39°21′37″ N, longitude 074°27′03″ W, thence southwest to latitude 39°21′29.88″ N, longitude 074°27′14.31″ W, thence south to latitude 39°21′19″ N, longitude 074°27′22″ W, thence east to latitude 39°21′18.14″ N, longitude 074°27′19.25″ W, thence north to point of origin, near Atlantic City, NJ. During the enforcement periods, as reflected in § 100.501(c), if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of the enforcement periods via broadcast notice to mariners.

Dated: July 29, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–16443 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0599]

Safety Zones; Fireworks Displays in the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Penn's Landing, Delaware River, Philadelphia, PA, safety zone on various dates during August 2019. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. During the enforcement periods, vessels may not enter, remain in, or transit through the safety zones during these enforcement periods unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

DATES: The safety zone in section (a), row (16) of the table to 33 CFR 165.506 will be enforced from 8:30 p.m. through 10:00 p.m. on each of the following dates in 2019: August 1st (with August 7th as an alternate date for inclement weather) and August 31st .

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, you may call or email Petty Officer Thomas Welker, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone as described in section (a), row (16) of the table to 33 CFR 165.506, as modified by 83 FR 58186, from 8:30 p.m. to 10:00 p.m. on each of the following dates in 2019: August 1st (with August 7th as an alternate date for inclement weather) and August 31st. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays within the Fifth

Coast Guard District, table to § 165.506, section (a), row (16), specifies the location of the regulated area as all waters of the Delaware River adjacent to Penn's Landing, Philadelphia, PA, within 500 yards of a fireworks launch site at approximate position latitude 39°56′49″ N, longitude 075°08′11″ W. As reflected in § 165.506(d), vessels may not enter, remain in, or transit through the safety zone during the enforcement period unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of the enforcement periods via broadcast notice to mariners.

Dated: July 29, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–16444 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0145; FRL–9996–93–Region 6]

Approval and Promulgation of Implementation Plans; Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for Oklahoma as proposed on March 22, 2018, and October 5, 2018. The revisions submitted by Oklahoma were contained in annual SIP updates for 2013, 2014, 2015, and 2016, and incorporate the latest changes to the EPA regulations. The overall intended outcome of this rulemaking is to make the approved Oklahoma SIP consistent with current Federal and State requirements. We are taking this action in accordance with the federal Clean Air Act (CAA, the Act).

DATES: This rule is effective on September 3, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2017–0145. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, EPA Region 6 Office, SO_2 and Regional Haze Section (6ARSH), 1201 Elm Street, Dallas, TX 75270, 214–665–6691, *shar.alan@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Alan Shar or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' mean the EPA.

Acronyms and Abbreviations. A number of acronyms and abbreviations are used in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined:

ACI Air Curtain Incinerator
AQAC Air Quality Advisory Committee
BACT Best Available Control Technology
CAA Clean Air Act
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA U.S. Environmental Protection Agency
FR Federal Register
NAAQSvNational Ambient Air Quality Standards
OAC Oklahoma Administrative Code
ODEQ Oklahoma Department of Environmental Quality
PSD Prevention of Significant Deterioration
SIP State Implementation Plan
SNPR Supplemental Notice of Proposed Rulemaking
TSD Technical Support Document

Table of Contents

I. Background
II. Public Comments
III. Final Action
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I. Background

The background for this action is discussed in detail in the March 22, 2018 (83 FR 12514) Proposal.[1] After the close of the comment period, the Oklahoma Department of Environmental Quality (ODEQ) submitted additional information by letter dated July 31, 2018 (hereinafter ''ODEQ's July 31, 2018 Letter''),[2] concerning the SIP rule revisions addressed in the March 22, 2018 Proposal. The information submitted by ODEQ was intended to clarify the rule revisions and their applicability as well as to further demonstrate how the revisions improve the Oklahoma SIP. On October 5, 2018, we published a Supplemental Notice of Proposed Rulemaking (SNPR)[3] at 83 FR 50312. The October 5, 2018 SNPR reopened the comment period based on the information submitted by Oklahoma and our analysis of it. We also withdrew the proposed action concerning Commercial and Industrial Solid Waste Incineration Units because the State did not submit it for approval as a SIP revision. The Proposal, the SNPR, the Technical Support Document (TSD),[4] and Supplement 3 to the TSD[5] provide a detailed description and rationale for EPA's proposal to approve into the Oklahoma SIP certain revisions to Oklahoma Administrative Code (OAC) Title 252 Department of Environmental Quality (ODEQ), Chapter 100 Air Pollution Control (OAC:252:100) that Oklahoma submitted to the EPA on February 14, 2017. Specifically, the Proposal and the SNPR concern revisions to OAC:252:100 Subchapters 13 Open Burning, 17 Incinerators, 25 Visible Emissions and Particulates, 31 Control of Emission of Sulfur Compounds, Appendix E Primary Ambient Air Quality Standards, and Appendix F Secondary Ambient Air Quality Standards. The criteria used to evaluate these SIP revisions are found primarily in section 110 of the Act.

II. Public Comments

We received 19 comments on the March 22, 2018 (83 FR 12514) Proposal during the comment period that closed on April 23, 2018, and all comments are available in docket for this action. Eighteen of the 19 comments were submitted anonymously and did not provide information relevant or specific to the provisions proposed for approval into the Oklahoma SIP. Upon review, the EPA determined that the 18 anonymous comments merit no further response or discussion.[6] The remaining comment, submitted by the Sierra Club and the Center for Biological Diversity (commenters), included relevant comments on the March 22, 2018 (83 FR

[1] See the Proposal, document ID No. EPA–R06–OAR–2017–0145–0001 at *Regulations.gov.*

[2] ODEQ letter dated July 31, 2018 to EPA concerning March 22, 2018 (83 FR 12514) Proposal, document ID No. EPA–R06–OAR–2017–0145–0026 at *Regulations.gov.*

[3] See the SNPR, document ID No. EPA–R06–OAR–2017–0145–0023 at *Regulations.gov.*

[4] See the TSD, document ID No. EPA–R06–OAR–2017–0145–0002 at *Regulations.gov.*

[5] See Supplement 3 to the TSD, document ID No. EPA–R06–OAR–2017–0145–0024 at *Regulations.gov.*

[6] See the EPA Response to Comments, Memorandum document ID No. EPA–R06–OAR–2017–0145–0025 at *Regulations.gov.*

12514) Proposal.[7] Primarily, the commenters assert that sections 110(l) and 193 of the Act have not been satisfied, and that revisions to OAC:252:100 Subchapters 13, 17, 25, and 31 of the Oklahoma SIP should not be approved. A summary of those comments and our responses are found below. We did not receive comments on the October 5, 2018 (83 FR 50312) SNPR during the additional comment period that closed on November 5, 2018.

Comment 1: OAC 252:100, Subchapter 13—Open Burning. The commenters note that the revisions would exempt hydrocarbon waste flaring and the use of air curtain incinerators from the open burning time limitations in OAC 252:100:13–9(4) of the existing SIP. Commenters claim that these revisions allow flaring operations and air curtain incinerators to operate an average of 18 more hours per day than allowed under the existing SIP and thus allow dramatically increased emissions of particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and possibly sulfur compounds, including sulfur dioxide. Commenters maintain that the revision constitutes a SIP relaxation requiring a CAA section 110(l) analysis (subject to public notice and opportunity for public comment) of the impacts of the revision on the NAAQS and PSD increments, and a determination that the SIP relaxation will not interfere with the attainment or maintenance of the NAAQS and PSD increments. Finally, commenters note that the EPA must ensure that the requirements in CAA section 193 (relating to equivalent emission reductions) are being met.

Response: The February 14, 2017 submittal included revisions to OAC 252:100–9(4) that exempt open burning allowed under OAC 252:100–13–7(6)(B) (concerning hydrocarbon waste flaring) and OAC 252:100–13–8 (concerning air curtain incinerators) from the time restrictions otherwise applicable to open burning. As noted in ODEQ's July 31, 2018 Letter, the rule only requires that *initial* burning begin in the time frame of 3 hours after sunrise to 3 hours before sunset. Open burning is allowed outside of this timeframe so long as no additional fuel is added.

The revisions to OAC 252:100–9(4) exempt hydrocarbon waste flaring under OAC 252:100–13–7(6)(B) from the time restrictions associated with open burning. Pages 1–2 of ODEQ's July 31, 2018 Letter read:

As discussed in the Air Quality Advisory Council (AQAC) transcripts included in the SIP submittal, DEQ recognized the need to correct the omission of the exemption for hydrocarbon flaring, and a new version of Subchapter 13 with the exemption was taken to the AQAC in 2003 and 2004, and approved by the Environmental Quality Board (EQB) in 2004. There are many continuous processes that use flares as a control device, and for those processes that cannot be turned off, the flare must be used continuously. If the flare is turned off, it could cause an air quality issue or a safety hazard. Many of these flares are also included in facility permits with the requirement to be operated continuously to reduce emissions. Many of these same flares are also subject to regulation under federal New Source Performance Standards (NSPSs) or National Emission Standards for Hazardous Air Pollutants (NESHAPs), which require them to operate continuously. DEQ never intended hydrocarbon flaring to be subject to the operational time limitations in Subchapter 13, and enforcement of such limitations would conflict with the state and federal requirements discussed above. In addition, the proposed revision to Subchapter 13 would not result in any increase in emissions and would not interfere with any NAAQS or PSD increment.

We agree with ODEQ's conclusion that time limits on the operation of hydrocarbon flares are inappropriate and, if actually implemented, could cause a life or safety hazard and result in an increase in emissions of hydrocarbons while the flare is not in use. As such, the removal of the operating time restriction would reduce emissions of VOCs, if one assumes the restrictions had been enforced. However, as ODEQ notes, the restriction on hydrocarbon flaring could not have been practically enforced without introducing life or safety hazards. As such, the time limits on the operation of hydrocarbon flares could not have been implemented and, in fact, have never been implemented because they are inconsistent with several state and federal requirements, as noted above. Removing the time restriction is not expected to result in any actual change in emissions, and, therefore, its removal will not increase emissions or interfere with attainment or PSD increments.

The other exemption from the open burning time restriction included in the proposed SIP revision of OAC 252:100–13–9(4) concerns the use of air curtain incinerators (ACIs) under OAC 252:100–13–8. As noted in ODEQ's July 31, 2018 Letter, the use of ACIs under OAC 252:100–13–8 is limited to ''combustible material or refuse that is *allowed* to be burned under this Chapter (emphasis added).'' In addition, ODEQ's July 31, 2018 Letter at page 2 notes:

DEQ exempted open burning using an ACI from the time limitation because an ACI is a control device that reduces the pollution created by open burning. ACIs are also a safer means of reducing waste by lowering the risk of escaped fires and embers. As compared to open burning without ACIs, an ACI reduces air pollution by about 90%, and specifically particulate matter by 97%, greatly reducing the probability of creating an air quality hazard or nuisance. One of the reasons DEQ eliminated the time restriction on the use of an ACI was to remove a barrier for anyone who could, to use an ACI. Please note the use of an ACI for any day where an Ozone or PM watch has been declared in a Metropolitan Statistical Area (MSA) or county is prohibited in OAC 252:100–13–9(5). It is also very important to note that the volume of materials being burned would not change based on this rule revision. However, the use of an ACI to burn that same volume, regardless of the time of day, would result in fewer emissions released to the environment. As such, the proposed revision to Subchapter 13 promotes a better pollution control measure which would neither result in any increase in emissions nor interfere with any NAAQS or PSD increment.

The EPA finds ODEQ's conclusion that the volume of material being burned would not change based on this rule revision is reasonable. In considering the allowed open burning activities listed in OAC 252:100–13–7, there is no reason to believe that removal of barriers to air curtain incinerators will result in more material being burned. For example, the EPA sees no reason, and the commenter provided no reason to expect, that more land would need clearing—an activity for which open burning is allowed under OAC 252:100–13–7(4)—due to the lifting of the time restrictions otherwise applicable to open burning for this activity. Instead, it is expected that if more air curtain incinerators are used relative to open burning, the air curtains would provide more efficient combustion and, as a result, less pollution. We also note that open burning of refuse and other combustible material may occur only if the burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town. See OAC 252:100–13–9 (3). Open burning of refuse and other combustible material may occur only if no public nuisance is or will be created, and the burning is controlled so that a visibility hazard is not created on any roadway, rail track or air field as a result of the air contaminants being emitted. See OAC 252:100–13–9(1) and (2), respectively. Also, use of an ACI is prohibited for any day where an Ozone or PM watch has been declared by ODEQ in a Metropolitan Statistical Area (MSA) or county. See OAC 252:100–13–9(5). Furthermore, persons who conduct open burning in accordance with the provisions of Subchapter 13 are not exempt or excused from the

[7] See document ID No. EPA–R06–OAR–2017–0145–0022 at *Regulations.gov.*

consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders. See OAC 252:100–13–11.

Finally, we note that the requirements of CAA section 193 are inapplicable to the proposed revision to the Oklahoma SIP discussed above. In confirmation of the statement in ODEQ's July 31, 2018 Letter that ''Oklahoma has never relied upon Subchapter 13 as a control measure for any nonattainment plans adopted before November 15, 1990,'' we searched the EPA's Greenbook site for the Designated Area Design Values for NAAQS of 1987 PM_{10}, 1971 SO_2, 1978 Pb, 1971 CO, and 1971 NO_2, and did not find information concerning any pre-November 15, 1990 nonattainment plan in place for these criteria pollutants in Oklahoma. See the chart [8] on page 5 of Supplement 3 to TSD. We believe that the additional information provided in ODEQ's July 31, 2018 Letter and presented above supports approval of the revisions to OAC 252:100–13–9(4) and that such revisions would not interfere with any applicable requirement concerning attainment or any other applicable requirement of the Clean Air Act.

With respect to commenters concern regarding the opportunity for public comment on our analysis, we note that ODEQ's July 31, 2018 Letter was made available to the public as part of the October 5, 2018 SNPR. See document ID Nos. EPA–R06–OAR–2017–0145–0026 and EPA–R06–OAR–2017–0145–0023, respectively, at *www.regulations.gov.* The public was provided an opportunity to comment on the contents of ODEQ's letter and our analysis of it. Additionally, our Supplement 3 to TSD, prepared in conjunction with our publication of the supplemental notice, was also made available in the docket on October 5, 2018. See document ID. No. EPA–R06–OAR–2017–0145–0024. In the SNPR, the EPA notes that it is ''reopening the comment period based on information submitted by Oklahoma in a letter dated July 31, 2018, and our analysis of it.'' (83 FR 50312, October 5, 2018). Thus, through the supplemental notice, the EPA provided a fulsome opportunity for public comment on the additional information relevant to EPA's CAA section 110(l) analysis. The EPA did not receive comments on its October 5, 2018 supplemental notice action. For the reasons explained above, no changes have been made to the proposed approval of this rule revision as a result of this comment.

Comment 2: OAC 252:100–17—Incinerators. Commenters note that the revisions would exclude New Source Performance Standard (NSPS) subpart AAAA [9] and subpart CCCC [10] sources from the incinerator requirements in OAC 252:100–17 (Subchapter 17) of the existing SIP. Commenters assert that neither the EPA nor Oklahoma provided any analysis to show that the NSPS requirements are as stringent as the Oklahoma Subchapter 17 requirements. Commenters note that Subchapter 17 imposes particulate matter limits that do not include any exemptions for startup and shutdown, while the emission limits in NSPS subpart AAAA do not apply during startup, shutdown or malfunction (40 CFR 60.1220). Commenters claim this SIP revision requires a CAA section 110(l) analysis to ensure any emission increases resulting from the revision would not adversely impact compliance with the NAAQS or PSD increments. The commenter also asserts that the EPA has not compared the emission limits in NSPS subparts AAAA and CCCC to Subchapter 17 to ensure that the SIP revision will not result in relaxing emission limits that apply to these sources under the current SIP, including the particulate matter requirements for fuel-burning units pursuant to OAC 252:100–17–1.3 and 252:100–19 of the existing SIP that apply to incinerators that also generate useful heat energy.

Response: As the commenters correctly note, the February 14, 2017 submittal includes a revision to OAC 252:100–17–2 which adds NSPS subpart AAAA and NSPS subpart CCCC to the list of sources exempt from the requirements applicable to general purpose incinerators. As stated on page 2 of ODEQ's July 31, 2018 Letter,

> It has always been DEQ's intention that Part 3 of Subchapter 17 apply to general purpose incinerators that are not otherwise covered by a more specific and applicable state or federal regulation. The addition of NSPS Subpart AAAA and CCCC to the list of exemptions is intended to ensure that small municipal waste combustion units and commercial and industrial solid waste incinerators are appropriately required to follow the NSPS specific to that type of unit, rather than the generic opacity and particulate matter regulations in OAC 252:100–17–3 and 100–17–4.

As an initial matter, the EPA believes it is reasonable for Oklahoma make efforts to remove requirements that overlap with Federal requirements when consistent with the Act. Further, as noted on page 3 of ODEQ's July 31, 2018 Letter,

> Oklahoma currently has no incinerators subject to the small municipal waste combustion rule of NSPS Subpart AAAA. The facilities subject to NSPS Subpart CCCC in Oklahoma are subject due to the presence of an ACI and are required to have a Title V permit. Emission inventories are required annually per OAC 252:100–5 and include state rule OAC 252:100–9 emission reporting. There is no regulatory or emissions reporting gap created by exempting these units from Subchapter 17.

So, with regard to incinerators subject to NSPS subpart AAAA, there will be no increase in emissions due to exempting sources subject to this standard, as there are no known sources currently subject to NSPS subpart AAAA in Oklahoma. In addition, and as discussed below, any increase in emissions due to exempting subpart CCCC sources will be de minimus.

An inquiry for sources subject to NSPS subpart CCCC requirements in Oklahoma reveals that such sources have an estimated or reported total annual PM_{10} emissions of 2.337 tons (based on 2017 emission inventory data and permitted rate). To the extent that revisions to OAC 252:100–17 might have resulted in any increased emissions from this source category when compared to the total state-wide national emission inventory of 10,693.06 tons of PM_{10}, the resulting ratio is so small (2.337/10,693.06 = 0.000219, or less than three-one hundredth of one percent) that it is reasonable to conclude that such a de minimus amount would not interfere with the attainment or maintenance of the NAAQS, PSD increment, or any other applicable requirement of the Act relating to SIPs.[11] The commenter also specifically noted that emissions during startup and shutdown are exempt under NSPS subpart AAAA, but since there are no NSPS subpart AAAA sources in Oklahoma, this is not a concern with respect to CAA section 110(l).

NSPS subpart AAAA and CCCC sources previously subject to the General Purpose requirements of OAC 252:100–17, Part 3 would be subject to the emission requirements in the applicable federal NSPS rather than the

[8] *https://www3.epa.gov/airquality/greenbook/ndtc.html* (URL dated May 15, 2018).

[9] 40 CFR part 60, subpart AAAA—Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.

[10] 40 CFR part 60, subpart CCCC—Standards of Performance for Commercial and Industrial Solid Waste Incineration Units.

[11] All air quality control regions in Oklahoma are currently designated as unclassifiable/attainment for $PM_{2.5}$. See 40 CFR 81.337.

particulate matter emission limits provided by OAC 252:100, Appendix A.[12] Comparatively, the type of pollutants and the control requirements in 40 CFR part 60, subparts AAAA and CCCC are more robust and provide for better air quality protection than the out of date empirical formula found in Appendix A of the 1972 Oklahoma SIP. We believe it is reasonable for Oklahoma to remove old and duplicative requirements. Finally, according to the 2016 State's Air Data Report, Oklahoma has better ambient air quality than required under the $PM_{2.5}$ NAAQS, for both the primary and secondary, and the PM_{10} NAAQS. See the charts on page 5 of Supplement 3 to TSD.[13]

We note that under the Oklahoma SIP, should a source become subject to NSPS subpart AAAA or subpart CCCC in the future, new source review (NSR) permitting requirements would be triggered which require emission limitations for all periods of normal operation, including periods of startup and shutdown. In addition, 40 CFR 60.2145(a)(1) of NSPS subpart CCCC states that the emission standards and operating requirements set forth in this subpart apply *at all times.* Furthermore, affected sources subject to NSPS subparts AAAA or CCCC in the future would trigger Oklahoma NSR SIP and Title V requirements that ensure emissions from such sources do not interfere with attainment or any other applicable requirement of the CAA. Stationary sources subject to NSPS subparts AAAA or CCCC must obtain an air permit that includes operational conditions and limitations necessary to assure compliance with all applicable requirements, including the NAAQS. See OAC 252:100–8–3 and OAC 252:100–8–6(a) of the Oklahoma SIP. See also OAC 252:100–4 of the Oklahoma SIP. The federal NSPS requirements in combination with the NSR SIP requirements will ensure that any emission increases due to exempting NSPS subpart AAAA and CCCC sources from the requirements of OAC 252:100–17, Part 3 will be de minimus and will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the Act.

In addition, we are only approving into the SIP, the revision to OAC 252–100–17–2 discussed above. We have not proposed action related to the provisions of OAC 252:100–17, Part 9 Commercial and Industrial Solid Waste Incineration Units—specifically OAC 252:100–17–60 thru 17–76—as discussed in the March 22, 2018 (83 FR 12515) notice and the SNPR. These provisions were not submitted to the EPA for SIP approval as part of the February 14, 2017 SIP submittal and include provisions that pertain to CAA sections 111(d) and 129, instead, which will be acted upon separately in the future.[14] Therefore, no changes have been made to the proposed approval of the rule revision as a result of this comment.

Comment 3: OAC 252:100– 25—Visible Emissions and Particulates. The commenters state that the EPA is proposing to remove the requirement for the EPA and ODEQ to jointly approve alternative monitoring requirements and instead allow only ODEQ to make such determinations on a case-by-case basis, thereby essentially allowing changes to the opacity monitoring requirements of the SIP without going through the SIP revision process. The commenters claim that the provision in the currently existing SIP, requiring both EPA and ODEQ approval, ensures that EPA would evaluate the alternative opacity monitoring requirements to make certain that the alternative monitoring does not represent a relaxation of the SIP limits. Citing to 40 CFR 51.212(c), the commenters note that the SIP requirements for source testing provide that a state may use test methods in Appendix M of 40 CFR part 51 or Appendix A of 40 CFR part 60; or the state may use an alternative opacity monitoring method that is not identified in those two Appendices following review and approval of that method by the EPA. Commenters conclude that to the extent ODEQ uses an alternative monitoring method not identified in the above-referenced Appendices, it must obtain EPA's approval.

Response: OAC 252:100–25–5 imposes continuous opacity monitoring requirements on sources subject to 40 CFR part 51, appendix P and is, therefore, governed by the requirements in appendix P. The February 14, 2017 submittal includes a revision to OAC 252:100–25–5(c) which eliminates the words ''and EPA'' from the rule's requirement concerning the case-by-case approval of alternative monitoring requirements different from the provisions of parts 1 through 5 of 40 CFR part 60, appendix P if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Thus, OAC 252:100–25–5(c) concerns the installation and operation of *emission monitoring systems* as required by 40 CFR 51.214 and not the requirements related to enforceable *test methods or alternative test methods* as provided in 40 CFR 51.212 and cited to by the commenters. More specifically, 40 CFR 51.214(c) requires that the type of sources set forth in 40 CFR part 51, appendix P meet the applicable requirements therein. In turn, appendix P states that SIPs may include provisions that provide for approval, on a case-by-case basis, of alternative monitoring requirements if the installation of a continuous monitoring system cannot be implemented by a source due to physical limitations or extreme economic reasons. See 40 CFR part 51, appendix P, part 6.0, *Special Consideration.* Importantly, there is no requirement that the state obtain EPA's approval when making such determinations. The state rulemaking record for the changes to OAC 252:100–25–5(c) support ODEQ's position that the provisions therein are based on the special consideration language of part 6 of 40 CFR part 51, appendix P, which describes the powers and duties of the state and alternatives to monitoring for sources with certain conditions. See pages 16–17 of the Transcript of Proceedings of the Air Quality Council Meeting, dated November 14, 2014, included in the February 14, 2017 submittal.[15] Based upon Oklahoma's statements as well as the discussion above, no changes are made to the proposed approval of this rule revision as a result of this comment, and we are approving the submitted revision to OAC 252:100–25 into the Oklahoma SIP.

Comment 4: OAC 252:100–31—Control of Emission of Sulfur Compounds. The commenter notes that the revisions would eliminate the SO_2 ambient standards (exposure limits) in the existing SIP at OAC 252:100–31–12 (renumbered OAC 252:100–31–7). The

[12] Appendix A in the Oklahoma SIP is part of an arcane Regulation 5 which uses a process weight formula to calculate a corresponding particulate emission rate based on its capacity.

[13] See *http://www.deq.state.ok.us/AQDnew/airreport2016/PM25.html* (URL dated May 1, 2018) and *http://www.deq.state.ok.us/AQDnew/airreport2016/PM10.html* (URL dated May 1, 2018).

[14] OAC 252:100–17–60 thru 17–76 are not directly related to CAA section 110 (State implementation Plans for NAAQS) and pertain to CAA sections 111(d) (Standards of performance for existing sources; remaining useful life of source) and 129 (Solid waste combustion) standards. These Subchapter 17 revisions were submitted by the Oklahoma Department of Environmental Quality to EPA, by letter dated September 15, 2017, as an update to Oklahoma's Air Quality State Plan for Commercial and Industrial Solid Waste Incinerators (CISWI) units, under CAA sections 111(d) and 129. Pursuant to those statutory provisions and EPA's implementing regulations related thereto, EPA will be evaluating and acting upon the September 15, 2017 Submittal in a separate action.

[15] See document ID No. EPA–R06–OAR–2017–0145–0003 at *Regulations.gov*.

commenters claim that, contrary to ODEQ's assertion, the removed standards can still be considered protective of the current (2010) SO_2 NAAQS. More specifically, the commenters note that the averaging times and calculation methodologies underlying the existing SO_2 SIP ambient (exposure) standards are significantly different than the 2010 SO_2 NAAQS averaging times and methodologies. Due to the form of the SO_2 standards in the existing SIP being significantly different (5-minute) than the form of the 2010 (1-hour) SO_2 NAAQS and the its application to existing equipment, the commenters assert that OAC 252:100–31–12 in the existing SIP may provide protections in addition to those provided by the 2010 SO_2 NAAQS. The commenters questioned the CAA section 110(l) noninterference demonstration submitted by ODEQ as well as the EPA's proposed finding that the CAA section 110(l) requirements have been met. In addition, the commenters assert that removal of the SO_2 standards from the SIP could lead to increased emissions and relaxation of limits previously taken by some sources in order to meet these SIP requirements. The commenters note that such emission increases would need to be evaluated under CAA section 110(l) and determined not to adversely impact the NAAQS or PSD increments. In addition, they assert that the EPA must determine that other requirements in 40 CFR 51.166(a) and 40 U.S.C. 7410 and 7471 have been met. Finally, the commenters assert that record should include an analysis demonstrating that the requirements of CAA section 193 and 40 CFR 51.165(a)(2) have been met.

Response: As the commenters note, the February 14, 2017 submittal includes a revision to OAC 252:100–31 which removes SO_2 ambient standards (exposure limits) in the existing SIP at OAC 252:100–31–12 (renumbered OAC 252:100–31–7).[16] Oklahoma's SIP submittal also includes a CAA section 110(l) Noninterference Demonstration. The purpose of a CAA section 110(l) demonstration is to ensure that the proposed SIP revision does not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the CAA. See 42 U.S.C. 7410(l). The revision which must be evaluated under CAA section 110(l) (to determine if it interferes with attainment or maintenance of the NAAQS or any other CAA requirement) is the removal of the SO_2 state standards in the existing SIP at OAC 252:100–31–12 (renumbered OAC 252:100–31–7).

As noted on pages 3–4 of ODEQ's July 31, 2018 Letter:

> ''Because the state standards have been replaced with the national standards, provisions are in place to prevent Oklahoma sources' emissions from interfering with the 2010 1-hour NAAQS. . . . And, if one of the permits, due to the removal of these [state] standards, had resulted in significant increases in emissions from a major stationary source, the permit would have required a Prevention of Significant Deterioration (PSD) review. Additionally, the Data Requirements Rule (DRR) in 40 CFR part 51 has resulted in additional SO_2 monitors and modeling in Oklahoma. This modeling shows the areas around the DRR sources to be in attainment of the 2010 SO_2 1-hour NAAQS. Ambient air monitoring is ongoing, but data collected to date indicate that monitored areas are attaining the SO_2 NAAQS. These factors support DEQ's 110(1) demonstration that there has been no deterioration of air quality in Oklahoma due to the removal of these state standards.''

As stated above, Oklahoma opted to revise its state law to remove the outmoded SO_2 standards in OAC 252:100–31–12 (renumbered to OAC 252:100–31–7), in light of the EPA's 2010 SO_2 NAAQS and its incorporation into OAC 252:100, Appendix E. It now asks the EPA to approve this revision into the SIP. Since the removal of OAC 252:100–31–12 from the SIP cannot interfere with the attainment of the 2010 SO_2 NAAQS, the Oklahoma SIP contains provisions to ensure that SO_2 sources do not interfere with the current SO_2 NAAQS as discussed below.

In response to commenters concern that existing sources may seek modifications to remove or change SO_2 emission limits previously taken in air permits in order to meet the replaced state SO_2 standard, ODEQ notes provisions are in place to prevent Oklahoma sources from interfering with the 2010 SO_2 NAAQS. Such provisions are found in Oklahoma's major and minor NSR SIP programs. For example, under OAC 252:100–7 (permits for minor facilities), which has been approved into the Oklahoma SIP, construction and operating permits must contain provisions that prohibit exceedances of ambient air quality standards contained in OAC 252:100–3, including the 2010 SO_2 NAAQS. See OAC 252:100–7–15(d) and 7–18(f). In addition, as noted in ODEQ's July 13, 2018 Letter and under OAC 252:100–8 of the EPA-approved Oklahoma SIP, permits for Part 70 sources (including PSD sources) must include operational conditions and limitations necessary to assure compliance with all applicable requirements, including the 2010 SO_2 NAAQS and other SIP requirements. See OAC 252:100–8–6(a) and OAC 252:100–8–2 (definition of applicable requirement). Therefore, should a source submit a permit application to revise an emissions limitation previously taken to meet the state SO_2 standard, ODEQ would need to conduct an evaluation of the impacts associated with an increase of emissions on the NAAQS and PSD increments as well as ensure that the requirements of 40 CFR 51.166(a) and other applicable requirements of the CAA have been met, including those cited by the commenter. See, *e.g.,* OAC 252:100–8, Part 7 of the federally-approved Oklahoma SIP; see also 40 CFR part 52, subpart LL.

Finally, in confirmation of ODEQ's July 31, 2018 Letter which states that ''Oklahoma has never relied upon Subchapter 31 as a control measure for any nonattainment plans adopted before November 15, 1990'' in relation to CAA section 193, we searched EPA's Greenbook site for the Designated Area Design Values for NAAQS of 1987 PM_{10}, 1971 SO_2, 1978 Pb, 1971 CO, and 1971 NO_2 and did not find information concerning any pre-November 15, 1990 nonattainment plan in place for these criteria pollutants in Oklahoma. See the chart on page 14 of Supplement 3 to TSD.[17] As such, the requirements of CAA section 193 are not applicable to this rulemaking action. Therefore, based upon Oklahoma's statements as well as the analysis presented in the record and discussed above, the proposed revision would not interfere with any applicable requirement concerning attainment or any other applicable requirement of the Act. Therefore, no changes have been made to the proposed approval of this rule revision as a result of this comment.

In addition, from a historical perspective of SO_2 NAAQS review, we note the Clean Air Scientific Advisory Committee stated that the Risk and Exposure Assessment (REA) had presented a ''convincing rationale'' for a one-hour standard, and that ''a 1-hour standard is the preferred averaging time'' and has been ''in agreement with having a short-term standard and finds that the REA supports a one-hour standard as protective of public health.'' (74 FR 64833, December 8, 2009).[18] For

[16] As noted in Supplement 3 to the TSD included in the docket for this action, the replaced SO_2 standards are state standards (*i.e.,* not required by the EPA SIP regulations) that have been approved into the Oklahoma SIP. See document ID No. EPA–R06–OAR–2017–0145–0002 at *Regulations.gov*.

[17] See *https://www3.epa.gov/airquality/greenbook/ndtc.html* (URL dated May 15, 2018).

[18] The Clean Air Scientific Advisory Committee is designed to provide independent advice to the EPA Administrator on the technical bases for EPA's NAAQS, and the Risk and Exposure Assessment is

Continued

example, the existing OAC 252:100–31–12(a), in part, sets forth an ambient air concentration of sulfur dioxide at 1300 μg/m3 (0.50 ppm) in a five (5) minute period. In developing the SO_2 NAAQS, EPA wrote,

''When evaluating alternative forms in conjunction with specific levels, the REA considered the adequacy of the public health protection provided by the combination of level and form to be the foremost consideration. In addition, the REA recognized that it is important that the standard have a form that is reasonably stable. As just explained in the context of a five-minute averaging time, a standard set with a high degree of instability could have the effect of reducing public health protection because shifting in and out of attainment could disrupt an area's ongoing implementation plans and associated control programs (74 FR 64833, December 8, 2009).''

In addition, as a part of final FR SO_2 NAAQS in the 1996 rulemaking [19] regarding a 5-minute standard CASAC wrote:

''3. It was the consensus of CASAC that any regulatory strategy to ameliorate such exposures be risk-based-targeted on the most likely sources of short-term sulfur dioxide spikes rather than imposing short term standards on all sources. All of the nine CASAC Panel members recommended that Option 1, the establishment of a new 5-minutes standard, not be adopted. Reasons cited for this recommendation included: the clinical experiences of many ozone experts which suggest that the effects are short-term, readily reversible, and typical of response seen with other stimuli. Further, the committee viewed such exposures as rare events which will even become rarer as sulfur dioxide emissions are further reduced as the 1990 amendments are implemented. In addition, the committee pointed out that enforcement of a short-term NAAQS would require substantial technical resources. Furthermore, the committee did not think that such a standard would be enforceable. 4. CASAC questioned the enforceability of a 5-minute NAAQS or ''target level.'' Although the Agency has not proposed an air monitoring strategy, to ensure that such a standard or ''target level'' would not be exceeded, we infer that potential sources would have to be surrounded by concentric circles of monitors. The operation and maintenance of such monitoring networks would be extremely resource intensive. Furthermore, current instrumentation used to routinely monitor sulfur dioxide does not respond quickly enough to accurately characterize 5-minute spikes.''

Upon inquiry we were informed that the State did not collect 5-minute (short term) SO_2 monitoring data and such information does not exist for us to evaluate or compare the State-only standard with the 2010 1-Hour SO_2 NAAQS for CAA section 110(l) purposes.

To the extent sources were subject to the 5-minute standard, it would have arisen during the permitting process if a modeling demonstration had indicated more stringent permit limits would be necessary to protect the five minute average. As noted by ODEQ above, any attempt to remove those limitations would trigger PSD requirements (*e.g.,* BACT analysis) had there been a significant SO_2 emissions increase.

No comments pertaining to February 14, 2017 revisions to OAC 252:100 Appendix E—Primary Ambient Air Quality Standards, and OAC 252:100 Appendix F—Secondary Ambient Air Quality Standards were received. Therefore, approval of these two Appendices as a revision to the Oklahoma SIP will be finalized as proposed.

This concludes our response to relevant comments received. No changes to the Proposal and the SNPR have been made as a result of the comments received; therefore, we are finalizing proposed revisions noted in the Proposal and the corresponding SNPR into the Oklahoma SIP, as submitted on February 14, 2017.

III. Final Action

We are approving rule revisions to OAC:252:100 Subchapters 13 Open Burning, 17 Incinerators, 25 Visible Emissions and Particulates, 31 Control of Emission of Sulfur Compounds, Appendix E Primary Ambient Air Quality Standards, and Appendix F Secondary Ambient Air Quality Standards as submitted on February 14, 2017. Our approval will incorporate these changes into the SIP for Oklahoma.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, the EPA is finalizing the incorporation by reference of the revisions to the Oklahoma regulations as described in the Final Action section above. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulation.gov,* Docket ID. No. EPA–R06–OAR–2017–0145 and at the EPA Region 6 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993); and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human

a planning document EPA develops when establishing NAAQS for criteria pollutants.

[19] *https://www.govinfo.gov/content/pkg/FR-1996-05-22/pdf/96-12863.pdf,* Page 25579.

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994);

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 25, 2019.

David Gray,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart LL—Oklahoma

■ 2. In § 52.1920, the table in paragraph (c), under the heading entitled ''Chapter 100 (OAC:252:100). Air Pollution Control,'' is amended:

■ a. Under Subchapter 13 by:

■ i. Revising the entries for ''252:100–13–2'' and ''252:100–13–7'', under Subchapter 13;

■ ii. Adding an entry for ''252:100–13–8''; and

■ iii. Revising the entry for ''252:100–13–9'';

b. Under Subchapter 17 by:

■ i. Revising the heading for Part 3; and

■ ii. Revising the entry for ''252:100–17–2'';

■ c. Under Subchapter 25 by revising the entry for ''252:100–25–5'';

■ d. Under Subchapter 31 by:

■ i. Revising the entries for ''252:100–31–1'' and ''252:100–31–2'';

■ ii. Removing the entry for ''252:100–31–3'';

■ iii. Adding a heading entitled ''Part 2. Ambient Air Concentration Limits or Impacts for New and existing Equipment, Sources, or Facilities'' immediately after the entry for 252:100:31–2;

■ iv. Adding an entry for ''252:100–31–7'' under added Part 2;

■ v. Removing the entries for ''252:100–31–12'' and ''252:100–31–14'' under Part 3;

■ vi. Revising the entries for ''252:100–31–13'' and ''252:100–31–15'' under Part 3;

■ vii. Adding an entry for ''252:100–31–16'' under Part 3;

■ viii. Revising the entries for ''252:100–31–25'' and ''252:100–31–26'' under Part 5; and

■ f. Under Appendices for OAC 252: Chapter 110 by revising the entries for ''252:100, Appendix E'' and ''252:100, Appendix F''.

The revisions and additions read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 100 (OAC:252–100). Air Pollution Control				
*	*	*	*	*
Subchapter 13. Open Burning				
*	*	*	*	*
252:100–13–2	Purpose	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	
*	*	*	*	*
252:100–13–7	Allowed open burning	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	
252:100–13–8	Use of air curtain incinerators	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	
252:100–13–9	General conditions and requirements for allowed open burning.	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 17. Incinerators				
*	*	*	*	*
Part 3. General Purpose Incinerators				
*	*	*	*	*
252:100–17–2	Applicability	09/12/2014	8/1/2019 [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 25. Visible Emissions and Particulates				
*	*	*	*	*
252:100–25–5	Continuous emission monitoring for opacity.	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 31. Control of Emission of Sulfur Compounds				
Part 1. General Provisions				
252:100–31–1	Purpose	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
252:100–31–2	Definitions	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
Part 2. Ambient Air Concentration Limits or Impacts for New and existing Equipment, Sources, or Facilities				
252:100–31–7	Allowable hydrogen sulfide (H_2S) ambient air concentrations for new and existing sources.	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
Part 3. Existing Equipment Standards				
*	*	*	*	*
252:100–31–13	Requirements for existing sulfuric acid plants.	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
252:100–31–15	Requirements for existing kraft pulp mills.	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
252:100–31–16	Requirements for existing fossil fuel-fired steam generators.	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
Part 5. New Equipment Standards				
252:100–31–25	Requirements for new fuel-burning equipment.	07/01/2013	8/1/2019 [Insert **Federal Register** citation].	
252:100–31–26	Requirements for new petroleum and natural gas processes.	07/01/2012	8/1/2019 [Insert **Federal Register** citation].	
*	*	*	*	*
Appendices for OAC 252: Chapter 100				
*	*	*	*	*
252:100, Appendix E	Primary Ambient Air Quality Standards.	09/15/2016	8/1/2019 [Insert **Federal Register** citation].	
252:100, Appendix F	Secondary Ambient Air Quality Standards.	09/15/2016	8/1/2019 [Insert **Federal Register** citation].	

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*

* * * * *

[FR Doc. 2019–16229 Filed 7–31–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 81

[Docket Number CDC–2019–0050; NIOSH–329]

RIN 0920–AA74

Guidelines for Determining the Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Technical Amendments

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Interim final rule.

SUMMARY: The Department of Health and Human Services (HHS) is revising its regulations to update references to the International Classification of Disease (ICD) codes from ICD–9–CM to ICD–10–CM, and remove outdated references to chronic lymphocytic leukemia from Energy Employees Occupational Illness Compensation Program regulations. These technical amendments have no effect on the cancer eligibility requirement under the Program because all cancer types are eligible to receive a dose reconstruction from NIOSH. Thus, no eligible claimant will be adversely impacted by this rulemaking.

DATES: This rule is effective on August 1, 2019. Comments must be received by September 30, 2019.

ADDRESSES: You may submit comments, identified by ''RIN 0920–AA74,'' by any of the following methods:

- *Internet:* Access the Federal e-rulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments to docket CDC–2019–0050.
- *Mail:* NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, OH 45226–1998.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and search for CDC–2019–0050.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst; 1090 Tusculum Ave., MS: C–48, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

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I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, arguments, recommendations, and data. Comments are invited on any topic related to this rulemaking.

All relevant comments submitted will be available for examination in the docket for this rulemaking both before and after the closing date for comments. All relevant comments will be posted without change to Docket CDC–2019–0050 at *http://www.regulations.gov* including any personal information provided.

All relevant communications received on or before the closing date for comments will be fully considered by HHS.

II. Background

The Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) [1] was established to provide financial compensation and prospective medical benefits to employees for illness caused by exposure to radiation, beryllium, silica, and toxic substances during their employment at facilities of the Department of Energy, its predecessor agencies, and certain of its contractors and vendors. It is administered by the Department of Labor's Office of Workers' Compensation Programs (OWCP) with radiation dose reconstructions for claims involving radiogenic cancers provided by CDC's National Institute for Occupational Safety and Health (NIOSH). For these radiogenic cancer claims, OWCP is responsible for developing a claim file upon receipt of an application for benefits under EEOICPA from a claimant. The claim file includes, among other things, employment history and an International Classification of Disease (ICD) diagnosis code(s) indicating the type and location of a radiogenic cancer for the claimant. After a claim file is developed, OWCP then transmits the claim file to NIOSH, which uses that information to estimate the amount of radiation (radiation ''dose'') the worker might have received during covered employment. OWCP then makes determinations regarding the likelihood that an individual's cancer is associated with workplace radiation exposures using a number of factors, including the radiation doses estimated by NIOSH. Existing HHS regulations in 42 CFR part 81 require the use of International Classification of Disease, 9th Revision, Clinical Modification (ICD–9–CM) codes to identify specific cancer types used in making these determinations.

The World Health Organization (WHO) develops diagnostic codes for the identification of health conditions; these ICD codes are periodically updated to reflect advances in health and medicine. WHO developed the 10th

[1] 42 U.S.C. 7384n(c).

version (ICD–10) to replace the 9th in 1999. CDC's National Center for Health Statistics developed the ICD–10–CM classification, which is a ''clinical modification'' of WHO's ICD–10 codes, for use in coding and classifying disease in the clinical setting. Since the development of the ICD–10–CM codes, health facilities and other organizations, including OWCP, have relied on HHS' Centers for Medicare & Medicaid Services (CMS) to provide ''general equivalence mapping'' between ICD–9–CM codes and ICD–10–CM codes. However, CMS will discontinue that service on September 30, 2019.[2] Accordingly, OWCP informed NIOSH in January 2019 that it will be unable to continue providing both ICD–9–CM and ICD–10–CM codes in the claim files without potentially causing delay to claim processing. Therefore, the ICD–9–CM codes in part 81 must be replaced with ICD–10–CM codes to bring the regulations up to date and allow NIOSH to efficiently develop dose estimates and improve the overall efficiency in claim processing.

Updating the ICD codes and references in part 81 will inform the claimant population of the current diagnosis codes used in the compensation program and the dose reconstruction process. This rulemaking will benefit the population of energy workers who submit claims to OWCP for benefits under EEOICPA by allowing NIOSH to complete radiation dose reconstructions in support of OWCP's adjudication of the claims in a timely manner. This technical amendment has no effect on the cancer eligibility requirement under the dose reconstruction program (Program) because all cancer types are eligible to receive a dose reconstruction from NIOSH. Thus, no eligible claimant will be adversely impacted by this rulemaking.

In addition to updating the ICD codes, NIOSH will also remove outdated references to chronic lymphocytic leukemia (CLL) from part 81. Until promulgation of a final rule in 2012,[3] CLL was not covered under the EEOICPA program. The 2012 final rule removed 42 CFR 81.30, which excluded this cancer, thereby allowing claimants to seek compensation through the dose reconstruction process. That rulemaking mistakenly did not remove other references to this provision found elsewhere in part 81.

Finally, a recent Department of Labor rulemaking renumbered a CFR section that defines the term ''specified cancer'' used in that part. Because that term is referenced in HHS' rules in part 81, the citation to the Department of Labor regulations is no longer accurate and should be updated.

III. Issuance of an Interim Final Rule With Immediate Effective Date

Rulemaking under the Administrative Procedure Act (APA) generally requires a public notice and comment period and consideration of the submitted comments prior to promulgation of a final rule (5 U.S.C. 553). However, the APA provides for exceptions to its notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In accordance with the provisions in 5 U.S.C. 553(b)(3)(B), HHS finds good cause to waive the use of prior notice and comment procedures when issuing this IFR and to make updates to references and ICD codes in 42 CFR part 81 effective immediately.

This IFR amends 42 CFR part 81 to update references and ICD codes. HHS has determined that it is unnecessary to use prior notice and comment procedures for this IFR because HHS has already issued through notice-and-comment rulemaking a requirement that covered entities, such as physicians and hospitals, use ICD–10–CM for covered transactions.[4] Updating the ICD codes is a technical amendment in which CDC exercises little discretion. Soliciting public comment prior to promulgation of this rulemaking would be unnecessary since mapping between ICD–9 and –10 codes is straightforward and all cancer types are eligible to receive a dose reconstruction from NIOSH. Moreover, notice and comment rulemaking would be impracticable and contrary to the public interest because the rulemaking process may take up to 2 years to complete, resulting in the public not being provided timely information about the updated diagnosis codes as well as a lack of transparency in NIOSH's dose reconstruction process. NIOSH was not notified until January 2019 that OWCP will no longer provide both sets of ICD codes when CMS phases out the general equivalence mapping in September 2019. Thus, there is limited time in which to promulgate this regulation. For similar reasons, HHS has also determined that the need for immediate implementation of the proposed updates to ensure transparency and expediency in the NIOSH dose reconstruction process outweighs the fairness consideration and any need of potential stakeholders to adjust to the use of ICD–10–CM codes. Accordingly, HHS is waiving the prior notice and comment procedures in the interest of regulatory compliance and administrative efficiency.

Under 5 U.S.C. 553(d)(3), HHS finds good cause to make this IFR effective immediately. As stated above, in order to facilitate the complete transition of the Program from ICD–9–CM to ICD–10–CM, it is necessary that HHS act quickly to amend 42 CFR part 81 to allow NIOSH to replace all references to ICD–9–CM codes with ICD–10–CM codes. While amendments to 42 CFR part 81 are effective on the date of publication of this IFR, they are interim and a final rule will be published following the receipt and consideration of any substantive public comments.

IV. Technical Review by the Advisory Board on Radiation and Worker Health

EEOICPA requires that HHS obtain a technical review by the Advisory Board on Radiation and Worker Health (the Board) prior to establishing the probability of causation guidelines to be amended through this rulemaking.[5] HHS interprets this requirement also to apply to any revisions HHS would make to these guidelines. Hence, HHS will obtain a technical review by the Board and consider the findings of this review in promulgating the final regulation.

V. Summary of Interim Final Rule

This interim final rule amends 42 CFR part 81 to allow NIOSH to update references and ICD codes. No substantive changes are being made to part 81.

In the existing definitions section, § 81.4, the term ''specified cancer'' includes a reference to a corresponding DOL regulation (*i.e.,* 20 CFR 30.5(dd)). DOL has recently conducted a rulemaking to revise 20 CFR part 30 that resulted in the reordering of this reference from 20 CFR 30.5(dd) to 20 CFR 30.5(gg).[6] Therefore, in § 81.4, HHS is revising the reference to ''20 CFR 30.5(gg).'' In addition, the definition of the term ''non-radiogenic cancer'' is removed because all cancers are considered radiogenic and there are no longer any non-radiogenic cancers ineligible for receiving a dose reconstruction from NIOSH. Finally, § 81.4 is revised by adding a new

[2] *See https://www.cms.gov/Medicare/Coding/ICD10/2019-ICD-10-CM.html.*

[3] Final Rule; *Guidelines for Determining Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Revision of Guidelines on Non-Radiogenic Cancers,* February 6, 2012 (77 FR 5711).

[4] 45 CFR 162.1002(c)(2).

[5] 42 U.S.C. 7384n(c).

[6] 84 FR 3026 (February 8, 2019).

definition of ''ICD–10–CM,'' to include a reference and web link.

In existing § 81.5(b), the term ''ICD–9'' is replaced with ''ICD–10–CM.'' In §§ 81.21, 81.23, and 81.24, all references to ICD–9 codes are changed to ICD–10–CM codes. In §§ 81.21(a) and 81.24(a), outdated references to CLL are also removed. Finally, Appendix A is removed in its entirety because it is a glossary of ICD–9 codes and their cancer descriptions, and such reference tables, including tables of ICD–10 codes and their cancer descriptions, are readily available online.

VI. Regulatory Assessment Requirements

A. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This interim final rule is not being treated as a ''significant'' action under E.O. 12866. It updates references and ICD codes in existing 42 CFR part 81 to allow better administrative efficiency in the processing of dose reconstruction claims. The rule does not result in costs to the Program, claimants, or any other interested parties. Accordingly, HHS has not prepared an economic analysis and the Office of Management and Budget (OMB) has not reviewed this rulemaking.

The rule does not interfere with State, local, or tribal governments in the exercise of their governmental functions.

B. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

Executive Order 13771 requires executive departments and agencies to eliminate at least two existing regulations for every new significant regulation that imposes costs. HHS has determined that this rulemaking is cost-neutral because it does not require any new action by stakeholders. The rulemaking ensures that the dose reconstructions developed by the Program can be conducted efficiently. Because OMB has determined that this rulemaking is not significant, pursuant to E.O. 12866, and because it does not impose costs, OMB has determined that this rulemaking is exempt from the requirements of E.O. 13771. Thus it has not been reviewed by OMB.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. The rule affects only Federal agencies and certain individuals covered by EEOICPA. Therefore, HHS certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any rule of general applicability that requires recordkeeping, reporting, or disclosure requirements.

NIOSH has obtained approval from OMB to collect information from claimants under ''Energy Employees Occupational Illness Compensation Program Act Dose Reconstruction Interviews and Forms (EEOICPA)'' (OMB Control No. 0920–0530, exp. January 31, 2022), which covers information collected under 42 CFR part 81. This rulemaking does not change the reporting burden on any respondents.

E. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the Department will report the promulgation of this rule to Congress prior to its effective date. The report will state that the Department has concluded that this rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector.

G. Executive Order 12988 (Civil Justice)

This rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

H. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

I. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this rule on children. HHS has determined that the rule would have no effect on children.

J. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

K. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the interim final rule consistent with the Federal Plain Writing Act guidelines.

List of Subjects in 42 CFR Part 81

Cancer, Government employees, Nuclear materials, Occupational safety and health, Radiation protection, Radioactive materials, Workers' compensation.

Interim Final Rule

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR part 81 as follows:

PART 81—GUIDELINES FOR DETERMINING PROBABILITY OF CAUSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000

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

Authority: 42 U.S.C. 7384n(c); E.O. 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321.

■ 2. Amend § 81.4 as follows:
■ a. Remove paragraph (l);
■ b. Redesignate paragraphs (g) through (k) as paragraphs (h) through (l), respectively;
■ c. Add a new paragraph (g);
■ d. In paragraph (s), remove the reference ''20 CFR 30.5(dd)'' and add in its place ''20 CFR 30.5(gg)''.

The addition reads as follows:

§ 81.4 Definition of terms used in this part.

* * * * *

(g) *ICD–10–CM* means the International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Clinical Modification, *https://www.cdc.gov/nchs/icd/icd10cm.htm.*

* * * * *

■ 3. Amend § 81.5 as follows:
■ a. Add a period at the end of paragraph (a);
■ b. Revise paragraph (b); and
■ c. Add periods at the ends of paragraphs (c) through (f).

The revision reads as follows:

§ 81.5 Use of personal and medical information.

* * * * *

(b) Cancer diagnosis (by ICD–10–CM code) for primary and secondary cancers.

* * * * *

■ 4. Revise § 81.21 to read as follows:

§ 81.21 Cancers requiring the use of NIOSH–IREP.

(a) DOL will calculate probability of causation for all cancers using NIOSH–IREP.

(b) Carcinoma in situ (ICD–10–CM codes D00–D09), neoplasms of uncertain behavior (ICD–10–CM codes D37–D44 and D48), and neoplasms of unspecified nature (ICD–10–CM code D49) are assumed to be malignant, for purposes of estimating probability of causation.

(c) All secondary and unspecified cancers of the lymph node (ICD–10–CM codes C77 and C7B.01) shall be considered secondary cancers (cancers resulting from metastasis of cancer from a primary site). For claims identifying cancers of the lymph node, Table 1 in § 81.23(a) provides guidance for assigning a primary site and calculating probability of causation using NIOSH–IREP.

■ 5. Amend § 81.23 by revising paragraph (a) to read as follows:

§ 81.23 Guidelines for cancers for which primary site is unknown.

(a) In claims for which the primary cancer site cannot be determined, but a site of metastasis is known, DOL will calculate probability of causation estimates for various likely primary sites. Table 1 of this paragraph (a) indicates the primary cancer site(s) DOL will use in NIOSH–IREP when the primary cancer site is unknown.

Table 1 to Paragraph (a)

Primary cancers (ICD–10–CM codes) for which probability of causation is to be calculated, if only a secondary cancer site is known. ''M'' indicates cancer site should be used for males only, and ''F'' indicates the cancer site should be used for females only.

Secondary cancer (ICD–10–CM code)	ICD–10–CM code of likely primary cancers
Lymph nodes of head, face and neck (C77.0)	C01, C02, C07(M), C08(M), C09(M), C10(M), C14(F), C32(M), C33, C34, C43, C44, C50(F), C73(F), D03.
Intrathoracic lymph nodes (C77.1)	C15(M), C33, C34, C50(F).
Intra-abdominal lymph nodes (C77.2)	C15(M), C16(M), C18, C25(F), C33, C34, C50(F), C53(F), C61(M), C64, C65, C66, C68, C82(F), C84(F) (excluding C84.6, C84.7), C85(F), C86(F) (excluding C86.5, C86.6), C91.4(F), C96(F).
Lymph nodes of axilla and upper limb (C77.3)	C33, C34, C43, C50(F) , D03.
Inguinal and lower limb lymph nodes (C77.4)	C19(M), C20(M), C21(M), C33, C34, C43, C44(F), C60(M), C63(M), D03.
Intrapelvic lymph nodes (C77.5)	C18(M), C19(F), C20(F), C21(F), C33(M), C34(M), C53(F), C54(F), C61(M), C67.
Lymph nodes of multiple sites (C77.8)	C15(M), C16(M), C18(M), C33, C34, C50(F).
Lymph nodes, site unspecified (C77.9)	C15(M), C16, C18, C33, C34, C43, C50(F), C61(M), D03.
Lung (C78.0)	C18, C33, C34, C43(M), C50(F), C61(M), C67(M), C64, C65, C66, C68, D03(M).
Mediastinum (C78.1)	C15(M), C33, C34, C50(F).
Pleura (C78.2)	C15(M), C18(M), C33, C34, C50(F), C56(F), C57(F), C61(M), C64(M), C65(M), C66(M), C68(M).
Other respiratory organs (C78.3)	C15, C18(M), C32, C33, C34, C44(M), C50(F), C61(M), C73(F).
Small intestine, including duodenum (C78.4)	C17, C18, C25, C33, C34, C49, C43(M), C50(F), C56(F), C57(F), C64(M), C65(M), C66(M), C68(M), D03(M).
Large intestine and rectum (C78.5)	C18, C19, C20, C21, C33, C34, C50(F), C56(F), C57(F), C61(M).
Retroperitoneum and peritoneum (C78.6)	C16, C18, C19(M), C20(M), C21(M), C25, C33(M), C34(M), C49, C50(F), C54(F), C56(F), C57(F).
Liver, specified as secondary (C78.7)	C16(M), C18, C19(M), C20(M), C21(M), C25, C33, C34, C50(F).
Other digestive organs (C78.8)	C15(M), C16, C18, C25, C33, C34, C50(F), C61(M).
Kidney (C79.0)	C18, C33, C34, C50(F), C53(F), C61(M), C67, C64, C65, C66, C68, C82(F), C84(F) (excluding C84.6, C84.7), C85(F), C86(F) (excluding C86.5, C86.6), C91.4(F), C96(F).
Other urinary organs (C79.1)	C18, C50(F), C53(F), C56(F), C57(F), C61(M), C67, C64(F), C65(F), C66(F), C68(F).
Skin (C79.2)	C18, C33, C34, C49(M), C43, C44(M), C50(F), C64(M), C65(M), C66(M), C68(M), D03.
Brain and spinal cord (C79.3)	C33, C34, C43(M), C50(F), D03(M).

Secondary cancer (ICD–10–CM code)	ICD–10–CM code of likely primary cancers
Other parts of nervous system (C79.4)	C33, C34, C43(M), C50(F), C61(M), C82, C84 (excluding C84.6, C84.7), C85, C86 (excluding C86.5, C86.6), C91.4, C96, D03(M).
Bone and bone marrow (C79.5)	C33, C34, C50(F), C61(M).
Ovary (C79.6)	C18(F), C50(F), C56(F), C57(F).
Adrenal gland (C79.7)	C18(F), C33, C34, C50(F).
Other specified sites (C79.8)	C18, C33, C34, C43(M), C50(F), C56(F), C57(F), C61(M), C67(M), D03(M).
Unspecified sites (C79.9)	C18, C33, C34, C43(M), C50(F), C56(F), C57(F), C61(M), C67(M), D03(M).
Carcinoid tumor of distant lymph nodes (C7B.01)	C15(M), C16, C18, C33, C34, C43, C50(F),C61(M), D03.
Carcinoid tumor of liver (C7B.02)	C16(M), C18, C19(M), C20(M), C21(M), C25, C33, C34, C50(F).
Carcinoid tumor of bone (C7B.03)	C33, C34, C50(F), C61(M).
Carcinoid tumor of peritoneum (C7B.04)	C16, C18, C19(M), C20(M), C21(M), C25, C33(M), C34(M), C49, C50(F), C54(F), C56(F), C57(F).
Merkel cell carcinoma (C7B.1)	C18, C33, C34, C49(M), C43, C44(M), C50(F), C64(M), C65(M), C66(M), C68(M), D03.

* * * * *

■ 6. Amend § 81.24 by revising paragraph (a) to read as follows:

§ 81.24 Guidelines for leukemia.

(a) For claims involving leukemia, DOL will calculate one or more probability of causation estimates from up to three of the four alternate leukemia risk models included in NIOSH–IREP, as specified in the NIOSH–IREP Operating Guide. These include: ''Leukemia, all types'' (ICD–10–CM codes C91–C95), ''acute lymphocytic leukemia'' (ICD–10–CM code C91.0), and ''acute myelogenous leukemia'' (ICD–10–CM codes C92.6 and C92.A).

* * * * *

§ 81.25 [Amended]

■ 7. Amend § 81.25 by redesignating footnote 4 as footnote 3.

Dated: July 25, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–16347 Filed 7–31–19; 8:45 am]

BILLING CODE 4163–18–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 17–228, FCC 18–167]

Revisions to Reporting Requirements Governing Hearing Aid-Compatible Handsets

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance dates.

SUMMARY: The Wireless Telecommunications Bureau (WTB or the Bureau) announces that the Office of Management and Budget (OMB) has approved the information-collection and recordkeeping requirements associated with the recently amended hearing aid compatibility provisions addressing wireless service provider record retention, website posting, and certification filing requirements and announces the date by which service providers must be in compliance with these provisions.

DATES: Effective August 1, 2019.

Compliance Dates: Compliance with 47 CFR 20.19(e), (h) and (i) is required as of September 3, 2019. The § 20.19(i) service provider certification filing requirement must be completed between the compliance date and no later than 30 days after the compliance date.

FOR FURTHER INFORMATION CONTACT: Susannah Larson, Wireless Telecommunications Bureau, at (202) 418–1883 or via email: *susannah.larson@fcc.gov*. For additional information concerning the Paperwork Reduction Act information collection requirements contact Cathy Williams at (202) 418–2918 or via email: *cathy.williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirements in revised §§ 20.19(e), (h), and (i) on June 25, 2019. Revised § 20.19(e) addresses the reporting and certification requirements applicable to *de minimis* wireless service providers. Revised § 20.19(h) sets forth service provider website posting and record retention obligations and revised § 20.19(i) sets forth service provider annual certification requirements. The Commission adopted these revised rules in the following Report and Order *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets,* FCC 18–167, published at 83 FR 63098 on December 7, 2018 (Report and Order).

The Report and Order provides that the Bureau will publish a document in the **Federal Register** announcing compliance dates for revised §§ 20.19(e), (h), and (i) once OMB approval is obtained for the paperwork burden associated with these sections. Further, the Report and Order states that the Bureau will revise § 20.19(m) once OMB approval is obtained for §§ 20.19(e), (h), and (i) and a compliance date for these sections is established. Section 20.19(m) states that compliance with the paperwork obligations of §§ 20.19(e), (h), and (i) is not required until OMB approval is obtained and a compliance date is established. The other rule amendments that the Commission adopted in the Report and Order did not require OMB approval and compliance with those rule sections was required as of January 7, 2019. *See* Report and Order at 83 FR 63098 (Dec. 7, 2018).

With respect to §§ 20.19(e) and (h), service providers must be in compliance with these sections by the compliance date set out above, except to the extent that these sections reference the § 20.19(i) certification requirement. With respect to the § 20.19(i) certification requirement, service providers may begin filing their certifications on the compliance date announced above and must have their certifications filed with the Commission within 30 days of that date. Service providers will be using new electronic FCC Form 855 to make their certifications. The OMB approved instructions for how to fill out and file the electronic FCC Form 855 certification will be available on the hearing aid compatibility section of the FCC website starting on the compliance date listed above. We remind service providers that the initial certifications

that they will be filing cover the 2018 reporting period (*i.e.,* from January 2018 through December 2018). Certifications covering the 2019 reporting period will be due by January 15, 2020 and then by January 15 following each subsequent reporting period.

The OMB Control Number for the information collection requirements associated with §§ 20.19(e), (h), and (i) is 3060–0999. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554. Please reference OMB Control Number 3060–0999 in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on June 25, 2019, for the information collection requirements contained in the revisions to §§ 20.19(e), (h), and (i).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for this information collection is 3060–0999.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0999.

OMB Approval Date: June 25, 2019.

OMB Expiration Date: June 30, 2022.

Title: Hearing Aid Compatibility Status Report and Section 20.19, Hearing Aid-Compatible Mobile Handsets (Hearing Aid Compatibility Act).

Form Number: FCC Form 655 and FCC Form 855.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 934 respondents; 934 responses.

Estimated Time per Response: 13.9710921 hours per response (average).

Frequency of Response: On occasion and annual reporting requirements, recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 303(r), and 610.

Total Annual Burden: 13,049 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information requested in the reports and certifications may include confidential information. However, covered entities are allowed to request that such materials submitted to the Commission be withheld from public inspection.

Needs and Uses: In the Report and Order, the Commission revised the information that wireless service providers must post on their publicly accessible websites concerning the hearing aid compatibility of the handsets that they offer and required service providers to retain this information on their websites for a period of time for those handsets that a service provider stops offering. The Commission took these steps to improve the information that is available to consumers about the hearing aid compatibility of wireless handsets offered by service providers and to make sure that consumers have access to this information for handsets that they might be using but are no longer being offered by their service provider. Further, the Commission reduced regulatory burden by eliminating the requirement that service providers annually file electronic FCC Form 655 and replaced this requirement with an annual streamlined certification requirement to be completed using the Commission's new electronic FCC Form 855. Handset manufacturers, however, will continue to annually file electronic FCC Form 655. Electronic FCC Forms 655 and 855 are the principle means by which the Commission ensures that handset manufacturers and service providers are in compliance with the Commission's hearing aid compatibility provisions.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows.

PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for part 20 continues to read as follows.

Authority: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

§ 20.19 [Amended]

■ 2. Amend § 20.19 by removing paragraph (m).

[FR Doc. 2019–16386 Filed 7–31–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–XG925

Pacific Island Pelagic Fisheries; 2019 U.S. Territorial Longline Bigeye Tuna Catch Limits for the Commonwealth of the Northern Mariana Islands

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

ACTION: Announcement of a valid specified fishing agreement.

SUMMARY: NMFS announces a valid specified fishing agreement that allocates up to 1,000 metric tons (t) of the 2019 bigeye tuna limit for the Commonwealth of the Northern Mariana Islands (CNMI) to U.S. longline fishing vessels. The agreement supports the long-term sustainability of fishery resources of the U.S. Pacific Islands, and fisheries development in the CNMI.

DATES: The specified fishing agreement is valid on July 19, 2019.

ADDRESSES: The Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) describes specified fishing agreements and is available from the Western Pacific Fishery

Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *http://www.wpcouncil.org*.

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. The analyses, identified by NOAA–NMFS–2019–0028, are available from *https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0028,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Rebecca Walker, NMFS PIRO Sustainable Fisheries, 808–725–5184.

SUPPLEMENTARY INFORMATION: In a final rule published on July 18, 2019, NMFS specified a 2019 limit of 2,000 t of longline-caught bigeye tuna for the U.S. Pacific Island territories of American Samoa, Guam, and the CNMI (84 FR 34321). NMFS allows each territory to allocate up to 1,000 t of the 2,000 t limit to U.S. longline fishing vessels identified in a valid specified fishing agreement.

On July 18, 2019, NMFS received from the Council a specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA). The Council's Executive Director advised that the specified fishing agreement was consistent with the criteria set forth in 50 CFR 665.819(c)(1). On July 19, 2019, NMFS reviewed the agreement and determined that it is consistent with the Pelagic FEP, the Magnuson-Stevens Fishery Conservation and Management Act, implementing regulations, and other applicable laws.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), vessels in the agreement may retain and land bigeye tuna in the western and central Pacific Ocean under the CNMI attribution limit. On July 20, 2019, NMFS began attributing bigeye tuna caught by vessels in the agreement to the CNMI. If NMFS determines that the fishery will reach the 1,000 t allocation limit, we will restrict the retention of bigeye tuna caught by vessels in the agreement, unless the vessels are included in a subsequent specified fishing agreement with another U.S. territory.

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

Dated: July 29, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–16421 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 84, No. 148

Thursday, August 1, 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 VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AQ67

Schedule for Rating Disabilities: The Cardiovascular System

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend the section of the VA Schedule for Rating Disabilities (VASRD or Rating Schedule) that addresses the cardiovascular system. The proposed changes incorporate medical advances that have occurred since the last review, update medical terminology, and clarify evaluation criteria where necessary.

Where changes to the scientific and/or medical nature of a given condition have been proposed, VA has cited the published, publicly-available sources for these changes. The proposed changes are not a reflection of any particular expert's comments or recommendations, but were based on published, peer-reviewed materials. Materials from the public forum, held in 2011, are available for public inspection at the Office of Regulation Policy and Management (see the **ADDRESSES** section of this rulemaking), and other deliberative materials are cited herein.

DATES: VA must receive comments on or before September 30, 2019.

ADDRESSES: Submit written comments through *www.Regulations.gov;* by mail or hand-delivery to the Director, Office of Regulations Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to RIN 2900–AQ67—Schedule for Rating Disabilities: The Cardiovascular System. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, please view comments online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Reynolds, MD, Medical Officer, Regulations Staff (211D), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: As part of VA's ongoing revision of the VA Schedule for Rating Disabilities (VASRD or Rating Schedule), VA proposes changes to 38 Code of Federal Regulations (CFR) §§ 4.100 and 4.104, which pertain to the cardiovascular system. The proposed changes will: (1) Update the medical terminology of certain conditions; (2) add medical conditions not currently in the Rating Schedule; (3) refine evaluation criteria based on medical advances that have occurred since the last revision; and (4) incorporate current understanding of functional changes associated with, or resulting from, cardiovascular disease or injury (pathophysiology).

I. § 4.100 Application of the Evaluation Criteria for Diagnostic Codes 7000–7007, 7011, and 7015–7020

In almost all cases, the current § 4.100 specifically requires testing for metabolic equivalent of tasks when evaluating heart diseases. Medical literature more commonly refers to metabolic equivalent of tasks as simply metabolic equivalents, or METs. Exceptions to METs testing for rating purposes occur when medically contraindicated, when the left ejection fraction is 50 percent or less, with chronic congestive heart failure, when more than one episode of heart failure occurred in the past year, or when VA may assign a 100 percent evaluation on another basis. 38 CFR 4.100(b). As explained below, this proposed rule will eliminate considering ejection fractions or congestive heart failure when evaluating cardiovascular disability. Therefore, for clarity and simplicity, VA proposes to delete paragraphs (b)(2), (b)(3), and (c), and redesignate paragraphs (b)(4) as (b)(2) of this section.

II. General Rating Formula for Diseases of the Heart

VA proposes to revise § 4.104 to include a new General Rating Formula for Diseases of the Heart (General Formula). VA will use this new General Formula to clarify and standardize the evaluation of many cardiovascular diseases. As discussed below, it will provide a more timely, efficient, and accurate method of evaluating these diseases.

The proposed General Formula reflects current concepts in cardiovascular disability. The Institute of Medicine (now called the National Academy of Medicine) stated, ''It is important for the Rating Schedule to be as up-to-date as possible in current medical approaches and terminology to serve veterans with disabilities most effectively. This ensures that the criteria in the Rating Schedule are based on concepts and terms used by medical personnel who provide medical evidence, and that evolving understanding of, or recognition of, new disabling conditions are reflected.'' Institute of Medicine, Committee on Medical Evaluation of Veterans for Disability Compensation, ''A 21st Century System for Evaluating Veterans for Disability Benefits,'' 5 (Michael McGeary et al. eds. 2007).

As in the current Rating Schedule, the proposed General Formula is based primarily on Metabolic equivalents (METs), which objectively and accurately measure the cardiac work capacity and which clinicians routinely obtain for all patients with heart disease. The examiner eliminates spurious results by considering various parameters, such as age and expected maximal heart rate achieved when factors other than heart disease are present. In situations where a person is unable to walk, or walk well, the patient may test on a bicycle or with the use of certain medications.

VA notes that a number of diagnostic codes (DCs) within current § 4.104, including DCs 7000–7007, 7011, 7015–7017, and 7019–7020, already utilize METs in evaluating their respective cardiovascular conditions. Specifically, each level of evaluation (10, 30, 60, and 100 percent) outlines a range of METs, as well as a list of associated symptoms,

within which an individual must fall to warrant that particular evaluation. Additionally, VA may assign higher ratings (*e.g.,* 60 and 100 percent) for congestive heart failure or left ventricular dysfunction as demonstrated by ejection fraction. Finally, VA may also assign a 30 percent evaluation with evidence on electrocardiogram, echocardiogram, or X-ray of cardiac hypertrophy or dilatation. Lastly, VA may assign a 10 percent evaluation if the condition requires continuous medication.

VA proposes to rely on METs as the primary indicator of cardiac ability and eliminate other indicators currently found in the VASRD, such as ejection fractions or the number of any episodes of acute congestive heart failure in the past year. These latter indicators are less reliable in assessing cardiac function. Congestive heart failure may be due to poor conditioning, salt consumption, poor medication compliance, body weight, additional disease burden, or a variety of other factors not associated with the underlying cardiovascular disease itself. See Joshi, Mohanan et al., ''Factors precipitating Congestive Heart Failure—role of patient non-compliance,'' 47 J. Assoc. Physicians India 294–95 (Mar. 1999) (emphasizing ''the importance of patient non-compliance with prescribed therapy as a leading precipitating factor for congestive heart failure . . . which can be prevented by appropriate cost saving strategies aimed to improve patient compliance.'') Similarly, ejection fractions are unreliable because factors unrelated to cardiovascular disability, such as fluid intake, salt ingestion, and exercise, may influence them. See Ramachandran S. Vasan, MD, *et al.,* ''Congestive heart failure in subjects with normal versus reduced left ventricular ejection fraction,'' 33(7) 1948–55 (1999). Conversely, METs form the most reliable basis of cardiac capability, even after heart disease weakens the ability of the heart to function at full capacity. See Charles K. Morris, MD, et al., ''Nomogram based on metabolic equivalents and age for assessing aerobic exercise capacity in men,'' 22(1) J. Am. College of Cardiology, 175–82 (1993).

The heart is often described as the pump of the human body, and, as such, requires power to function. Power is the rate that energy is consumed to work. Various types of energy employ different measures of rate (power), such as kW (kilowatts) for electrical energy; Btu/hr (British Thermal Units per hour) for heat energy; hp (horsepower) for mechanical energy; and, for our purposes, METs (metabolic equivalent of tasks) for cardiac energy.

In evaluating cardiovascular disabilities, METs refer to the intensity of activities. For example, an activity with a MET of 2, such as walking at a slow pace (*e.g.,* 2 mph), would require twice the energy that an average person consumes at rest (*e.g.,* sitting quietly), which requires 1 MET. See ''The Compendium of Physical Activities,'' Arnold School of Public Health-Prevention Research Center, available at *http://prevention.sph.sc.edu/tools/compendium.htm.* VA does not propose any alteration to the ranges of METs provided in the current VASRD, nor will it eliminate the references to dyspnea, fatigue, angina, dizziness, or syncope. Instead, VA proposes to state that these symptoms may represent heart failure. VA also proposes to use the more common term ''breathlessness'' for the more obscure term ''dyspnea,'' and to expand the list of common findings associated with congestive heart failure to include arrhythmia and palpitations. See ''Congestive Heart Failure,'' Johns Hopkins Medicine, available at *http://www.hopkinsmedicine.org/heart_vascular_institute/conditions_treatments/conditions/congestive_heart_failure.html* (last visited Apr. 30, 2014). Although VA proposes to eliminate the use of congestive heart failure and ejection fraction as indicators for evaluation, it will retain the non-MET criteria provided in the current 10 and 30 percent evaluations because these criteria remain valid. Id.

VA proposes to apply the General Formula to those DCs within § 4.104 that instruct rating personnel to consider METs (among other indicators). The DCs using METS as the primary rating criteria include 7003, 7004, 7005, 7007, 7015, and 7020. On the other hand, DCs 7000, 7001, 7002, 7006, 7011, 7016, 7017, and 7019 have 100 percent evaluation criteria unique to each particular DC. VA does not intend to disturb the 100 percent evaluations currently prescribed in these DCs; rather, it proposes to apply the General Formula following the total evaluations. To ensure clarity and consistency in applying the General Formula, VA intends to instruct personnel to rate disabilities under § 4.104 using the General Formula unless otherwise directed.

With respect to DCs 7010, 7011, 7015, and newly proposed DC 7009, regardless of the DC, the resulting impairment and disability are essentially indistinguishable. To offer more than one evaluation under those circumstances would be contrary to § 4.14 (pyramiding). VA will provide an instruction immediately before DC 7009 which states ''For DCs 7009, 7010, 7011, and 7015, a single evaluation will be assigned under the diagnostic code which reflects the predominant disability picture.''

The discussion that follows explains the changes to each DC affected by the General Formula, and explains additional changes to these DCs (*e.g.,* title changes, note changes, etc.).

A. Diagnostic Code 7000

DC 7000 currently provides a 100 percent evaluation during active infection with valvular heart damage and for three months following the cessation of treatment for the active infection. VA proposes no change to this provision. Following the three months, VA will evaluate residual cardiac disability using the General Rating Formula for Diseases of the Heart.

B. Diagnostic Codes 7001 and 7002

The current DCs 7001 and 7002 (endocarditis and pericarditis, respectively) provide a 100 percent evaluation during active infection with cardiac involvement, and for three months following the cessation of treatment for the active infection. VA proposes no change to these provisions. Following the three months, VA will evaluate any residual cardiac disability using the General Rating Formula for Diseases of the Heart.

C. Diagnostic Codes 7003, 7004, 7005, 7007, and 7020

VA proposes to evaluate disability due to these conditions (pericardial adhesions, syphilitic heart disease, arteriosclerotic heart disease, hypertensive heart disease, and cardiomyopathy, respectively) using the General Rating Formula.

D. Diagnostic Code 7006

The current DC 7006 provides a 100 percent evaluation during, and for three months following, a documented myocardial infarction. VA proposes no change to this provision. Following the three months, VA proposes to evaluate residual disability under the General Rating Formula.

E. Diagnostic Code 7011

VA does not propose any change to the current DC 7011 provisions establishing a 100 percent evaluation for sustained ventricular arrhythmia or ventricular aneurysmectomy from the date of hospital admission. However, VA proposes to apply the General Rating Formula following the mandatory examination provided six

months after discharge to determine residual disability rating.

Additionally, DC 7011 currently includes a note indicating VA will conduct a mandatory examination six months following discharge and therapy for a sustained arrhythmia or ventricular aneurysmectomy. The intent is to monitor the extent of disability following inpatient hospitalization for surgical intervention and therapy. VA proposes to add the phrase ''discharge from inpatient hospitalization'' to the note to clarify that the timing for mandatory re-examination is based upon discharge from inpatient hospitalization, rather than discharge from an outpatient treatment program. This proposed clarification does not represent a change in VA policy.

F. Diagnostic Code 7015

VA proposes to update this DC to reflect modern treatment and to more accurately evaluate impairment by separating the various forms of atrioventricular block into two specific categories: benign and non-benign *i.e.,* the latter requiring immediate treatment. ''Types of Heart Block,'' National Heart, Lung, and Blood Institute (July 9, 2012), *http://www.nhlbi.nih.gov/health/health-topics/topics/hb/types.html* (last visited April 22, 2014).

The benign, or less severe, category of atrioventricular block includes first-degree heart block (first-degree) and second-degree heart block, type I (second-degree type I). First-degree (seen as a delayed or prolonged P–R interval on electrocardiogram), involves the slowing of the heart's electrical signals, often without any symptoms and, therefore, without requiring any treatment. Id. In second-degree type I, the electrical signals are slowed more and more with each heartbeat until the heart eventually skips a beat. An occasional, transitory, and mild symptom may be associated with second-degree type I heart block. Id. No specific therapy is required for second-degree type I heart block. Ali A. Sovari, ''Second-Degree Atrioventricular Block Treatment & Management,'' Medscape—Reference (May 9, 2013) *http://emedicine.medscape.com/article/161919-treatment* (last visited April 22, 2014). VA proposes to evaluate the benign form of atrioventricular block under the General Rating Formula.

The non-benign, or more severe, category of atrioventricular block include second-degree heart block, type II (second-degree type II) and third-degree heart block (third-degree). In second-degree type II, some of the heart's electrical signals do not reach the ventricles, which may result in symptoms of dizziness, light-headedness, or syncope. In addition, individuals with second degree may experience chest pain, hypoperfusion, and hypotension. Ali A. Sovari, ''Second-Degree Atrioventricular Block Clinical Presentation,'' Medscape—Reference (May 9, 2013), *http://emedicine.medscape.com/article/161919-clinical* (last visited April 22, 2014). Second-degree type II presents a much more immediate medical risk as it may progress rapidly to complete heart block. As a result, affected individuals may receive permanent pacemakers. Third-degree heart block occurs when none of the heart's electrical signals reach the ventricles, which often requires emergency treatment because it can result in cardiac arrest or death. Like second-degree type II, this severe type of atrioventricular block requires pacemaker implantation. Based on this treatment, VA proposes to evaluate the non-benign categories of atrioventricular block (second-degree, type II and third-degree) under DC 7018, implantable cardiac pacemakers. Given the proposed amendments to DC 7015, the note that currently follows is no longer relevant. The VA proposes to remove the note following DC 7015.

G. Diagnostic Code 7016

VA does not propose any change to the current DC 7016 provisions establishing a 100 percent evaluation for heart valve replacement (prosthesis). However, VA proposes to apply the General Rating Formula following the mandatory examination provided six months after discharge to determine residual disability rating.

Additionally, DC 7016 currently includes a note indicating VA will examine this disability six months following discharge. The intent is to monitor the extent of the disability following hospitalization for surgery. Similar to DC 7011, VA proposes to link the evaluation with discharge from inpatient hospitalization for this particular dysrhythmia. This clarification does not represent a change in VA policy.

H. Diagnostic Code 7017

DC 7017 currently provides a 100 percent evaluation for three months following hospital admission for coronary bypass surgery. VA proposes no change to this provision. Following the three months, VA proposes to evaluate any residual cardiac disability under the General Rating Formula.

I. Diagnostic Code 7019

Currently, DC 7019 provides a 100 percent evaluation from the date of hospital admission for cardiac transplantation, continuing for ''an indefinite period.'' The current note also states, however, that one year following discharge, VA should examine the individual to determine the appropriate disability rating, assigning a minimum evaluation of 30 percent. VA applies 38 CFR 3.105(e) to any change in evaluation. VA proposes no changes to this process or the minimum evaluation of 30 percent. However, VA proposes to eliminate the phrase ''for an indefinite period'' and replace it with ''for a minimum of one year.'' This will eliminate any confusion as to whether the Veteran's 100 percent evaluation may be subject to reduction during the year following transplantation. Practically, a Veteran will receive a 100 percent evaluation for at least one year plus hospitalization time as VA will not re-evaluate the Veteran until one year following hospital discharge. In addition to this change, VA proposes to evaluate residual cardiac disability under the General Rating Formula.

Additionally, DC 7019 currently includes a note indicating VA will examine this disability one year following discharge. The note's intent is to assess the extent of residual cardiac disability following hospitalization for surgery. VA proposes to add the phrase ''discharge from inpatient hospitalization'' to clarify when the point at which the timing for mandatory examination begins. Discharge from an outpatient treatment program does not activate this provision. This clarification does not represent a change in VA policy.

III. Proposed Changes to Diagnostic Codes Not Rated Under the General Formula

A. Diagnostic Code 7008

The DC 7008 addresses hyperthyroid heart disease. This DC was amended with the final publication of 82 FR 50804, *Schedule for Rating Disabilities; The Endocrine System,* effective December 10, 2017. VA's update of the endocrine system (38 CFR 4.117) revised the evaluation criteria for hyperthyroidism under DC 7900. See RIN 2900–AO44. Specifically, VA eliminated any current rating criteria in DC 7900 that referred to cardiovascular findings. Instead, VA evaluates any hyperthyroid heart disease under DC 7008, which directs rating personnel to evaluate any cardiovascular findings according to the appropriate DC. The

VA does not propose any additional changes for DC 7008 at this time.

B. Diagnostic Code 7010

VA proposes to change the name of the current DC 7010 from supraventricular arrhythmias to the more modern and accurate supraventricular tachycardia. Arrhythmia generally refers to an irregular heartbeat and includes a heartbeat that is too fast, too slow, or irregular. ''What Is an Arrhythmia?'' National Heart, Lung, and Blood Institute (July 1, 2011), *http://www.nhlbi.nih.gov/health/health-topics/topics/arr/* (last visited April 22, 2014). Supraventricular tachycardia is an irregularly fast heartbeat that originates above or within the atrioventricular node18 or in the upper part of the heart. Id. The various forms of supraventricular tachycardia include, but are not limited to, atrial fibrillation, atrial flutter, sinus tachycardia, sinoatrial nodal reentrant tachycardia, atrioventricular nodal reentrant tachycardia, atrioventricular reentrant tachycardia, atrial tachycardia, junctional tachycardia, and multifocal atrial tachycardia. Id. VA proposes to add an explanatory Note 1 to provide a non-exhaustive list of examples of supraventricular tachycardia. VA proposes to use tachycardia, rather than arrhythmia, in the title to clarify that rating personnel should use this DC to evaluate individuals with abnormally fast heartbeats.

VA also proposes to update the evaluation criteria for supraventricular tachycardia, utilizing hospitalization as a more accurate measure of disability. The current criteria in DC 7010 assign evaluations based on the number of episodes of supraventricular arrhythmias documented by electrocardiogram (ECG or EKG) or Holter monitor, without considering the need for hospital treatment. Supraventricular tachycardia is usually non-lethal and does not result in disabling symptoms in otherwise healthy individuals. See ''Paroxysmal supraventricular tachycardia'' in ''A.D.A.M. Medical Encyclopedia,'' PubMed Health, U.S. National Library of Medicine (June 18, 2012), *http://www.nlm.nih.gov/medlineplus/ency/article/000183.htm* (last visited Apr. 30, 2014). For example, some patients with supraventricular tachycardias have many short episodes throughout the day and remain asymptomatic. Id. Others may have atrial fibrillation on a permanent basis, also without symptoms. These non-disabling episodes do not require hospitalization or treatment, but may be recorded incidentally by an ECG or Holter monitor without any other findings. Id. Therefore, the mere presence of episodes of supraventricular tachycardia, as well as their number, is unrelated to symptomatology or disability.

However, some episodes of supraventricular tachycardia result in hypotension, shortness of breath, dizziness, or chest pain in patients who are older or have underlying cardiac disorders. Id. These symptomatic episodes typically require a controlled medical setting to monitor and treat heart rate control, anticoagulation, cardioversion, electrophysiological studies, or catheter-based arrhythmia ablation. Id. Medical intervention for supraventricular tachycardia more accurately indicates impairment, as the purpose of treatment is to eliminate or reduce any disabling symptoms. As mentioned previously, the mere documentation of supraventricular tachycardia on an ECG or Holter monitor does not confirm the existence of symptoms or impairment.

As such, VA proposes to replace the current reference to episodes documented by ECG or Holter monitor in DC 7010 with treatment interventions. For the purposes of this DC, a treatment intervention occurs whenever a symptomatic patient requires intravenous pharmacologic adjustment, cardioversion, and/or ablation for symptom relief. For clarity, VA proposes to add Note 2 to identify when a treatment occurs. VA will assign a 10 percent evaluation for supraventricular tachycardia, documented by ECG, with one to four treatment interventions per year; VA will assign a 30 percent evaluation with five or more treatment interventions per year. VA proposes the number of interventions annually because benign, non-disabling episodes may occur throughout the year. However, only episodes that require treatment interventions are most likely disabling, because they require treatment within a controlled medical setting and typically prevent an individual from working.

C. Diagnostic Code 7018

DC 7018 currently provides a 100 percent evaluation for two months following hospital admission for implantation or reimplantation of a cardiac pacemaker. Following these two months, VA evaluates the disability under DC 7010, 7011, or 7015, with a minimum evaluation of 10 percent. Advances in surgical methods and medical technology have drastically reduced the recovery time following implantation of a cardiac pacemaker.

Surgical techniques for cardiac pacemakers have changed and improved drastically over the past several years and recovery currently requires less than 30 days. According to the National Institutes of Health (NIH), hospitalization following surgical implantation of a pacemaker usually lasts one to two days. ''What to Expect After Pacemaker Surgery,'' NIH—National Heart, Lung, and Blood Institute (February 28, 2012), *http://www.nhlbi.nih.gov/health/health-topics/topics/pace/after.html* (last visited April 14, 2014). NIH also indicates that mild pain, swelling, and tenderness at the site of pacemaker implantation may continue from a few days to a few weeks. Id. While healthcare providers may instruct patients to avoid vigorous activity, including heavy lifting, for up to one month following surgery, most patients may return to their normal activity level within a few days. Id. VA proposes to reduce the period of 100 percent evaluation from two months to one month. Additionally, VA proposes to add a second note to this DC, cross-referencing DC 7009, which will be addressed in greater detail below. VA proposes no other changes to this DC.

D. Diagnostic Code 7110

The current DC 7110 addresses impairment due to aortic aneurysm. VA proposes to change the name of the code to ''Aortic aneurysm: ascending, thoracic, or abdominal'' to clarify the location of aortic aneurysm that this DC will evaluate.

VA proposes to eliminate the 60 percent evaluation for an aortic aneurysm that precludes exertion while expanding the criteria for a 100 percent evaluation to include symptomatic aneurysm (*e.g.,* precludes exertion). VA proposes to omit the 60 percent category as it is does not provide an adequate evaluation for a symptomatic aneurysm in which exertion may hasten rupture. See Emile R. Mohler III, MD, ''Patient information: Abdominal aortic aneurysm (Beyond the Basics),'' Up-to-date (Aug. 21, 2013), *http://www.uptodate.com/contents/abdominal-aortic-aneurysm-beyond-the-basics#H4* (last visited May 2, 2014). A symptomatic aneurysm presents a medical emergency and requires surgical treatment to prevent the aneurysm from rupturing. Id. Under the proposed criteria, VA will grant a total evaluation when a patient becomes a surgical candidate and is unable to exert him/herself.

Additionally, if a person cannot exert him/herself due to aortic aneurysm but is unable to undergo surgery due to a co-

morbid medical condition (*e.g.,* kidney dysfunction requiring dialysis), VA will grant a total evaluation. Jeffrey Jim, MD and Robert W. Thompson, MD, ''Management of symptomatic (non-ruptured) and ruptured abdominal aortic aneurysm,'' UpToDate (Feb. 12, 2013), *http://www.uptodate.com/contents/management-of-symptomatic-non-ruptured-and-ruptured-abdominal-aortic-aneurysm?source=see_link&anchor=H53322839#H53322839* (last visited May 5, 2014). ''Although there are rare reports of patient survival following ruptured abdominal aortic aneurysm (AAA) without repair, in general, expectant management of ruptured AAA is nearly uniformly fatal. Thus, when ruptured AAA is identified, repair should be undertaken emergently to give the patient the best chance for survival.'' Id. As such, expanding the 100 percent evaluation to the date a physician recommended surgical correction will include Veterans who have severely disabling aneurysms but, due to co-morbid medical conditions or other reasons, cannot undergo surgical intervention. This 100 percent evaluation will continue for six months following hospital discharge.

In addition, VA proposes to add a 0 percent rating if an aneurysm is present but does not meet the requirements for surgical correction. Asymptomatic aneurysms may expand rapidly until they require surgical correction, so they need close medical follow-up. This provision allowing service connection for aneurysms not requiring surgery eliminates barriers to frequent medical check-ups by VA to monitor the progress of those aneurysms.

VA will also add a directive for raters to evaluate non-cardiovascular residuals according to the body systems affected. This is done to take into acount any disabling residuals related to surgical correction (*e.g.,* infection, bowel adhesions, kidney failure, and so forth).

The current DC 7110 also includes a note indicating that VA will assign the 100 percent rating as of the date of admission for surgical correction. VA will re-evaluate the condition after a mandatory examination six months following discharge. VA proposes to add the phrase ''discharge from inpatient hospitalization'' to clarify that the starting point to calculate the mandatory re-examination begins with discharge from inpatient hospitalization. VA also proposes to clarify in the rating criteria for a 100 percent evaluation that it shall assign the 100 percent evaluation as of the date a physician recommends surgical correction. This practice will allow VA to assign 100 percent evaluations to individuals who require surgical correction but, due to co-morbid medical conditions or other reasons, cannot undergo surgical procedures.

E. Diagnostic Code 7111

The current DC 7111 provides 100 percent evaluations for aneurysms of large arteries which are symptomatic. It also provides 100 percent evaluations for indefinite periods of time from the date of hospital admission for surgical corrections. VA proposes to amend the latter criteria to provide a 100 percent evaluation from the date a physician recommends surgical correction, rather than the date of hospital admission. Aneurysms of any large artery are known to spontaneously rupture, which, depending on its location, can lead to death if not immediately addressed by surgery.

This expansion to the 100 percent evaluation criteria requires that VA amend the note in DC 7111. Currently, VA assigns the 100 percent rating as of the date of admission for surgical correction, and VA assesses any residual disability by a mandatory examination six months following discharge. VA proposes to add the phrase ''discharge from inpatient hospitalization'' in the criteria note to clarify that the timing for the mandatory re-examination is based upon discharge from inpatient hospitalization. Additionally, VA proposes to clarify that it shall assign the 100 percent evaluation beginning from the date a physician recommends surgical correction, in the event individuals who require surgical correction cannot undergo it due to co-morbid medical conditions or other reasons. The 100 percent evaluation shall continue for six months following hospital discharge for surgical correction.

The current DC 7111 provides rating criteria following surgical intervention that is based on the ankle-brachial index, claudication on walking certain distances, and other symptoms related to poor blood flow to the extremities. These criteria provide for evaluations ranging from 20 to 100 percent; notes (1) and (2) provide additional information when evaluating post-surgical large artery aneurysms. The residual disabilities after post-surgical repair of large artery aneurysms are similar to those under DC 7114. For greater ease of use and simplicity, VA therefore proposes to remove these criteria and notes and replace them with instructions to evaluate post-surgical residuals under DC 7114. The section of the preamble below specifically addressing DC 7114 discusses any changes related to these criteria and notes.

F. Diagnostic Code 7113

DC 7113, arteriovenous (AV) fistula, traumatic, currently includes the phrase ''with edema'' as one of the disabling symptoms present at the 50, 40, 30, and 20 percent levels. However, such wording does not distinguish between chronic and transitory edema, resulting in evaluations that may be based on symptoms that are unrelated to arteriovenous fistula or do not adequately represent its chronic residual disability. Transitory edema may occur following prolonged standing, prolonged sitting during travel, the wearing of tight hosiery, taking certain medications, consuming excessive salt, or being pregnant. Transitory edema due to these causes is non-disabling and typically resolves without complication.

However, edema due to an AV fistula requires medical treatment and may impair function. Therefore, VA proposes to clarify that evaluations at the 50, 40, 30, and 20 percent levels under DC 7113 must involve ''chronic edema'' to better comply with 38 CFR 4.1, which states the accurate application of the VASRD requires an emphasis upon ''the limitation of activity imposed by the disabling condition.''

G. Diagnostic Code 7114

The current DC 7114, titled ''Arteriosclerosis obliterans,'' addresses impairment of the lower extremities due to narrowing and hardening of the arteries. The term ''arteriosclerosis'' is also used in current note (2). VA proposes to replace the term ''arteriosclerosis obliterans'' with ''peripheral arterial disease'' to conform to current medical terminology. Peter Libby et al., ''Braunwald's Heart Disease: A Textbook of Cardiovascular Medicine,'' 1491–1515 (8th ed. 2007).

The evaluation criteria of the current DC 7114 include the ankle/brachial index (ABI), associated examination findings and symptoms, or claudication (pain in the extremities) upon walking certain distances. The current criteria, however, have two major shortcomings: (1) They do not account for veterans with non-compressible arteries (these veterans have either a normal or elevated ABI, which would be non-compensable); and (2) they rely in large part on claudication, which is an inconsistent measure of disability. To that end, VA will employ a more objective approach as outlined below.

VA will create evaluation criteria based on a modified version of the ischemia scoring table found in J. Mills,

''The Society for Vascular Surgery Lower Extremity Threatened Limb Classification System: Risk stratification based on Wound, Ischemia, and foot Infection (WIfI)'' J Vasc Surg; vol 59, pg 226. 2014. This table uses the ABI, as well as ankle pressure (AP), toe pressure (TP) and transcutaneous oximetry (T_cPO_2) to describe four different levels of impairment. The ABI is the ratio of the systolic blood pressure measured at the ankle to that measured at the antecubital fossa. For VA disability compensation purposes, normal is greater than or equal to 0.80. The reason this normal value is used, rather than normal values cited in the 2016 ACC/AHA Guidelines is that an ABI between 0.90 and 0.81 is not consistently associated with objective signs of disability beyond symptomatic complaints (*e.g.,* wounds or infections). The AP is the systolic blood pressure measured at the ankle. Normal is greater than or equal to 100 mm Hg. The TP is the systolic blood pressure measured at the great toe. Normal is greater than or equal to 60 mm Hg. T_cPO_2 is measured at the first intercostal space on the foot. Normal is greater than or equal to 60 mm Hg. See also M. Kalani ''Transcutaneous Oxygen Tension and Toe Blood Pressure as Predictors for Outcome of Diabetic Foot Ulcers,'' Diabetes Care, vol. 22, Pgs 147–52. 1999. The levels of impairment as described in the previously referenced ischemia scoring table directly correlate to levels of disability (*i.e.,* evaluation levels). VA will slightly modify this table to describe four levels of disability (and thus, evaluation levels) consistent with these criteria, while preserving the 20, 40, 60, and 100 percent evaluation levels.

Turning to the three notes associated with DC 7114, VA will make two significant revisions. First, VA will revise Note (1) to add definitions and normal values for ABI, AP, TP, and T_cPO_2. Next, VA will redesignate current Note (2) as Note (3), and current Note (3) as Note (4). Finally, VA will then add a new Note (2), which directs the rater to select the value (ABI, AP, TP, or T_cPO_2) which yields the highest level of impairment for evaluation.

H. Diagnostic Code 7115

DC 7115 currently uses lower extremity findings to evaluate thrombo-angiitis obliterans (Buerger's Disease). VA proposes new criteria for the evaluation of upper extremity disease because Buerger's Disease can affect either upper or lower extremities. Buerger's disease is a nonatherosclerotic segmental inflammatory disease that affects the small and medium-sized arteries, veins, and nerves of the arms, legs, and rarely elsewhere. See Topol, E.J., Textbook of Cardiovascular Medicine Chap. 108, Pg 1535. (2007). DC 7115 currently evaluates impairment of the lower extremity using the ankle/brachial index (ABI) or associated signs and symptoms upon examination (as found in current DC 7114). For the reasons discussed above in DC 7114, VA proposes to clarify the evaluation criteria by using objective signs, with the ABI as the primary criteria for the lower extremities. VA proposes to delete claudication on walking from all evaluation criteria as it inaccurately measures the extent of this disability. VA also proposes to remove current Note (1), as DC 7115 will now direct rating personnel to evaluate lower extremities under DC 7114 and the information regarding the ABI is contained in that diagnostic code. With elimination of current Note (1), VA proposes to rename existing Note (2) as Note (1) with clarification similar to that proposed in Note (3) DC 7114 (as explained above). Additionally, a new Note (2) is proposed to give raters examples of trophic changes so it will be easier to recognize when encountered in clinical documentation.

I. Diagnostic Code 7117

Currently, DC 7117 addresses impairment due to Raynaud's syndrome, in which cold or stress abnormally reduces blood flow in the extremities. Raynaud's syndrome (also called secondary Raynaud's phenomenon) is often confused with Raynaud's disease (also called primary Raynaud's phenomenon or primary Raynaud's), which is different in terms of etiology and severity. While both conditions present with vasospasm, Raynaud's disease (primary Raynaud's phenomenon) has few, if any, long term residuals. In contrast, Raynaud's syndrome (secondary Raynaud's phenomenon) is associated with another illness, most commonly an autoimmune disease. The residuals tend to be permanent, more extensive, and more disabling. To improve clarity, ensure more accurate evaluations, and promote consistency and usability of the VASRD, VA proposes to focus DC 7117 on Raynaud's syndrome (secondary Raynaud's phenomenon) only, while creating a new DC 7124 for Raynaud's disease (primary Raynaud's phenomenon or primary Raynaud's). In addition, VA proposes to use the existing note to emphasize that DC 7117 is only for evaluating Raynaud's syndrome (secondary Raynaud's phenomenon), and add a note emphasizing that Raynaud's disease (primary Raynaud's phenomenon) should be rated under DC 7124.

As stated, Raynaud's syndrome (secondary Raynaud's phenomenon) and Raynaud's disease (primary Raynaud's phenomenon) are unrelated in both etiology and severity. According to the NIH's National Heart, Lung, and Blood Institute, Raynaud's syndrome (secondary Raynaud's phenomenon) is typically caused by autoimmune diseases such as scleroderma, lupus, rheumatoid arthritis, atherosclerosis, or polycythemia. ''Raynaud Phenomenon.'' Medscape (September 6, 2017), *http://emedicine.medscape.com/article/331197-overview* (last visited September 12, 2017).

On the other hand. the cause of Raynaud's disease (primary Raynaud's phenomenon) is not known. Id. Raynaud's disease (primary Raynaud's phenomenon) is more common and tends to be less severe than Raynaud's syndrome (secondary Raynaud's phenomenon). Ray W. Gifford, Jr. & Edgar A. Hines, Jr., ''Raynaud's Disease Among Women and Girls,'' 16 Circulation 1012, 1019 (1957). VA discusses how to properly evaluate Raynaud's disease (primary Raynaud's phenomenon) below in the section proposing the new DC 7124. No other changes are proposed to DC 7117.

J. Diagnostic Code 7120

DC 7121 currently evaluates post-phlebitic syndrome of any etiology, with its rating criteria identical to that used in DC 7120, Varicose veins. VA currently maintains separate DCs for these disabilities to monitor in the Veteran population the incidence and outcome of claims for these specific and separate diagnoses. However, for clarity, consistency, and improved ease of use, VA proposes to delete the duplicative rating criteria and instruct rating personnel to evaluate DC 7120, Varicose veins, under DC 7121, Post-phlebitic syndrome. VA does not propose any changes to the content of DC 7121 itself.

K. Diagnostic Code 7122

VA last amended the rating criteria for DC 7122, Cold injury residuals, in 1998. 63 FR 37778. In the time since, medicine has documented new chronic residuals of cold injury. Therefore, VA proposes to update the criteria to include the findings specifically noted by the Veterans Health Initiative, Department of Veterans Affairs, ''Cold Injury: Diagnosis and Management of Long-Term Sequelae,'' revised in March 2002. *https://www.publichealth.va.gov/docs/vhi/coldinjury.pdf*

This study collected medical and anecdotal information on cold injury

residuals from veterans. The study indicated that the effects of cold weather injuries may be irreversible and worsen with age. Id. at 15. The residuals of cold injuries include residual pain, numbness, cold sensitivity, tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, x-ray abnormalities, anhydrosis, muscle atrophy, muscle fibrosis, deformity in flexion and/or extension of certain joints, loss of fat pads in the fingers and toes, bone death, skin ulcers, and carpal or tarsal tunnel syndrome. Id. at 24–25. VA proposes to include these updated residuals of cold injuries within this DC, which assigns evaluations based on the number of cold injury residuals present.

IV. Proposed New Diagnostic Codes

A. New Diagnostic Code 7009

VA proposes to add a new DC 7009, titled ''Bradycardia (Bradyarrhythmia), symptomatic, requiring permanent pacemaker implantation,'' to account for impairment in the Veteran population due to this condition. Individuals generally have a normal resting heart rate ranging from 60 to 100 beats per minute. Individuals with bradycardia, however, have a resting heart rate of less than 60 beats per minute. ''Bradycardia,'' Harvard Health Topic at Drugs.com, *http://www.drugs.com/health-guide/bradycardia.html* (last visited May 5, 2014). Notably, asymptomatic bradycardia occurs normally in individuals when sleeping and in many healthy, athletic adults. Id. See also ''Bradycardia (Slow Heart Rate)—Topic Overview,'' WebMD (Nov. 21, 2011), *http://www.webmd.com/heart-disease/tc/bradycardia-slow-heart-rate-overview* (last visited May 5, 2014). It should be noted that asymptomatic bradycardia is a medical finding, does not require medical intervention, and is not subject to service-connected compensation.

Symptomatic bradycardia can be caused by changes due to aging, certain medications, diseases, and infections, all of which can damage the heart and slow its electrical impulses. See Amy Scholten, MPH, ''Bradycardia (Bradyarrhythmia),'' NYU Langone Cardiac and Vascular Institute, 2–3 (Feb. 2008). When medical management for symptomatic bradycardia is not effective, a pacemaker implant is the treatment of choice. Id. at 3. Implantation of a pacemaker aids in normalizing the heart rate and returning the individual to baseline cardiac function. VA proposes to evaluate this condition at 100 percent for one month following hospitalization for implantation or re-implantation. Following the initial month, the disability will be evaluated using the General Rating Formula. To assist rating personnel in understanding and evaluating bradycardia, VA also proposes to include a note under DC 7009 which defines bradycardia and describes the five general classes of bradyarrhythmias.

B. New Diagnostic Code 7124

VA proposes to add a new DC 7124, titled ''Raynaud's disease (also known as primary Raynaud's phenomenon or primary Raynaud's):.'' The VASRD currently evaluates Raynaud's disease using the criteria under DC 7117, which is for ''Raynaud's syndrome,'' a different and more severe disability. Therefore, VA proposes a new DC to specifically evaluate Raynaud's disease. This DC will also include notes to define characteristic attacks as well as to emphasize rating Raynaud's syndrome (Raynaud's phenomenon, Secondary Raynaud's) under DC 7117.

As stated previously, Raynaud's disease is more common and tends to be less severe than Raynaud's syndrome. The Mayo Clinic performed a study involving 474 women and girls with Raynaud's disease. Follow-up information obtained from 307 of those who received conservative treatment confirmed the benign nature of the disease, with no deaths attributed to it and extremely little disability. The study found that uncomplicated Raynaud's disease may be inconvenient because of the need to protect the extremities from cold and trauma, but it is not disabling.

Raynaud's disease, the less severe form of Raynaud's, rarely involves trophic changes because it involves brief spasms of the arteries rather than occlusion of the peripheral arteries. See ''What is Raynaud's?'' National Heart, Lung, and Blood Institute (Mar. 21, 2014), *https://www.nhlbi.nih.gov/health/health-topics/topics/raynaud/* (last visited May 5, 2014). Furthermore, when trophic changes are present, they are limited to the distal skin of the digits. ''Raynaud's disease,'' Mayo Clinic (Oct. 20, 2011), *http://www.mayoclinic.org/diseases-conditions/raynauds-disease/basics/complications/con-20022916* (last visited May 5, 2014). Therefore, VA proposes a non-compensable evaluation when Raynaud's disease manifests without lasting impairment in the form of trophic changes. VA proposes a 10 percent evaluation with residual trophic changes (*e.g.,* skin changes such as thinning, atrophy fissuring, ulceration, scarring, absence of hair; nail changes (clubbing, deformities).) VA proposes the addition of a note to provide examples of trophic changes for clarification purposes, consistent with other proposed changes.

VA also proposes to include a note to clarify and assist assigning evaluations under this DC by defining a characteristic attack of Raynaud's disease. As with DC 7117, this note will also indicate that evaluations under this code are for the disease as a whole. To further promote clarity and consistency, another proposed note would emphasize that the purpose of DC 7124 is to evaluate only Raynaud's disease, as opposed to Raynaud's syndrome. A veteran cannot receive simultaneous ratings under both DC 7117 and DC 7124, because Raynaud's disease and Raynaud's syndrome cannot be comorbid conditions.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this proposed rulemaking, would represent VA's implementation of its legal authority on this subject. Other than future amendments to these regulations or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this proposed rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious

inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined to be a significant regulatory action under Executive Order 12866, because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through Fiscal Year to Date. This proposed rule is not expected to be subject to the requirements of EO13771 because this proposed rule is expected to result in no more than *de minimis* costs.

Paperwork Reduction Act

This regulatory action contains provisions constituting a collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The information collection requirements for 38 CFR 3.151 are associated with this rule, but do not constitute a new or revised collection of information; OMB has already approved these requirements under control number 2900–0747.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would not directly affect any small entities; only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to submit it to the Office of the Federal Register for electronic publication as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on April 10, 2019, for publication.

Dated: July 23, 2019.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 4 as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 2. Revise § 4.100 paragraph (b) to read as follows:

§ 4.100 Application of the evaluation criteria for diagnostic codes 7000–7007, 7011, and 7015–7020.

* * * * *

(b) Even if the requirement for a 10% (based on the need for continuous medication) or 30% (based on the presence of cardiac hypertrophy or dilatation) evaluation is met, METs testing is required in all cases except:

(1) When there is a medical contraindication.

(2) When a 100% evaluation can be assigned on another basis.

(Authority: 38 U.S.C. 1155)

■ 3. Amend § 4.104 by:

■ a. Adding the General Rating Formula for Diseases of the Heart

■ b. Adding the instruction to DCs 7000, 7001, 7002, 7006, 7017 to evaluate disability using the General Rating Formula to evaluate residual disability after three months

■ c. Adding the instruction to DCs 7003, 7004, 7005, 7007, and 7020 to evaluate disability using the General Rating Formula

■ d. Adding the instruction to DCs 7011, 7016 to evaluate disability using the General Rating Formula by mandatory examination six months after discharge

■ e. Revising the evaluation criteria for DC 7015

■ f. Revising the evaluation criteria for DC 7019

■ g. Retitling and revise the evaluation criteria for DC 7010

■ h. Revising the evaluation criteria for DC 7018

■ i. Retitling and revise the evaluation criteria for DC 7110

■ j. Revising the evaluation criteria for DC 7111

■ k. Revising DC 7113 to add explanatory information

■ l. Revising the evaluation criteria for DC 7114

■ m. Revising the evaluation criteria for DC 7115

■ n. Revising the evaluation criteria for DC 7117

■ o. Revising the evaluation criteria for DC 7120

■ p. Revising the evaluation criteria for DC 7122

■ q. Adding new DC 7009

■ r. Adding new DC 7124.

The revisions and additions read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

	Rating
Diseases of the Heart	
Unless otherwise directed, use this general rating formula to evaluate diseases of the heart.	
Note (1): Evaluate cor pulmonale, which is a form of secondary heart disease, as part of the pulmonary condition that causes it.	
Note (2): One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. When the level of METs at which breathlessness, fatigue, angina, dizziness, or syncope develops is required for evaluation, and a laboratory determination of METs by exercise testing cannot be done for medical reasons, a medical examiner may estimate the level of activity (expressed in METs and supported by specific examples, such as slow stair climbing or shoveling snow) that results in those symptoms.	
Note (3): For this general formula, heart failure symptoms include, but are not limited to, breathlessness, fatigue, angina, dizziness, arrhythmia, palpitations, or syncope.	
General Rating Formula for Diseases of the Heart:	
Workload of 3.0 METs or less results in heart failure symptoms	100
Workload of 3.1–5.0 METs results in heart failure symptoms	60
Workload of 5.1–7.0 METs results in heart failure symptoms; or evidence of cardiac hypertrophy or dilatation confirmed by echocardiogram or equivalent (e.g., multigated acquisition scan or magnetic resonance imaging)	30
Workload of 7.1–10.0 METs results in heart failure symptoms; or continuous medication required for control	10
7000 Valvular heart disease (including rheumatic heart disease), 7001 Endocarditis, or 7002 Pericarditis:	
During active infection with cardiac involvement and for three months following cessation of therapy for the active infection	100
Thereafter, with diagnosis confirmed by findings on physical examination and either echocardiogram, Doppler echocardiogram, or cardiac catheterization, use the General Rating Formula.	
7003 Pericardial adhesions.	
7004 Syphilitic heart disease:	
Note: Evaluate syphilitic aortic aneurysms under DC 7110 (Aortic aneurysm: Ascending, thoracic, abdominal).	
7005 Arteriosclerotic heart disease (coronary artery disease).	
Note: If non-service-connected arteriosclerotic heart disease is superimposed on service-connected valvular or other non-arteriosclerotic heart disease, request a medical opinion as to which condition is causing the current signs and symptoms.	
7006 Myocardial infarction:	
During and for three months following myocardial infarction, confirmed by laboratory tests	100
Thereafter, use the General Rating Formula.	
7007 Hypertensive heart disease.	
7008 Hyperthyroid heart disease:	
Rate under the appropriate cardiovascular diagnostic code, depending on particular findings.	
For DCs 7009, 7010, 7011, and 7015, a single evaluation will be assigned under the diagnostic code which reflects the predominant disability picture.	
7009 Bradycardia (Bradyarrhythmia), symptomatic, requiring permanent pacemaker implantation:	
For one month following hospital discharge for implantation or re-implantation	100
Thereafter, use the General Rating Formula.	
Note (1): Bradycardia (bradyarrhythmia) refers to conduction abnormalities that produce a heart rate less than 60 beats/min. There are five general classes of bradyarrhythmias:	
—Sinus bradycardia, including sinoatrial block;	
—Atrioventricular (AV) junctional (nodal) escape rhythm;	
—AV heart block (second or third degree) or AV dissociation;	
—Atrial fibrillation or flutter with a slow ventricular response; and	
—Idioventricular escape rhythm.	
Note (2): Asymptomatic bradycardia (bradyarrhythmia) is a medical finding which does not require medical intervention, thus, it is not entitled to service connection.	
7010 Supraventricular tachycardia:	
Confirmed by ECG, with five or more treatment interventions per year	30
Confirmed by ECG, with one to four treatment interventions per year	10
Note (1): Examples of supraventricular tachycardia include, but are not limited to, atrial fibrillation, atrial flutter, sinus tachycardia, sinoatrial nodal reentrant tachycardia, atrioventricular nodal reentrant tachycardia, atrioventricular reentrant tachycardia, atrial tachycardia, junctional tachycardia, and multifocal atrial tachycardia.	
Note (2): For the purposes of this diagnostic code, a treatment intervention occurs whenever a symptomatic patient requires intravenous pharmacologic adjustment, cardioversion, and/or ablation for symptom relief.	
7011 Ventricular arrhythmias (sustained):	
For an indefinite period from the date of hospital admission for initial medical therapy for a sustained ventricular arrhythmia; or for an indefinite period from the date of hospital admission for ventricular aneurysmectomy; or with an automatic implantable cardioverter-defibrillator (AICD) in place	100
Thereafter, use the General Rating Formula.	
Note: Six months following discharge from inpatient hospitalization for sustained ventricular arrhythmia or for ventricular aneurysmectomy, disability evaluation shall be conducted by mandatory VA examination using the General Rating Formula. Apply the provisions of § 3.105(e) of this chapter to any change in evaluation based upon that or any subsequent examination.	
7015 Atrioventricular block:	
Benign (First-Degree and Second-Degree, Type I):	
Evaluate under the General Rating Formula.	
Non-Benign (Second-Degree, Type II and Third-Degree):	
Evaluate under DC 7018 (implantable cardiac pacemakers).	
7016 Heart valve replacement (prosthesis):	
For an indefinite period following date of hospital admission for valve replacement	100
Thereafter, use the General Rating Formula.	

	Rating
Note: Six months following discharge from inpatient hospitalization, disability evaluation shall be conducted by mandatory VA examination using the General Rating Formula. Apply the provisions of § 3.105(e) of this chapter to any change in evaluation based upon that or any subsequent examination.	
7017 Coronary bypass surgery:.	
For three months following hospital admission for surgery	100
Thereafter, use the General Rating Formula.	
7018 Implantable cardiac pacemakers:	
For one month following hospital discharge for implantation or re-implantation	100
Thereafter:	
Evaluate as supraventricular tachycardia (DC 7010), ventricular arrhythmias (DC 7011), or atrioventricular block (DC 7015).	
Minimum	10
Note (1): Evaluate automatic implantable cardioverter-defibrillators (AICDs) under DC 7011.	
7019 Cardiac transplantation:	
For a minimum of one year from the date of hospital admission for cardiac transplantation	100
Thereafter:	
Evaluate under the General Rating Formula.	
Minimum	30
Note: One year following discharge from inpatient hospitalization, determine the appropriate disability rating by mandatory VA examination. Apply the provisions of § 3.105(e) of this chapter to any change in evaluation based upon that or any subsequent examination.	
7020 Cardiomyopathy.	
Diseases of the Arteries and Veins	
7110 Aortic aneurysm: Ascending, thoracic, or abdominal:	
If 5 centimeters (cm) or larger in diameter; or, if symptomatic (*e.g.,* precludes exertion) and a physician recommends surgical correction, for the period beginning on the date a physician recommends surgical correction and continuing for six months following hospital discharge for surgical correction (including any type of graft insertion)	100
If less than 5 cm in diameter; or, surgical correction not recommended	0
Evaluate non-cardiovascular residuals of surgical correction according to organ systems affected.	
Note: Six months following discharge from inpatient hospitalization for surgery, disability evaluation shall be determined by mandatory VA examination of cardiovascular residuals using the General Rating Formula for Diseases of the Heart. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7111 Aneurysm, any large artery:	
If symptomatic; or, for the period beginning on the date a physician recommends surgical correction and continuing for six months following discharge from inpatient hospital admission for surgical correction	100
Following surgery: Evaluate under DC 7114 (peripheral arterial disease).	
Note: Six months following discharge from inpatient hospitalization for surgery, determine the appropriate disability rating by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
* * * * * * *	
7113 Arteriovenous fistula, traumatic:	
With high-output heart failure	100
Without heart failure but with enlarged heart, wide pulse pressure, and tachycardia	60
Without cardiac involvement but with chronic edema, stasis dermatitis, and either ulceration or cellulitis:	
Lower extremity	50
Upper extremity	40
Without cardiac involvement but with chronic edema or stasis dermatitis:	
Lower extremity	30
Upper extremity	20
7114 Peripheral arterial disease:	
At least one of the following: Ankle/brachial index less than or equal to 0.39; ankle pressure less than 50 mm Hg; toe pressure less than 30 mm Hg; or transcutaneous oxygen tension less than 30 mm Hg	100
At least one of the following: Ankle/brachial index of 0.40–0.53; ankle pressure of 50–65 mm Hg; toe pressure of 30–39 mm Hg; or transcutaneous oxygen tension of 30–39 mm Hg	60
At least one of the following: Ankle/brachial index of 0.54–0.66; ankle pressure of 66–83 mm Hg; toe pressure of 40–49 mm Hg; or transcutaneous oxygen tension of 40–49 mm Hg	40
At least one of the following: Ankle/brachial index of 0.67–0.79; ankle pressure of 84–99 mm Hg; toe pressure of 50–59 mm Hg; or transcutaneous oxygen tension of 50–59 mm Hg	20
Note (1): The ankle/brachial index (ABI) is the ratio of the systolic blood pressure at the ankle divided by the simultaneous brachial artery systolic blood pressure. For the purposes of this diagnostic code, normal ABI will be greater than or equal to 0.80. The ankle pressure (AP) is the systolic blood pressure measured at the ankle. Normal AP is greater than or equal to 100 mm Hg. The toe pressure (TP) is the systolic blood pressure measured at the great toe. Normal TP is greater than or equal to 60 mm Hg. Transcutaneous oxygen tension (T_cPO_2) is measured at the first intercostal space on the foot. Normal T_cPO_2 is greater than or equal to 60 mm Hg. All measurements must be determined by objective testing.	
Note (2): Select the highest impairment value of ABI, AP, TP, or T_cPO_2 for evaluation.	
Note (3): Evaluate residuals of aortic and large arterial bypass surgery or arterial graft as peripheral arterial disease.	
Note (4): These evaluations involve a single extremity. If more than one extremity is affected, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	
7115 Thrombo-angiitis obliterans (Buerger's Disease):	

	Rating
Lower extremity: Rate under DC 7114.	
Upper extremity:	
Deep ischemic ulcers and necrosis of the fingers with persistent coldness of the extremity, trophic changes with pains in the hand during physical activity, and diminished upper extremity pulses	100
Persistent coldness of the extremity, trophic changes with pains in the hands during physical activity, and diminished upper extremity pulses	60
Trophic changes with numbness and paresthesia at the tips of the fingers, and diminished upper extremity pulses	40
Diminished upper extremity pulses	20
Note (1): These evaluations involve a single extremity. If more than one extremity is affected, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	
Note (2): Trophic changes include, but are not limited to, skin changes (thinning, atrophy, fissuring, ulceration, scarring, absence of hair) as well as nail changes (clubbing, deformities).	
7117 Raynaud's syndrome (also known as secondary Raynaud's phenomenon or secondary Raynaud's).	
With two or more digital ulcers plus auto-amputation of one or more digits and history of characteristic attacks	100
With two or more digital ulcers and history of characteristic attacks	60
Characteristic attacks occurring at least daily	40
Characteristic attacks occurring four to six times a week	20
Characteristic attacks occurring one to three times a week	10
Note (1): For purposes of this section, characteristic attacks consist of sequential color changes of the digits of one or more extremities lasting minutes to hours, sometimes with pain and paresthesias, and precipitated by exposure to cold or by emotional upsets. These evaluations are for Raynaud's syndrome as a whole, regardless of the number of extremities involved or whether the nose and ears are involved.	
Note (2): This section is for evaluating Raynaud's syndrome (secondary Raynaud's phenomenon or secondary Raynaud's). For evaluation of Raynaud's disease (primary Raynaud's phenomenon, or primary Raynaud's), see DC 7124.	
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* * * * * * *	
7120 Varicose veins:	
Evaluate under diagnostic code 7121.	
.	
* * * * * * *	
7122 Cold injury residuals:	
With the following in affected parts:	
Arthralgia or other pain, numbness, or cold sensitivity plus two or more of the following: Tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, anhydrosis, X-ray abnormalities (osteoporosis, subarticular punched-out lesions, or osteoarthritis), atrophy or fibrosis of the affected musculature, flexion or extension deformity of distal joints, volar fat pad loss in fingers or toes, avascular necrosis of bone, chronic ulceration, carpal or tarsal tunnel syndrome	30
Arthralgia or other pain, numbness, or cold sensitivity plus one of the following: Tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, anhydrosis, X-ray abnormalities (osteoporosis, subarticular punched-out lesions, or osteoarthritis), atrophy or fibrosis of the affected musculature, flexion or extension deformity of distal joints, volar fat pad loss in fingers or toes, avascular necrosis of bone, chronic ulceration, carpal or tarsal tunnel syndrome	20
Arthralgia or other pain, numbness, or cold sensitivity	10
Note (1): Separately evaluate amputations of fingers or toes, and complications such as squamous cell carcinoma at the site of a cold injury scar or peripheral neuropathy, under other diagnostic codes. Separately evaluate other disabilities diagnosed as the residual effects of cold injury, such as Raynaud's syndrome (which is otherwise known as secondary Raynaud's phenomenon), muscle atrophy, etc., unless they are used to support an evaluation under diagnostic code 7122.	
Note (2): Evaluate each affected part (e.g., hand, foot, ear, nose) separately and combine the ratings in accordance with §§ 4.25 and 4.26.	
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* * * * * * *	
7124 Raynaud's disease (also known as primary Raynaud's phenomenon or primary Raynaud's):.	
Characteristic attacks associated with trophic change(s), such as tight, shiny skin	10
Characteristic attacks without trophic change(s)	0
Note (1): For purposes of this section, characteristic attacks consist of intermittent and episodic color changes of the digits of one or more extremities, lasting minutes or longer, with occasional pain and paresthesias, and precipitated by exposure to cold or by emotional upsets. These evaluations are for the disease as a whole, regardless of the number of extremities involved or whether the nose and ears are involved.	
Note (2): Trophic changes include, but are not limited to, skin changes (thinning, atrophy, fissuring, ulceration, scarring, absence of hair) as well as nail changes (clubbing, deformities).	
Note (3): This section is for evaluating Raynaud's disease (primary Raynaud's phenomenon or primary Raynaud's). For evaluation of Raynaud's syndrome (also known as secondary Raynaud's phenomenon, or secondary Raynaud's), see DC 7117.	

(Authority: 38 U.S.C. 1155)

■ 4. Amend Appendix A to Part 4 by:

■ a. Adding an entry for the General Rating Formula for Diseases of the Heart to 4.104;

■ b. Revising the entries for diagnostic codes 7000 through 7008;

■ c. Adding, in numerical order, an entry for diagnostic code 7009;

■ d. Revising the entries for diagnostic codes 7010, 7011, 7015 through 7020, 7110 through 7111, 7113 through 7115, 7117, and 7121 through 7122; and

■ e. Adding, in numerical order, an entry for diagnostic code 7124.

The revisions and additions read as follows:

APPENDIX A TO PART 4—TABLE OF AMENDMENTS AND EFFECTIVE DATES SINCE 1946

Sec.	Diagnostic code No.	
*	*	* * * * *
4.104	.....	General Rating Formula for Diseases of the Heart *[Effective date of final rule].*
	7000	Evaluation July 6, 1950; evaluation September 22, 1928, evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7001	Evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7002	Evaluation January 12, 1998; criterion *[Effective date of final rule*].
	7003	Evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7004	Criterion September 22, 1978; evaluation January 12, 1998; criterion *[Effective date of final rule*].
	7005	Evaluation September 9, 1975; evaluation September 22, 1978; evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7006	Evaluation January 12, 1998; criterion *[Effective date of final rule]*
	7007	Evaluation September 22, 1978; evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7008	Evaluation January 12, 1998; evaluation *[Effective date of final rule].*
	7009	Added *[Effective date of final rule].*
	7010	Evaluation January 12, 1998; title, criterion *[Effective date of final rule].*
	7011	Evaluation January 12, 1998; note, criterion *[Effective date of final rule].*
*	*	* * * * *
	7015	Evaluation September 9, 1975; criterion January 12, 1998; criterion *[Effective date of final rule].*
	7016	Added September 9, 1975; criterion January 12, 1998; note, criterion *[Effective date of final rule].*
	7017	Added September 22, 1978; evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7018	Added January 12, 1998; criterion *[Effective date of final rule].*
	7019	Added January 12, 1998; note, criterion *[Effective date of final rule].*
	7020	Added January 12, 1998; criterion *[Effective date of final rule].*
*	*	* * * * *
	7110	Evaluation September 9, 1975; evaluation January 12, 1998; title, criterion, note *[Effective date of final rule].*
	7111	Criterion September 9, 1975; evaluation January 12, 1998; note, criterion *[Effective date of final rule].*
*	*	* * * * *
	7113	Evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7114	Added June 9, 1952; evaluation January 12, 1998; title, criterion, note *[Effective date of final rule].*
	7115	Added June 9, 1952; evaluation January 12, 1998; note, criterion, evaluation *[Effective date of final rule].*
*	*	* * * * *
	7117	Added June 9, 1952; evaluation January 12, 1998; title, note *[Effective date of final rule].*
*	*	* * * * *
	7121	Criterion July 6, 1950; evaluation March 10, 1976; evaluation January 12, 1998; criterion *[Effective date of final rule].*
	7122	Last sentence of Note following July 6, 1950; evaluation January 12, 1998; criterion August 13, 1998; criterion *[Effective date of final rule].*
*	*	* * * * *
	7124	Added *[Effective date of final rule].*
*	*	* * * * *

■ 5. Amend Appendix B to Part 4, § 4.104 by:

■ a. Adding, in numerical order, an entry for diagnostic code 7009;

■ b. Revising diagnostic codes 7010, 7110, 7114, and 7117; and

■ c. Adding, in numerical order, an entry for diagnostic code 7124.

The revisions and additions read as follows:

APPENDIX B TO PART 4—NUMERICAL INDEX OF DISABILITIES

Diagnostic code No.	
*	* * * * *
The Cardiovascular System—Diseases of the Heart	
*	* * * * *
7009	Bradycardia (Bradyarrhythmia), symptomatic, requiring permanent pacemaker implantation.

APPENDIX B TO PART 4—NUMERICAL INDEX OF DISABILITIES—Continued

Diagnostic code No.	
*	*
7010	Supraventricular tachycardia.
*	*
7110	Aortic aneurysm: ascending, thoracic, abdominal.
*	*
7114	Peripheral arterial disease.
*	*
7117	Raynaud's syndrome (secondary Raynaud's phenomenon).
*	*
7124	Raynaud's disease (primary Raynaud's phenomenon, primary Raynaud's).
*	*

■ 6. Revise Appendix C to Part 4, § 4.104 by:

■ a. Revising the entry for Aneurysm: Aortic: ascending, thoracic, abdominal;

■ b. Adding, in alphabetical order, under the entry for Bones an entry for Bradycardia (Bradyarrhthmia), symptomatic, requiring permanent pacemaker implantation;

■ c. Revising the entries for Hypertension (isolated systolic, diastolic, or combined systolic and diastolic hypertension) and Peripheral arterial disease;

■ d. Adding, in alphabetical order, under the entry for Pyelonephritis, chronic, an entry for Raynaud's disease (primary Raynaud's phenomenon, primary Raynaud's); and

■ e. Revising the entries for Raynaud's syndrome (Raynaud's phenomenon, secondary Raynaud's) and Supraventricular tachycardia.

The revisions and additions read as follows:

APPENDIX C TO PART 4—ALPHABETICAL INDEX OF DISABILITIES

	Diagnostic code No.
*	*
Aneurysm:	
Aortic: ascending, thoracic, abdominal	7110
Large artery	7111
Small artery	7118
*	*
Arrhythmia:	
Ventricular	7011
*	*
Bones:	
Bradycardia (Bradyarrhythmia), symptomatic, requiring permanent pacemaker implantation.	7009
*	*
Peripheral arterial disease	7114
*	*
Raynaud's disease (primary Raynaud's)	7124
Raynaud's syndrome (Raynaud's phenomenon, secondary Raynaud's)	7117
*	*
Supraventricular tachycardia	7010
*	*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0277; FRL–9997–70–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Source-Specific Reasonably Available Control Technology Determinations for 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve three state implementation plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions address reasonably available control technology (RACT) requirements under the 2008 ozone national ambient air quality standard (NAAQS) for three facilities in Northern Virginia through source-specific determinations. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before September 3, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0277 at *https://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2038. Ms. Vélez-Rosa can also be reached via electronic mail at *velez-rosa.emlyn@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 1, 14, and 15, 2019, the Virginia Department of Environmental Quality (VADEQ) submitted three separate revisions to its SIP addressing RACT under the 2008 ozone NAAQS for three facilities in Northern Virginia. The SIP revisions consist of source-specific RACT determinations for each facility.

I. Background

RACT is an important strategy for reducing oxides of nitrogen (NO_X) and volatile organic compounds (VOC) emissions from major stationary sources within areas not meeting the ozone NAAQS. Since the 1970's, EPA has consistently defined ''RACT'' as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.[1]

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for demonstrating attainment of all NAAQS, including emissions reductions from existing sources through adoption of RACT. In addition, Section 182 of the CAA sets forth additional RACT requirements for the ozone NAAQS for moderate, serious or severe nonattainment areas. Section 182 requires states to implement RACT for VOC sources in the area covered by a control technique guideline (CTG) document issued by EPA, all other major stationary sources of VOCs that are located in the area, and major stationary sources of NO_X. The section 182 RACT requirements are usually referred to as CTG RACT, major non-CTG VOC RACT, and major NO_X RACT.

Further, section 184(b)(1)(B) of the CAA requires states to implement RACT in any areas located within ozone transport regions established pursuant to section 184. This requirement is referred to as OTR RACT. A single ozone transport region (the OTR) has been established under section 184(a), which comprises of 12 States, including the District of Columbia, the Northern portion of Virginia, and portions of Maryland as part of the Consolidated Metropolitan Statistical Area (CMSA). The Northern portion of Virginia (hereafter Northern Virginia) consists of the Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, and Strafford County. The three facilities which are the subject of this Notice of Proposed Rulemaking are located in Northern Virginia, and thus subject to OTR RACT.

On March 12, 2008, EPA revised the 8-hour ozone standards, by lowering the standard to 0.075 parts per million (ppm) averaged over an 8-hour period (2008 ozone NAAQS). *See* 73 FR 16436. On May 21, 2012, EPA designated the Washington, DC-MD-VA area as a marginal ozone nonattainment area for the 2008 ozone NAAQS. The Washington, DC-MD-VA marginal ozone nonattainment area includes all cities and counties in the Northern portion of Virginia that are part of the OTR, with exception of the Strafford County. See 77 FR 30088 and 40 CFR 81.347.

On March 6, 2015, EPA issued its final rule for implementing the 2008 ozone NAAQS (''the 2008 Ozone SIP Requirements Rule'').[2] In addressing RACT requirements, the 2008 Ozone SIP Requirements Rule is consistent with existing policy and EPA's previous ozone implementation rule. For 2008 ozone NAAQS, only Northern Virginia is subject to RACT due to its location in the OTR, as no moderate nonattainment areas were designated by EPA under the standard.

II. Summary of SIP Revision and EPA Analysis

Virginia's February 1, 14, and 15, 2019 SIP revisions address NO_X and/or VOC RACT for the following facilities: Virginia Electric and Power Company—Possum Point Power Station, Covanta Alexandria/Arlington, Inc., and Covanta Fairfax, Inc. VADEQ is adopting as part of these SIP revisions additional NO_X control requirements for these three facilities to meet RACT under the 2008 ozone NAAQS, all of which are implemented via Federally enforceable permits issued by VADEQ. These RACT permits, as listed on Table 1, have been

[1] See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, ''Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,'' and also 44 FR 53762; September 17, 1979.

[2] 80 FR 12264 (March 6, 2015).

submitted as part of each SIP revision for EPA's approval into the Virginia SIP under 40 CFR 52.2420(d).

Virginia's source specific RACT determinations include an evaluation of NO_X and/or VOC controls that are reasonably available for the affected emissions units at each facility and its determination of which control requirements satisfy RACT. VADEQ's RACT determinations are based on the following top-down control technology approach: (1) Identify all available control alternatives; (2) assess technical feasibility; and (3) evaluate remaining technologies in order of control effectiveness considering: Expected emissions reduction measured in tons per year (tons/yr), economic impacts measured in dollar per ton of pollutant removed ($/ton), environmental impacts, and energy impacts. If the top control alternative is not selected as RACT, the rationale for rejection must be documented. The next most stringent control alternative is then assessed, and the process continues until RACT is determined.

VADEQ submitted Federally enforceable permits with the purpose of implementing the requirements of 9VAC5, Chapter 40 (9VAC5–40), sections 7400, 7420, and 7430. Sections 7400 and 7420 required any major NO_X and any major VOC sources, respectively, not subject to other RACT regulations under Chapter 40 to make a source-specific (or case-by-case) determination of what constitutes RACT under the 2008 ozone NAAQS and submit it to VADEQ for approval. Source-specific determinations are not required in the case of major NO_X sources subject to the presumptive NO_X RACT standards of 9VAC5–40, section 7430. Section 7430 also exempts certain smaller NO_X sources from having to make a RACT demonstration.

TABLE 1—FACILITIES WITH PROPOSED SOURCE-SPECIFIC RACT DETERMINATIONS

Facility name	Source type	Facility ID	RACT permit (effective date)	SIP submittal date
Virginia Electric and Power Company—Possum Point Power Station.	Electric generation utility	Registration No. 70225	Permit to Operate (1/31/19)	2/1/19
Covanta Fairfax, Inc	Municipal waste combustor	Registration No. 71920	Permit to Operate (2/8/19)	2/14/19
Covanta Alexandria/Arlington, Inc.	Municipal waste combustor	Registration No. 71895	Permit to Operate (2/8/19)	2/15/19

As part of the February 1, 2019 SIP revision, VADEQ is addressing RACT for the Possum Point Power Station, an electrical generation utility (EGU) facility located in Prince William County owned and operated by Virginia Electric and Power Company. This EGU facility is considered a major source of NO_X and VOC. The Possum Point Power Station is currently subject to source-specific NO_X and VOC RACT requirements established in two separate enforceable documents issued under the facility's former name, Virginia Power (VP)—Possum Point Generating Station: (1) A Consent Agreement between VADEQ and the facility issued on June 12, 1995 and (2) the facility's Permit to Operate issued on September 26, 2000. Both documents were approved as RACT by EPA into the SIP on January 2, 2001. See 66 FR 8.

As part of the February 1, 2019 SIP revision, VADEQ evaluated all NO_X and VOC emission units in operation at Possum Point Power Station and determined that additional NO_X RACT requirements were necessary to meet RACT for emissions unit ES–5. ES–5 is an electric generating boiler with a maximum heat input capacity of 8,500 million British thermal units per hour (MMBTU/hr) and a nominal generating capacity of 840 mega-watts (MW) and burning residual oil as primary fuel and distillate oil as start-up fuel. ES–5 is subject to a source-specific NO_X RACT limit of 0.25 lb/MMBTU on a 30-day rolling basis and calculated daily, based on the SIP-approved Permit to Operate issued on September 26, 2000. The unit is currently equipped with low NO_X burners, overfire air and flue gas recirculation for reducing NO_X emissions. Additional NO_X RACT requirements have been adopted for Boiler ES–5 as part of the facility's Permit to Operate issued by VADEQ on January 31, 2019 and included for approval into the SIP.

At the time of VADEQ's RACT evaluation for Possum Point, Virginia Electric and Power Company indicated that it expected to retire Boiler ES–5 by June 1, 2021, if it received all required approvals by June 2019. For that reason, VADEQ determined RACT for Boiler ES–5 based on the two possible operating scenarios: (1) The installation and operation of selective non-catalytic reduction (SNCR) by June 1, 2019; or (2) the retirement of the unit by June 1, 2021.[3]

The January 31, 2019 Permit to Operate requires as RACT, effective on June 1, 2019, the operation of existing NO_X controls and SNCR and compliance with a NO_X limit of 0.17 pounds per million British thermal units of heat input (lb/MMBTU) on a daily basis. The permit also establishes requirements to ensure optimum operation of SNCR and necessary requirements to demonstrate compliance demonstration with the NO_X RACT limit.

Prior the commissioning of the SNCR or in the case that Boiler ES–5 retires and while it remains operational, the January 31, 2019 Permit to Operate establishes as RACT the following requirements for Boiler ES–5: (1) Continued compliance with the NO_X RACT emission limit of 0.25 lb/MMBTU on a 30-day rolling average basis, calculated daily, (2) additional restrictions to curtail operations of the unit during ozone season (April 1–October 31 of each year), and (3) necessary provisions to demonstrate compliance with the applicable NO_X control requirements. Operation of Unit ES–5 during ozone season is limited to days in which exceedances of the ozone NAAQS are not expected,[4] except in cases of power transmission and distribution emergencies. These additional provisions are consistent with the SIP-approved RACT requirements in the 2000 Permit to

[3] As specified in the facility's January 31, 2019 Permit to Operate (conditions 1 and 6), the requirement to operate the SNCR can only be voided, if by June 1, 2019: (1) The facility receives all required approvals to retire ES–5 no later than June 1, 2021, and (2) the facility enters into a mutual determination of shutdown for the unit with VADEQ, such that the unit will retire June 1, 2021. VADEQ confirmed that both requirements have been fulfilled and ES–5 is on schedule to be retired by June 1, 2021.

[4] VADEQ correlates expected ozone exceedances to EPA's forecast of an Air Quality Index (AQI) greater than 100. The AQI is an index produced by EPA on a daily basis associated with daily air quality based on concentrations of different air pollutants, including ground-level ozone. EPA publishes actual and forecast AQIs online at *https://airnow.gov/*.

Operate for Boiler ES–5 and ensure the continuous implementation of NO_X RACT for this unit.

As part of the February 1, 2019 SIP revision, VADEQ is also recertifying applicable NO_X and VOC controls for the other two electric generating boilers (ES–3 and ES–4) at Possum Point Power Station as well as VOC controls for Boiler ES–5, all of which were previously approved as RACT on a source-specific basis. VADEQ also determined that that additional VOC controls are not economic or technically feasible for this facility, given the size and VOC emissions from individual emissions units. All other emission units are exempt from a source-specific RACT determination, as allowed under 9VAC5–40, section 7430.

As part of the February 14, 2019 and February 15, 2019 SIP revisions, VADEQ is addressing NO_X RACT for two municipal waste combustion (MWC) facilities with energy recovery: Covanta Fairfax, Inc. (Covanta Fairfax) and Covanta Alexandria/Arlington, Inc. (Covanta Alexandria/Arlington). These MWC facilities are located in Lorton, in Fairfax County and City of Alexandria, respectively, and are considered major sources of NO_X. There are four municipal waste combustors units (MWC units) in Covanta Fairfax and three MWC units at Covanta Alexandria/Arlington. All MWC units are currently subject to source-specific NO_X RACT requirements approved by EPA into the SIP on January 2, 2001 for each facility under their former names: (1) A consent agreement issued on April 3, 1998 for Ogden Martin Systems of Fairfax, Inc., currently Covanta Fairfax, and (2) a consent agreement issued on July 31, 1998 for Ogden Martin Systems of Alexandria/Arlington, Inc., currently Covanta Alexandria-Arlington. See 66 FR 8. Each MWC is subject to a NO_X RACT standard of 205 parts per million of volume on a dry basis (ppmvd) at 7% oxygen (O_2). Each facility may also elect to average its NO_X emissions with multiple units, by meeting a more stringent NO_X limit of 185 ppmvd at 7% O_2. Covanta currently operates SNCR on each of the six MWC units to meet NO_X RACT.

VADEQ determined the following control measures as NO_X RACT for each MWC unit at Covanta Fairfax and Covanta Alexandria/Arlington: the installation and operation of Covanta's proprietary low NO_X combustion system, the operation (and optimization as needed) of the existing SNCR, a daily NO_X average limit of 110 ppmvd corrected at 7% O_2, and an annual NO_X average limit of 90 ppmvd at 7% O_2. These NO_X limits are more stringent than the SIP-approved source-specific RACT limits for each unit. The NO_X RACT control requirements for the four MWC units at Covanta Fairfax have been adopted as part of the facility's Permit to Operate issued by VADEQ on February 8, 2019. Similarly, the NO_X RACT control requirements for the three MWC units at Covanta Alexandria/Arlington have been adopted as part of the facility's Permit to Operate issued by VADEQ on February 8, 2019. These permits include a schedule for completing installation of the additional NO_X control on each unit and necessary provisions for each facility to demonstrate compliance with the applicable NO_X control requirements.

EPA believes that VADEQ has considered and adopted reasonably available NO_X and/or VOC controls for each of these facilities. EPA finds that the additional NO_X control requirements and compliance demonstration requirements adopted for the affected units in the January 31, 2019 Permit to Operate for Possum Point Power Station, the February 8, 2019 Permit to Operate Covanta Fairfax, and the February 8, 2019 Permit to Operate Covanta Alexandria/Arlington are adequate to meet RACT for these sources. EPA also finds that re-certification of existing source-specific requirements for Possum Point Station is adequate to meet RACT. Further, EPA determines that the additional NO_X RACT control requirements adopted as part of the Federally enforceable permit for each facility are more stringent than the applicable SIP-approved NO_X RACT requirements, so that approval of these permits into the SIP would be consistent with section 110(l) of the CAA. Additional details on EPA's evaluation of Virginia's February 1, 14, and 15, 2019 SIP revisions are provided in the technical support document for this rulemaking action, available online at *http://www.regulations.gov,* Docket ID: EPA–R03–OAR–2019–02777.

III. Proposed Action

EPA finds that the Virginia's SIP revisions submitted on February 1, 14, and 15, 2019 and addressing source-specific RACT for Possum Point Power Station, Covanta Fairfax, and Covanta Alexandria/Arlington, are adequate to meet RACT requirements set forth under the CAA for the 2008 ozone NAAQS, specifically major non-CTG VOC RACT, major NO_X RACT, and OTR RACT. EPA is proposing to approve Virginia's SIP revisions to satisfy sections 172(c)(1), 182(b)(2)(C), 182(f), and 184(b)(1)(B) for implementation of the 2008 ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference three Federally enforceable permits, each addressing NO_X and or VOC RACT under the 2008 ozone NAAQS for a major NO_X and/or VOC source, as discussed in section II of this preamble. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule, addressing source-specific RACT under the 2008 ozone NAAQS for Northern Virginia, does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

In addition, this proposed rule, addressing source-specific RACT under the 2008 ozone NAAQS for Northern Virginia, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 23, 2019.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2019–16439 Filed 7–31–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–P–7669]

Proposed Flood Elevation Determinations for Yellow Medicine County, Minnesota (and Incorporated Areas)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Yellow Medicine County, Minnesota (and Incorporated Areas).

DATES: This withdrawal is effective on August 1, 2019.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–P–7669, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services

Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION: On February 4, 2005, FEMA published a proposed rule at 70 FR 5949–5953, proposing flood elevation determinations for Yellow Medicine County, Minnesota (and Incorporated Areas). FEMA is withdrawing the proposed rule because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper following issuance of the Revised Preliminary Flood Insurance Rate Map.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2019–16410 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BI96

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 18

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

ACTION: Notice of availability (NOA); request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 18 to the Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters (Amendment 18) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 18 would modify the target reduction goal for juvenile red snapper mortality in the Federal Gulf shrimp trawl fishery in the 10–30 fathom depth zone, and would modify the FMP management measures framework procedure. The purposes of Amendment 18 are to promote economic stability, to achieve optimum yield in the Federal Gulf shrimp fishery by reducing effort constraints, and to equitably distribute the benefits from red snapper rebuilding, while continuing to protect, the Gulf red snapper stock.

DATES: Written comments must be received on or before September 30, 2019.

ADDRESSES: You may submit comments on Amendment 18, identified by ''NOAA–NMFS–2019–0045,'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0045,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 18, which includes a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-18-modifying-shrimp-effort-threshold.*

FOR FURTHER INFORMATION CONTACT: Frank Helies, telephone: 727–824–5305, or email: *Frank.Helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review, and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the FMP being revised by Amendment 18, and if approved, Amendment 18 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The 2005 Southeast Data, Assessment, and Review (SEDAR) 7 stock assessment for Gulf red snapper identified bycatch of red snapper by the Gulf shrimp fishery as a primary factor affecting the recovery of the stock (SEDAR 7 2005). The assessment indicated a need to reduce the red snapper bycatch mortality attributed to shrimp trawls by 74 percent, compared to levels of effort and mortality experienced during the baseline 2001–2003 period.

To end overfishing of red snapper and rebuild the stock by 2032 in compliance with the rebuilding plan, the Council developed Amendment 14 to the FMP to cap shrimp fishing effort in statistical zones 10–21 in 10–30 fathom (18.29 m–54.86 m) depth zone of the western Gulf (*i.e.,* the area monitored for juvenile red snapper bycatch). The reduction goal for juvenile red snapper mortality was linked to a reduction in shrimp fishing effort of 74 percent below fishing effort during the baseline 2001–2003 period. The final rule for implementing this reduction published on January 29, 2008 (73 FR 5117). Consistent with Amendment 14, NMFS reduced the threshold level to 67 percent of the baseline in 2011. Amendment 14 also stated that the target reduction goal should decrease to 60 percent (*i.e.,* shrimp effort could increase) by 2032 (the final year of the red snapper rebuilding plan); however, the framework procedure to implement this reduction was never established by the Council.

The Gulf shrimp fishery has not exceeded the allowable threshold effort levels established in Amendment 14. Since the early 2000s, the Gulf shrimp fishery has experienced economic losses, primarily as a result of high fuel costs and reduced sales prices caused by competition with imported shrimp. These economic losses have resulted in the reduction in the number of vessels within the fishery, and consequently, a reduction in commercial effort, when compared to historical levels.

Through Amendment 13 to the FMP, the Council took additional steps in 2006 to cap shrimp fishing effort in response to increased levels of bycatch of species including red snapper through establishment of the Federal

commercial Gulf shrimp moratorium permit (71 FR 56039; September 26, 2006). The permit moratorium was later extended until October 26, 2026, by the final rule for Amendment 17A to the FMP (81 FR 47733; July 22, 2016) (50 CFR 622.50(b)).

The Gulf red snapper is no longer overfished or undergoing overfishing, and continues to rebuild, consistent with the rebuilding plan (SEDAR 52 2018). Also, as described in Amendment 18, recent research indicates that the effect of the shrimp fishery on red snapper mortality is less than previously determined. In response to a request by the Council, the NMFS Southeast Fisheries Science Center (SEFSC) conducted an analysis to determine if effort in the shrimp fishery could increase without affecting red snapper rebuilding. The SEFSC analyzed how increases in Gulf-wide may affect the red snapper rebuilding plan and catch level projections from the SEDAR 52 stock assessment. This analysis of Gulf-wide effort increases was used as a proxy for changes in effort in the specific area monitored for purposes of the threshold because the results from SEDAR 52 could not be broken out into specific depth areas in particular statistical zones. The analysis indicated that increasing shrimp effort to the level considered in Amendment 14 (60 percent below the baseline years of 2001–2003) is unlikely to affect the rebuilding timeline of red snapper, and would have little impact on red snapper annual catch limits.

Actions Contained in Amendment 18

Amendment 18 would modify the target reduction goal for juvenile red snapper mortality in the Federal Gulf shrimp trawl fishery, and would modify the FMP framework procedures.

Target Reduction Goal

Amendment 18 would reduce the trawl bycatch mortality on red snapper to 60 percent below the baseline effort in the years 2001–2003. Although the Gulf red snapper stock is in a rebuilding plan until 2032, it is no longer overfished or undergoing overfishing (SEDAR 52 2018). While the red snapper stock acceptable biological catch (ABC) has consistently increased under the rebuilding plan, the target reduction goal of shrimp trawl bycatch mortality on red snapper has remained the same since 2011. The higher the target reduction of shrimp trawl bycatch mortality on red snapper, the more likely that the effort threshold would be exceeded, triggering a seasonal closure for the Gulf shrimp fishery. Although a shrimp closure has not been implemented to date as a result of effort reaching the threshold, shrimp effort has come within 2 percent of the 67-percent threshold in 2014, 2016, and 2017, indicating that a future commercial shrimp closure could occur. As noted previously, the analysis done by the SEFSC indicates that allowing shrimp effort to increase consistent with the lower threshold would not impact the red snapper rebuilding plan and would have only a small impact on red snapper catch levels. The projected reduction in the red snapper ABC in the short term (over the next 3 years) is no more than 100,000 lb (45,359 kg) per year and, in the long term, no more than 200,000 lb (90,719 kg) per year.

FMP Framework Procedures

Amendment 18 would revise the FMP framework procedure to allow changes to the target reduction goal for juvenile red snapper mortality through the standard open framework documentation process. Amendment 18 would also modify the FMP abbreviated documentation process to allow specification of an ABC recommended by the Council's Scientific and Statistical Committee based on results of a new stock assessment and using the Council's ABC control rule. The changes to the framework process in Amendment 18 would provide for consistency across all abbreviated framework procedures under the Council's jurisdiction and would facilitate faster management action, if necessary, for the Council by providing a more streamlined approach to modify any future effort reduction goals.

Proposed Rule for Amendment 18

A proposed rule that would implement Amendment 18 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 18 for Secretarial review, approval, and implementation. Comments on Amendment 18 must be received by September 30, 2019. Comments received during the respective comment periods, whether specifically directed to Amendment 18 or the proposed rule, will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 18. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: July 29, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–16420 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 84, No. 148

Thursday, August 1, 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

Agricultural Marketing Service

[Document Number AMS–FTPP–19–0064]

United States Warehouse Act Administrative Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the fees it will charge warehouse operators for voluntary services associated with the administration of the United States Warehouse Act. This action establishes the license action fees, service license fees, inspection fees, and annual user fees for warehouse services for fiscal year 2020, which begins October 1, 2019. AMS is increasing all these fees by approximately 10 percent to ensure fee levels are sufficient to cover the full cost of program administration.

DATES: August 2, 2019.

FOR FURTHER INFORMATION CONTACT: Dan Schofer, AMS, U.S. Department of Agriculture, Room 2530–S, 1400 Independence Avenue SW, Washington, DC 20250; telephone (202) 260–2434, or email *dan.schofer@usda.gov*.

SUPPLEMENTARY INFORMATION: The United States Warehouse Act (USWA), as amended (7 U.S.C. 241 *et seq.*), provides for the licensing of public warehouse operators in the business of storing agricultural products, examination of such federally licensed warehouses, and collection of fees to sustain the operation and administration of such efforts. Participation in USWA program is voluntary. Participants may choose to obtain licensing under USWA to meet State or other industry requirements. Warehouse examinations provided by AMS examine the financial status of the operation, the integrity of the commodities stored in licensed facilities, as well as the facilities themselves.

This notice announces new fees for licensing and examining warehouses storing export food aid commodities, grain, nuts, sweeteners, wool, cotton, cottonseed and dry beans. The new fees will be effective for fiscal year 2020 (FY 2020), which begins October 1, 2019. AMS is raising the license action fees, service license fees, inspection fees, and annual user fees charged to licensed warehouses to assure recovery of operational costs projected for USWA activities in FY 2020. The FY 2020 fee adjustment reflects an approximately 10 percent increase over the current rates that have not been adjusted since 2006. AMS finds it necessary to increase fees to meet projected costs for administering the USWA program.

The regulations that effectuate the USWA are codified at 7 CFR part 735 mandate the collection of fees for costs of administering the USWA program and authorize annual rate changes, as necessary. USDA last amended the annual operational fee for warehouse operators effective January 1, 2006 (70 FR 71262; November 28, 2005). The 2006 operational fees were 5% higher than the previous rates. USDA most recently amended USWA licensing and inspection fees effective October 1, 1998 (63 FR 35186; June 29, 1998). Fee increases at that time were approximately 7.5 percent over the previous rates.

In November of 2018, the Secretary of Agriculture delegated administration of USWA programs to AMS (83 FR 61309; November 29, 2018). Previously, the administration of the USWA was delegated to the Farm Service Agency (FSA). During 2019, AMS projected a funding deficit associated with current program staff levels. Fees must cover all expenses for USWA administrative services including the maintenance of a sufficient operating reserve. Thus, rates for USWA services for the 2020 fiscal year and beyond demonstrate a remedial action to correct the budgetary shortfall for administration of the program. USWA requires that AMS operate in an environment suitable to affect the needs of the program and mitigate any funding risks.

The fees reflect direct and indirect costs of providing services. Direct costs include the cost of salaries, employee benefits, and, if applicable, travel and some operating costs. Indirect or overhead costs include the cost of AMS administrative activities supporting the services provided to the industry. Program costs also include maintaining an operating reserve and, depending on the balance in the reserve, may provide for adding to or drawing down the reserve to assure an appropriate balance is maintained.

Delegation of Authority

The Secretary of Agriculture delegated to the Under Secretary for Marketing and Regulatory Programs (MRP) authority to ''administer the U.S. Warehouse Act, as amended (7 U.S.C. 241–273) . . .'' 7 CFR 2.22(a)(1)(xiv). The Under Secretary for MRP previously redelegated authority to administer the USWA to the Administrator of the Farm Service Agency. A rule published November 29, 2018 (83 FR 61309) transferred delegated authority to administer the USWA to the AMS Administrator. *See* 7 CFR 2.79(a)(21). The delegation to the Under Secretary of MRP related to administration of the U.S. Warehouse Act at 7 CFR 2.22(a)(1)(xiv) remain unchanged. The AMS Administrator has authority to administer USWA programs, including publication of this Notice. A separate Rule addresses the delegation and authority of the AMS Administrator to revise the USWA Regulations.

New Rates

The schedule below sets out all the relevant fees for licensing and examination services and reflects the necessary increases.

UNITED STATES WAREHOUSE ACT

7 CFR Part 735—Regulations for the United States Warehouse Act
Subpart A—General Provisions
§ 735 Fees

FEE TABLE—UNITED STATES WAREHOUSE ACT (Effective 10/1/2019)

	License action fee	Inspection fee	Annual user fees	
			Annual fee	Locations
Export Food Aid Commodities.	$110	$1,100 for 1 to 3 locations	$1,650 for	1 to 3.
		$330 for each location over 3	$330 for each	location over 3.

	License action fee	Service license fee	Inspection fee	Annual user fees		
				Licensed capacities (in bushels)	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
Grain	$90	$40	$19 for each 10,000 bushels. MIN $190; MAX $1,900	1–150,000	$170	$340
				150,001–250,000	340	680
				250,001–500,000	500	1,000
				500,001–750,000	675	1,350
				750,001–1,000,000	840	1,680
				1,000,001–1,200,000	1,010	2,020
				1,200,001–1,500,000	1,180	2,360
				1,500,001–2,000,000	1,340	2,680
				2,000,001–2,500,000	1,515	3,030
				2,500,001–5,000,000	1,680	3,360
				5,000,001–7,500,000	1,855	3,710
				7,500,001–10,000,000	2,025	4,050
				10,000,001+	* 2,025	** 4,050
				* Plus $55 per million bushels above 10,000,000, or fraction thereof. ** Plus $105 per million bushels above 10,000,000, or fraction thereof.		

	License action fee	Service license fee	Inspection fee	Annual user fees		
				Licensed capacities (in short tons)	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
Nuts	$90	$40	$9.35 for each 100 short tons of Peanuts. MIN $190; MAX $1,900; and $17 for each 1,000 hundredweight of other nuts; MIN $190; MAX $1,900	1–4,500	$275	$550
				4,501–7,500	450	900
				7,501–15,000	640	1,280
				15,001–22,500	820	1,640
				22,501–30,000	995	1,990
				30,001–36,000	1,165	2,330
				36,001–45,000	1,340	2,680
				45,001–60,000	1.515	3,030
				60,001–75,000	1,690	3,380
				75,001–150,000	1,860	3,720
				150,001–225,000	2,025	4,040
				225,001+	* 2,195	** 4,390
				* Plus $12 per 100 short tons above 225,000 short tons, or fraction thereof. ** Plus $21 per 100 short tons above 225,000 short tons, or fraction thereof.		

	License action fee	Service license fee	Inspection fee	Annual user fees	
				Annual fee	Licensed capacities
Sweeteners	$90	$40	$7.15 for each 5,000 gallons of liquid. MIN $190; MAX $1,900; or $7.15 for each 55,000 pounds of pounds of dry capacity; MIN $190; MAX $1,900	$7.15 for each $750 MIN or $7.15 for each $750 MIN	5,000 gallons of liquid, or fraction thereof or 55,000 pounds of dry capacity, or fraction thereof.

	License action fee	Service license fee	Inspection fee	Annual user fees	
				Annual fee	Licensed capacities
Wool	$90	$40	$19 for each 100,000 pounds. MIN $190; MAX $1,900	$19 for each. $750 MIN	100,000 pounds, or fraction thereof.

	License action fee	Service license fee	Inspection fee	Annual user fees		
				Licensed capacities (in bales)	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
Cotton	$90	$40	$95 for each 1,000 bales. MIN $190; MAX $1,900	1–20,000	$645	$1,290
				20,001–40,000	850	1,700
				40,001–60,000	1,035	2,070
				60,001–80,000	1,230	2,460
				80,001–100,000	1,620	3,240
				100,001–120,000	1.935	3,870
				120,001–140,000	2,260	4,520
				140,001–160,000	2,585	5,170
				* 160,001	* 2,585	** 5,170
				* Plus $65 per 5,000 bale capacity above 160,000 bales, or fraction thereof. ** Plus $130 per 5,000 bale capacity above 160,000 bales, or fraction thereof.		

	License action fee	Service license fee	Inspection fee	Annual user fees	
				Annual fee	Licensed capacities
Cottonseed	$90	$40	$19 for each 1,000 short tons. MIN $190; MAX $1,900	$19 for each $750 MIN	1,000 short tons, or fraction thereof.

	License action fee	Service license fee	Inspection fee	Annual user fees	
				Licensed capacities (in hundredweight)	Annual fee
Dry beans	$90	$40	$19 for each 1,000 hundredweight. MIN $190; MAX $1,900	100–90,000	$925
				90,001–150,000	1,290
				150,001–300,000	1,670
				300,001–450,000	2,040
				450,001–600,000	2,405
				600,001–720,000	2,765
				720,001–900,000	3,145
				900,001–1,200,000	3,520
				1,200,001–1,500,000	3,880
				1,500,001–3,000,000	4,245
				3,000,001+	* 4,620
				** Plus $1.55 per 1,000 hundredweight above 3,000,000, or fraction thereof.	

Authority: 7 U.S.C. 241–256.

Dated: July 29, 2019.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2019–16409 Filed 7–31–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 29, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by September 3, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Swine Contract Library.

OMB Control Number: 0581–0311.

Summary of Collection: The Swine Packer Marketing Contracts subtitle of the Livestock Mandatory Reporting Act of 1999 (LMRA) amended the Packers and Stockyards (P&S) Act to mandate the establishment of a library of swine packer marketing contracts (swine contract library), and a monthly report of types of contracts in existence and available, and commitments under such contracts. On February 17, 2016, a final rule was published in the **Federal**

Register re-establishing regulatory authority for the Swine Contract Library's (SCL) regulations (9 CFR part 206) by amending the regulations' authority citation to include Subtitle B of Title II of the P&S Act (7 U.S.C. 198–198b). In addition to amending the SCL regulations to make them consistent with the Reauthorization Act (Pub. L. 109–296) the Agency also amended the SCL regulations making other changes to enhance the library's overall effectiveness and efficiency in response to input from regulated entities and the public. PSD issued regulations to address the implementation and requirements for the swine contract library.

Need and Use of the Information: Information is required from packers for processing plants that meet certain criteria, including size as measured by annual slaughter. The USDA Agricultural Marketing Service, Packers and Stockyards Division (PSD) is responsible for implementing and enforcing the P&S Act, including the swine contract library. The collection of information is necessary for PSD to perform the functions required for the mandatory reporting of swine packer marketing contract information.

Description of Respondents: Business or other for-profit.

Number of Respondents: 55.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2,122.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–16399 Filed 7–31–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–20–2019]

Foreign-Trade Zone (FTZ) 168—Dallas/Fort Worth, Texas; Authorization of Production Activity, Samsung Electronics America, Inc., (Packaging for Mobiles and Tablets), Coppell, Texas

On March 29, 2019, Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity to the FTZ Board on behalf of Samsung Electronics America, Inc., within FTZ 168, in Coppell, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 13631, April 5, 2019). On July 29, 2019, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 29, 2019.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2019–16418 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–07–2019]

Foreign-Trade Zone (FTZ) 238—Dublin, Virginia; Authorization of Limited Production Activity; EBI, LLC (Mattresses and Sofas), Danville, Virginia

On April 1, 2019, the New River Valley Economic Development Alliance, grantee of FTZ 238, submitted a notification of proposed production activity to the FTZ Board on behalf of EBI, LLC, within Subzone 238C, in Danville, Virginia.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 13632, April 5, 2019). On July 29, 2019, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring the following foreign status components be admitted to the zone in privileged foreign status (19 CFR 146.41): (1) High resilience polyurethane foam; (2) polyamide/polyethylene sofa cushion bags; (3) non-woven polyester fiber wadding for cushion covers; (4) felt (100% polyester), not impregnated, coated, covered, or laminated; (5) mattress handles (fastener fabric tape), woven, of synthetic fibers; (6) cushion covers (polyester fiber wadding); (7) woven mattress covers of cotton; (8) woven mattress covers of synthetic fibers; (9) non-woven polypropylene dust covers for mattresses; (10) non-woven polypropylene bags; (11) completed mattress covers, made of cotton; and, (12) upholstered foam seat cushions.

Dated: July 29, 2019.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2019–16416 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–30A12]

Export Trade Certificate of Review

ACTION: Notice of application for an amended Export Trade Certificate of Review by Northwest Fruit Exporters, Application No. 84–30A12.

SUMMARY: The Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, has received an application for an amended Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be

included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–30A12.''

A summary of the application follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, WA 98901.

Contact: Fred Scarlett, Manager, (509) 453–3193.

Application No.: 84–30A12.

Date Deemed Submitted: July 17, 2019.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate as follows:

1. Add the following company as a new Member of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- FirstFruits Farms, LLC, Prescott, WA

2. Delete the following companies as Members of the Certificate:

- Broetje Orchards LLC, Prescott, WA
- Ice Lakes LLC, East Wenatchee, WA
- Larson Fruit Co., Selah, WA
- C.M. Holtzinger Fruit Co., Inc., Yakima, WA

Northwest Fruit Exporter's proposed amendment of its Certificate would result in the following Membership list:

1. Allan Bros., Naches, WA
2. AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA
3. Apple House Warehouse & Storage, Inc., Brewster, WA
4. Apple King, L.L.C., Yakima, WA
5. Auvil Fruit Co., Inc., Orondo, WA
6. Baker Produce, Inc., Kennewick, WA
7. Blue Bird, Inc., Peshastin, WA
8. Blue Star Growers, Inc., Cashmere, WA
9. Borton & Sons, Inc., Yakima, WA
10. Brewster Heights Packing & Orchards, LP, Brewster, WA
11. Chelan Fruit Cooperative, Chelan, WA
12. Chiawana, Inc. dba Columbia Reach Pack, Yakima, WA
13. CMI Orchards LLC, Wenatchee, WA
14. Columbia Fruit Packers, Inc., Wenatchee, WA
15. Columbia Valley Fruit, L.L.C., Yakima, WA
16. Congdon Packing Co. L.L.C., Yakima, WA
17. Conrad & Adams Fruit L.L.C., Grandview, WA
18. Cowiche Growers, Inc., Cowiche, WA
19. CPC International Apple Company, Tieton, WA
20. Crane & Crane, Inc., Brewster, WA
21. Custom Apple Packers, Inc., Quincy, and Wenatchee, WA
22. Diamond Fruit Growers, Inc., Odell, OR
23. Domex Superfresh Growers LLC, Yakima, WA
24. Douglas Fruit Company, Inc., Pasco, WA
25. Dovex Export Company, Wenatchee, WA
26. Duckwall Fruit, Odell, OR
27. E. Brown & Sons, Inc., Milton-Freewater, OR
28. Evans Fruit Co., Inc., Yakima, WA
29. E.W. Brandt & Sons, Inc., Parker, WA
30. FirstFruits Farms, LLC, Prescott, WA
31. Frosty Packing Co., LLC, Yakima, WA
32. G&G Orchards, Inc., Yakima, WA
33. Gilbert Orchards, Inc., Yakima, WA
34. Hansen Fruit & Cold Storage Co., Inc., Yakima, WA
35. Henggeler Packing Co., Inc., Fruitland, ID
36. Highland Fruit Growers, Inc., Yakima, WA
37. HoneyBear Growers LLC, Brewster, WA
38. Honey Bear Tree Fruit Co LLC, Wenatchee, WA
39. Hood River Cherry Company, Hood River, OR
40. JackAss Mt. Ranch, Pasco, WA
41. Jenks Bros Cold Storage & Packing, Royal City, WA
42. Kershaw Fruit & Cold Storage, Co., Yakima, WA
43. L & M Companies, Union Gap, WA
44. Legacy Fruit Packers LLC, Wapato, WA
45. Manson Growers Cooperative, Manson, WA
46. Matson Fruit Company, Selah, WA
47. McDougall & Sons, Inc., Wenatchee, WA
48. Monson Fruit Co., Selah, WA
49. Morgan's of Washington dba Double Diamond Fruit, Quincy, WA
50. Naumes, Inc., Medford, OR
51. Northern Fruit Company, Inc., Wenatchee, WA
52. Olympic Fruit Co., Moxee, WA
53. Oneonta Trading Corp., Wenatchee, WA
54. Orchard View Farms, Inc., The Dalles, OR
55. Pacific Coast Cherry Packers, LLC, Yakima, WA
56. Peshastin Hi-Up Growers, Peshastin, WA
57. Piepel Premium Fruit Packing LLC, East Wenatchee, WA
58. Pine Canyon Growers LLC, Orondo, WA
59. Polehn Farms, Inc., The Dalles, OR
60. Price Cold Storage & Packing Co., Inc., Yakima, WA
61. Pride Packing Company LLC, Wapato, WA
62. Quincy Fresh Fruit Co., Quincy, WA
63. Rainier Fruit Company, Selah, WA
64. Roche Fruit, Ltd., Yakima, WA
65. Sage Fruit Company, L.L.C., Yakima, WA
66. Smith & Nelson, Inc., Tonasket, WA
67. Stadelman Fruit, L.L.C., Milton-Freewater, OR, and Zillah, WA
68. Stemilt Growers, LLC, Wenatchee, WA
69. Strand Apples, Inc., Cowiche, WA
70. Symms Fruit Ranch, Inc., Caldwell, ID
71. The Dalles Fruit Company, LLC, Dallesport, WA
72. Underwood Fruit & Warehouse Co., Bingen, WA
73. Valicoff Fruit Company Inc., Wapato, WA
74. Washington Cherry Growers, Peshastin, WA
75. Washington Fruit & Produce Co., Yakima, WA
76. Western Sweet Cherry Group, LLC, Yakima, WA
77. Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC, Mesa, WA
78. WP Packing LLC, Wapato, WA
79. Yakima Fresh, Yakima, WA
80. Yakima Fruit & Cold Storage Co., Yakima, WA
81. Zirkle Fruit Company, Selah, WA

Dated: July 29, 2019.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2019–16415 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–110]

Vertical Metal File Cabinets From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that vertical metal file cabinets (file cabinets) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2018 through March 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Kathryn Wallace, 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) 482–3945 or (202) 482–6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 24, 2019.[1] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are file cabinets from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[4] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have preliminarily relied upon facts otherwise available, with adverse inferences, for the China-wide entity because it did not respond to our requests for information. Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, for the China-wide entity because it did not respond to our request for information. No companies have demonstrated their eligibility for a separate rate; thus, all companies are preliminarily found to be part of the China-wide entity. Furthermore, we find that the China-wide entity's lack of participation, including the failure of certain parts of the China-wide entity to respond to Commerce's questionnaires, constitute circumstances under which it is reasonable to conclude that the China-wide entity as a whole failed to cooperate to the best of its ability to comply with Commerce's requests for information. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[5] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[6] In this case, because we did not receive any separate rate applications, and thus, no companies qualified for a separate rate, producer/exporter combination rates were not calculated.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist during the period October 1, 2018 through March 31, 2019:

Producer/exporter	Estimated weighted-average dumping margin (percent)	Estimated weighted-average dumping margin adjusted for export subsidy offset(s) (percent)
China-Wide Entity	198.5	160.77

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the

[1] *See Vertical Metal File Cabinets from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 84 FR 24093 (May 24, 2019) (*Initiation Notice*).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Vertical Metal File Cabinet from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Initiation Notice.*

[5] *See Initiation Notice,* 84 FR 24096.

[6] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of China producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-county exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the China producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). As discussed in the Preliminary Decision Memorandum, we have made no adjustment for domestic subsidy pass-through. As further explained in the Preliminary Decision Memorandum, we have made an adjustment for export subsidies found in the companion CVD investigation.[7] The adjusted rate may be found in the Preliminary Determination Section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for export subsidies at the time the CVD provisional measures expire.

[7] *See* unpublished **Federal Register** notice, ''Vertical Metal File Cabinets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,'' signed July 24, 2019, and accompanying Issues and Decision Memorandum.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA to the China-wide entity in this investigation in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 50 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: July 24, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers freestanding vertical metal file cabinets containing two or more extendable file storage elements and having an actual width of 25 inches or less.

The subject vertical metal file cabinets have bodies made of carbon and/or alloy steel and or other metals, regardless of whether painted, powder coated, or galvanized or otherwise coated for corrosion protection or aesthetic appearance. The subject vertical metal file cabinets must have two or more extendable elements for file storage (*e.g.,* file drawers) of a height that permits hanging files of either letter (8.5″ x 11″) or legal (8.5″ x 14″) sized documents.

An ''extendable element'' is defined as a movable load-bearing storage component including, but not limited to, drawers and filing frames. Extendable elements typically have suspension systems, consisting of glide blocks or ball bearing glides, to facilitate opening and closing.

The subject vertical metal file cabinets typically come in models with two, three, four, or five-file drawers. The inclusion of one or more additional non-file-sized extendable storage elements, not sized for storage files (*e.g.,* box or pencil drawers), does not remove an otherwise in-scope product from the scope as long as the combined height of the non-file-sized

extendable storage elements does not exceed six inches. The inclusion of an integrated storage area that is not extendable (*e.g.,* a cubby) and has an actual height of six inches or less, also does not remove a subject vertical metal file cabinet from the scope. Accessories packaged with a subject vertical file cabinet, such as separate printer stands or shelf kits that sit on top of the in-scope vertical file cabinet are not considered integrated storage.

''Freestanding'' means the unit has a solid top and does not have an open top or a top with holes punched in it that would permit the unit to be attached to, hung from, or otherwise used to support a desktop or other work surface. The ability to anchor a vertical file cabinet to a wall for stability or to prevent it from tipping over does not exclude the unit from the scope.

The addition of mobility elements such as casters, wheels, or a dolly does not remove the product from the scope. Packaging a subject vertical metal file cabinet with other accessories, including, but not limited to, locks, leveling glides, caster kits, drawer accessories (*e.g.,* including but not limited to follower wires, follower blocks, file compressors, hanger rails, pencil trays, and hanging file folders), printer stand, shelf kit and magnetic hooks, also does not remove the product from the scope. Vertical metal file cabinets are also in scope whether they are imported assembled or unassembled with all essential parts and components included.

Excluded from the scope are lateral metal file cabinets. Lateral metal file cabinets have a width that is greater than the body depth, and have a body with an actual width that is more than 25 inches wide.

Also excluded from the scope are pedestal file cabinets. Pedestal file cabinets are metal file cabinets with body depths that are greater than or equal to their width, are under 31 inches in actual height, and have the following characteristics: (1) An open top or other the means for the cabinet to be attached to or hung from a desktop or other work surface such as holes punched in the top (*i.e.,* not freestanding); or (2) freestanding file cabinets that have all of the following: (a) at least a 90 percent drawer extension for all extendable file storage elements; (b) a central locking system; (c) a minimum weight density of 9.5 lbs./cubic foot; and (d) casters or leveling glides.

''Percentage drawer extension'' is defined as the drawer travel distance divided by the inside depth dimension of the drawer. Inside depth of drawer is measured from the inside of the drawer face to the inside face of the drawer back. Drawer extension is the distance the drawer travels from the closed position to the maximum travel position which is limited by the out stops. In situations where drawers do not include an outstop, the drawer is extended until the drawer back is 3½ inches from the closed position of inside face of the drawer front. The ''weight density'' is calculated by dividing the cabinet's actual weight by its volume in cubic feet (the multiple of the product's actual width, depth, and height). A ''central locking system'' locks all drawers in a unit.

Also excluded from the scope are fire proof or fire-resistant file cabinets that meet Underwriters Laboratories (UL) fire protection standard 72, class 350, which covers the test procedures applicable to fire-resistant equipment intended to protect paper records.

The merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.10.0020. The subject merchandise may also enter under HTSUS subheadings 9403.10.0040, 9403.20.0080, and 9403.20.0090. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Scope Comments
V. Discussion of the Methodology
VI. Adjustment Under Section 777(A)(F) of the Act
VII. Adjustments to Cash Deposit Rates for Export Subsidies
VIII. ITC Notification
IX. Disclosure and Public Comment
X. Verification
XI. Conclusion

[FR Doc. 2019–16327 Filed 7–31–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–808]

Certain Steel Nails From the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Oman Fasteners LLC (Oman Fasteners), a producer/exporter of certain steel nails (nails) from the Sultanate of Oman (Oman), did not sell subject merchandise at prices below normal value during the period of review (POR) July 1, 2017 through June 30, 2018. Additionally, we are rescinding the review with respect to three companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936.

SUPPLEMENTARY INFORMATION:

On July 13, 2015, Commerce published in the **Federal Register** an antidumping (AD) order on nails from Oman.[1] On July 3, 2018, Commerce notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in July 2018, including the AD *Order* on nails from Oman.[2] Commerce received timely requests from Oman Fasteners and Mid Continent Steel & Wire, Inc. (the petitioner) to conduct an administrative review of certain exporters covering the POR. On September 10, 2018, Commerce published a notice initiating a review of the *Order* covering four companies for the POR.[3]

In the *Initiation Notice,* Commerce indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), we would select mandatory respondents for individual examination based upon U.S. Customers and Border Protection (CBP) entry data.[4] On September 18, 2018, we released CBP entry data under Administrative Protective Order (APO) to all parties with access to information protected by APO. Subsequently, we issued the AD questionnaire to Oman Fasteners.[5] On November 5, 2018, the petitioner withdrew its request for administrative reviews for the three companies, other than Oman Fasteners, for which it had requested administrative reviews,[6] pursuant to 19 CFR 351.213(d)(1).

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from December 22, 2018 through the

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[1] *See Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 80 FR 39994 (July 13, 2015) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 83 FR 31121 (July 3, 2018).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 45596 (September 10, 2018) (*Initiation Notice*).

[4] *See Initiation Notice,* 83 FR at 45596.

[5] *See* Commerce's Letter, ''Administrative Review of Certain Steel Nails from Oman: Antidumping Duty Questionnaire,'' dated October 22, 2018.

[6] *See* Petitioner's Letter, ''Certain Steel Nails from Oman: Withdrawal of Request for Administrative Reviews'' dated November 5, 2018. The three companies for which the petitioner withdrew its request for review are: Al Kiyumi Global LLC; Astrotech Steels Private Ltd.; and Geekay Wires Limited.

resumption of operations on January 29, 2019.[7] On May 4, 2019, Commerce extended the preliminary results in this review to no later than June 26, 2019.[8] On June 25, 2019, Commerce extended the preliminary results in this review to no later than July 26, 2019.[9]

Partial Rescission of Administrative Review

Commerce received timely requests to conduct an administrative review of certain exporters covering the POR. Because the petitioner timely withdrew its requests for review of all of the companies listed in the *Initiation Notice,* with the exception of Oman Fasteners, we are rescinding the administrative review with respect to those these three companies,[10] pursuant to 19 CFR 351.213(d)(1). Accordingly, the remaining company subject to the instant review is Oman Fasteners.

Scope of the *Order*

The merchandise covered by this *Order* is nails having a nominal shaft length not exceeding 12 inches.[11] Merchandise covered by the *Order* is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[12]

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.[13] A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period July 1, 2017 through June 30, 2018:

Exporter/producer	Weighted-average dumping margin (percent)
Oman Fasteners LLC	0.00

Disclosure and Public Comment

Commerce intends to disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[14] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[15] Executive summaries should be limited to five pages total, including footnotes.[16] Case and rebuttal briefs should be filed using ACCESS.[17]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. If a hearing is requested, Commerce will notify interested parties of the hearing schedule. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, unless otherwise extended.[18]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer-specific *ad valorem* duty assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such

[7] *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.

[8] *See* Memorandum, ''Antidumping Duty Administrative Review or Certain Steel Nails from the Sultanate of Oman: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated May 4, 2019.

[9] *See* Memorandum, ''Antidumping Duty Administrative Review or Certain Steel Nails from the Sultanate of Oman: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated June 25, 2019.

[10] Al Kiyumi Global LLC, Astrotech Steels Private Ltd., and Geekay Wires Limited.

[11] The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

[12] *See* Memorandum, ''Decision Memorandum for Preliminary Results of the 2014–2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Sultanate of Oman,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[13] *See* Preliminary Decision Memorandum.

[14] *See* 19 CFR 351.309(d)(1).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

[16] *Id.*

[17] *See* 19 CFR 351.303.

[18] *See* section 751(a)(3)(A) of the Act.

sales, in accordance with 19 CFR 351.212(b)(1).[19] For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[20] Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the three companies for which this review is rescinded, antidumping duties will be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawn from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice, concerning these three companies. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirement

The following cash deposit requirements will be effective upon publication of the notice of the final results of administrative review for all shipments of nails from Oman entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.10 percent *ad valorem,* the all-others rate established in the less-than-fair value investigation.[21]

Notification to Importers

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

Notification to Interested Parties

These preliminary results and partial rescission of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: July 24, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Affiliation
V. Discussion of the Methodology
VI. Recommendation

[FR Doc. 2019–16328 Filed 7–31–19; 8:45 am]

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[19] In these preliminary results, Commerce applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[20] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[21] *See Certain Steel Nails from the Republic of Oman: Final Determination of Sales at Less Than Fair Value,* 80 FR 28955 (May 20, 2015).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–111]

Vertical Metal File Cabinets From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of vertical metal file cabinets (file cabinets) from the People's Republic of China (China). The period of investigation is January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas Dunne, 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) 482–2328.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 24, 2019.[1] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[2] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are file cabinets from China. For a complete description of the

[1] *See Vertical Metal File Cabinets from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 84 FR 24089 (May 24, 2019) (*Initiation Notice*).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Vertical Metal File Cabinets from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[4] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[5]

Commerce notes that, in making these findings, it relied on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[6] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

All-Others Rate

In accordance with sections 703(d)(1)(A)(i) and 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on adverse facts available (AFA) under section 776 of the Act. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates are zero, *de minimis,* or based entirely on facts available, Commerce may use ''any reasonable method'' for assigning an all-others rate, including ''averaging the estimated weighted-average countervailable subsidy rates.'' In this investigation, all rates are based entirely on facts available, pursuant to section 776 of the Act. Accordingly, we find under ''any reasonable method'' to rely on a simple average of the total AFA rates computed for the non-responsive companies as the all-others rate in this preliminary determination. For further information on the all-others rate, *see* the Preliminary Decision Memorandum.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Estimated countervailable subsidy rates (percent)
Non-Responsive Companies [8] ..	227.10
All Others [9]	227.10

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary determination within five days of its public announcement, or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA rates in the calculation of the benefit for the non-responsive companies, and the applied AFA rates are based on rates calculated in prior proceedings, there are no calculations to disclose.

Public Comment

Commerce will issue a memorandum establishing the deadline to file case briefs or other written comments for all issues following the publication of the preliminary determination. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 705(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary countervailing duty determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f)

[3] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Initiation Notice.*

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* sections 776(a) and (b) of the Act.

[7] *See* Preliminary Decision Memorandum at ''Calculation of the All-Others Rate.''

[8] *See* Appendix III to this notice.

[9] *See* Appendix IV to this notice.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

and 777(i) of the Act and 19 CFR 351.205(c).

Dated: July 24, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers freestanding vertical metal file cabinets containing two or more extendable file storage elements and having an actual width of 25 inches or less.

The subject vertical metal file cabinets have bodies made of carbon and/or alloy steel and or other metals, regardless of whether painted, powder coated, or galvanized or otherwise coated for corrosion protection or aesthetic appearance. The subject vertical metal file cabinets must have two or more extendable elements for file storage (*e.g.,* file drawers) of a height that permits hanging files of either letter (8.5″ x 11″) or legal (8.5″ x 14″) sized documents.

An ''extendable element'' is defined as a movable load-bearing storage component including, but not limited to, drawers and filing frames. Extendable elements typically have suspension systems, consisting of glide blocks or ball bearing glides, to facilitate opening and closing.

The subject vertical metal file cabinets typically come in models with two, three, four, or five-file drawers. The inclusion of one or more additional non-file-sized extendable storage elements, not sized for storage files (*e.g.,* box or pencil drawers), does not remove an otherwise in-scope product from the scope as long as the combined height of the non-file-sized extendable storage elements does not exceed six inches. The inclusion of an integrated storage area that is not extendable (*e.g.,* a cubby) and has an actual height of six inches or less, also does not remove a subject vertical metal file cabinet from the scope. Accessories packaged with a subject vertical file cabinet, such as separate printer stands or shelf kits that sit on top of the in-scope vertical file cabinet are not considered integrated storage.

''Freestanding'' means the unit has a solid top and does not have an open top or a top with holes punched in it that would permit the unit to be attached to, hung from, or otherwise used to support a desktop or other work surface. The ability to anchor a vertical file cabinet to a wall for stability or to prevent it from tipping over does not exclude the unit from the scope.

The addition of mobility elements such as casters, wheels, or a dolly does not remove the product from the scope. Packaging a subject vertical metal file cabinet with other accessories, including, but not limited to, locks, leveling glides, caster kits, drawer accessories (*e.g.,* including but not limited to follower wires, follower blocks, file compressors, hanger rails, pencil trays, and hanging file folders), printer stand, shelf kit and magnetic hooks, also does not remove the product from the scope. Vertical metal file cabinets are also in scope whether they are imported assembled or unassembled with all essential parts and components included.

Excluded from the scope are lateral metal file cabinets. Lateral metal file cabinets have a width that is greater than the body depth, and have a body with an actual width that is more than 25 inches wide.

Also excluded from the scope are pedestal file cabinets. Pedestal file cabinets are metal file cabinets with body depths that are greater than or equal to their width, are under 31 inches in actual height, and have the following characteristics: (1) An open top or other the means for the cabinet to be attached to or hung from a desktop or other work surface such as holes punched in the top (*i.e.,* not freestanding); or (2) freestanding file cabinets that have all of the following: (a) At least a 90 percent drawer extension for all extendable file storage elements; (b) a central locking system; (c) a minimum weight density of 9.5 lbs./cubic foot; and (d) casters or leveling glides.

''Percentage drawer extension'' is defined as the drawer travel distance divided by the inside depth dimension of the drawer. Inside depth of drawer is measured from the inside of the drawer face to the inside face of the drawer back. Drawer extension is the distance the drawer travels from the closed position to the maximum travel position which is limited by the out stops. In situations where drawers do not include an outstop, the drawer is extended until the drawer back is 3 ½ inches from the closed position of inside face of the drawer front. The ''weight density'' is calculated by dividing the cabinet's actual weight by its volume in cubic feet (the multiple of the product's actual width, depth, and height). A ''central locking system'' locks all drawers in a unit.

Also excluded from the scope are fire proof or fire-resistant file cabinets that meet Underwriters Laboratories (UL) fire protection standard 72, class 350, which covers the test procedures applicable to fire-resistant equipment intended to protect paper records.

The merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.10.0020. The subject merchandise may also enter under HTSUS subheadings 9403.10.0040, 9403.20.0080, and 9403.20.0090. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Scope Comments
V. Respondent Selection
VI. Injury Test
VII. Application of the CVD Law to Imports From China
VIII. Diversification of China's Economy
IX. Use of Facts Otherwise Available and Adverse Inferences
X. Analysis of Programs
XI. Calculation of the All-Others Rate
XII. ITC Notification
XIII. Disclosure and Public Comment
XIV. Verification
XV. Recommendation

Appendix III

List of Non-Responsive Companies Receiving AFA Rate

1. Best Beauty Furniture Co., Ltd.
2. Chung Wah Steel Furniture Factory
3. Concept Furniture (Anhui) Co., Ltd.
4. Dong Guan Shing Fai Furniture
5. Dongguan Zhisheng Furniture Co., Ltd.
6. Feel Life Co., Ltd.
7. Fujian lvyer Industrial Co., Ltd.
8. Fuzhou Nu Deco Crafts Co., Ltd.
9. Fuzhou Yibang Furniture Co., Ltd.
10. Gold Future Furnishing Co., Ltd.
11. Guangdong Hongye Furniture
12. Guangxi Gicon Office Furniture Co., Ltd.
13. Guangzhou City Yunrui Imp.
14. Hangzhou Zongda Co., Ltd.
15. Heze Huayi Chemical Co., Ltd.
16. Highbright Enterprise Ltd.
17. Homestar Corp.
18. Honghui Wooden Crafts Co., Ltd.
19. Huabao Steel Appliance Co., Ltd.
20. I.D. International Inc.
21. Jiangmen Kinwai International
22. Jiaxing Haihong Electromechanical Technology Co., Ltd.
23. Long Sheng Office Furniture
24. Louyong Hua Zhi Jie Office Furniture Co., Ltd.
25. Luoyang Hua Wei Office Furniture Co., Ltd.
26. Luoyang Huadu Imp. Exp. Co., Ltd.
27. Luoyang Mas Younger Office Furniture Co., Ltd.
28. Luoyang Shidiu Import & Export Co., Ltd.
29. Luoyang Zhenhai Furniture Co., Ltd.
30. Ningbo Sunburst International Trading Co., Ltd.
31. Ri Time Group Inc. (Szx)
32. Shenzhen Heng Li de Industry Co., Ltd.
33. Shenzhen Zhijuan (Zhiyuan) Technology Co., Ltd.
34. Shiny Way Furniture Co., Ltd.
35. South Metal Furniture Factory
36. Suzhou Jie Quan (Jinyuan) Trading Co., Ltd.
37. T. H. I. Group (Shanghai) Ltd.
38. Tianjin First Wood Co., Ltd.
39. UenJoy (Tianjin) Technology Co., Ltd.
40. Xiamen Extreme Creations
41. Xinhui Second Light Machinery Factory Co., Ltd.
42. Yahee Technologies
43. Zhe Jiang Jiayang Imp. & Exp. Co., Ltd.
44. Zhejiang Ue Furniture Co., Ltd.
45. Zhong Shan Yue Qin Imp. & Exp.
46. Zhongshan Fmarts Furniture Co., Ltd

Appendix IV

List of Companies Receiving All-Others Rate

The companies receiving the all-others rate include:

1. Guangzhou Perfect Office Furniture
2. Guangzhou Textiles Holdings Limited
3. Huisen Furniture (Longnan) Co., Ltd.
4. Invention Global Ltd.
5. Jiangxi Yuanjin Science & Technology Group Co., Ltd.
6. Jpc Co., Ltd. (HK)

7. Leder Lighting Co., Ltd.
8. Luoyang Cuide Imp. & Exp.
9. Ningbo Haishu Spark Imp. & Exp. Co., Ltd.
10. Ningbo Haitian International Co.
11. Qingdao Liansheng
12. Shanxi Ktl Agricultural Technology Co., Ltd.
13. Shanxi Sijian Group Co., Ltd.
14. Shenzhen Zhilai Sci and Tech Co., Ltd.
15. Top Perfect Ltd.
16. Zhengzhou Puhui Trading Co., Ltd.

[FR Doc. 2019–16326 Filed 7–31–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–826]

Monosodium Glutamate From the Republic of Indonesia: Final Results of Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) determines that PT. Cheil Jedang Indonesia (CJ Indonesia), an Indonesian producer/exporter of monosodium glutamate (MSG) and the sole respondent in this review, did not make sales of MSG at prices below normal value during the period of review (POR) November 1, 2016 through October 31, 2017.

DATES: Applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, 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) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2018, Commerce published the *Preliminary Results.*[1] For a detailed history of events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.[3] On May 13, 2019, we extended the deadline for these final results until no later than July 19, 2019.[4]

Scope of the Order

The merchandise covered by this order is MSG, whether or not blended or in solution with other products. Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2922.42.10.00. Merchandise covered by this order may also enter under HTSUS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91.[5] The written description of the scope of the antidumping duty order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Commerce Building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and its electronic version are identical in content.

A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached as the Appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of the comments we received from interested parties, we made certain changes to the margin calculations for CJ Indonesia.[6]

Final Results of Administrative Review

As a result of this administrative review, we determine the following weighted-average dumping margin exists for the period November 1, 2016 through October 31, 2017:

Producer/exporter	Weighted-average dumping margin (prcent)
PT. Cheil Jedang Indonesia	0.00

Disclosure and Public Comment

We intend to disclose the margin calculations performed in this proceeding within five days after publication of these final results in the **Federal Register**, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(b).

Assessment Rates

Upon completion of this administrative review, Commerce shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Because the weighted-average dumping margin for CJ Indonesia has been determined to be zero within the meaning of 19 CFR 351.106(c), we will instruct CBP to liquidate the appropriate entries of subject merchandise without regard to antidumping duties.

In accordance with Commerce's practice, for entries of subject merchandise during the POR produced by CJ Indonesia for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[7]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumptions on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for merchandise produced and/or exported by CJ Indonesia will be 0.00 percent, the rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not

[1] *See Monosodium Glutamate from the Republic of Indonesia: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 63626 (December 11, 2018) (*Preliminary Results*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2016–2017 Administrative Review of the Antidumping Duty Order on Monosodium Glutamate from the Republic of Indonesia,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Monosodium Glutamate from the Republic of Indonesia: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2016–2017,'' dated May 13, 2019.

[5] For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

[6] *See* Issues and Decision Memorandum.

[7] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

covered under this administrative review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or any previous review or in the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.19 percent, the all-others rate established in the LTFV investigation.[8] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 771(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 19, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of the Issues
  Comment 1: Whether Commerce Should Rely on Facts Available for CJ Indonesia's Inland Freight/Plant Warehouse to Customer Expenses
  Comment 2: Whether Commerce Should Rely on CJ Indonesia's Reported General and Administrative (G&A) Expenses, Modified to Reflect Royalty Expense
  Comment 3: Whether Commerce Should Correct Currency Conversion Errors in the *Preliminary Results*
VI. Recommendation

[FR Doc. 2019–15918 Filed 7–31–19; 8:45 am]

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[8] *See Monosodium Glutamate from the Republic of Indonesia: Final Determination of Sales at Less Than Fair Value,* 79 FR 58329 (September 29, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–835]

Certain Hot-Rolled Carbon Steel Flat Products From Taiwan: Rescission of Antidumping Duty Administrative Review; 2017/2018

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

DATES: Applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4475.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2018, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order[1] of certain hot-rolled carbon steel flat products from Taiwan for the period of review (POR) November 1, 2017 through October 31, 2018.[2] On November 30, 2018, Commerce received timely requests for administrative reviews from Steel Dynamics and SSAB Enterprises for the following companies: (1) An Fang Steel Co., Ltd., (An Fang); (2) Kao Hsing Chang Iron & Steel Corp (Kao Hsing); (3) Kao Hsuing Chang Iron and Steel Corp. (Kao Hsuing); (4) Shang Chen Steel Co., Ltd. (Shang Chen); and (5) Yieh Phui Enterprise Co., Ltd. (Yieh Phui), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR.351.213(b).[3] No other parties requested an administrative review. Pursuant to the review requests filed by Steel Dynamics and SSAB Enterprises, and in accordance with 19 CFR 351.221(c)(1)(i), on February 6, 2019, Commerce published in the **Federal Register** a notice of initiation of an administrative review covering An Fang, Kao Hsing, Kao Hsuing, Shang Chen, and Yieh Phui.[4] On April 4, 2019, Steel Dynamics and SSAB Enterprises withdrew their review requests for administrative reviews for each of the companies named in their review request.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party, or parties, that requested a review withdraw the request/s within 90 days of the publication of the notice of initiation of the requested review. As noted above, Steel Dynamics and SSAB Enterprises withdrew their request for review by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, in response to the timely withdrawal of the request for review, and, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this administrative review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appraisement instructions to

[1] *See Notice of Antidumping Duty Order; Certain Hot-Rolled Carbon Steel Flat Products from Taiwan,* 66 FR 59563 (November 29, 2011).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 83 FR 54912 (November 1, 2018).

[3] *See* Steel Dynamics and SSAB Enterprises Letter, ''Certain Hot-Rolled Carbon Steel Flat Products from Taiwan: Request for Administrative Review,'' dated November 30, 2018.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 2159 (February 6, 2019).

[5] *See* Steel Dynamics and SSAB Enterprises Letter, ''Withdrawal of Request for Administrative Review,'' dated April 4, 2019.

CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Order

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

This notice is published in accordance with section 771(i)(1) of the Act, and 19 CFR 351.213(d)(4)

Dated: July 22, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–15922 Filed 7–31–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–991]

Chlorinated Isocyanurates From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016

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

SUMMARY: The U.S. Department of Commerce (Commerce) has completed its administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (China) for the period of review (POR) January 1, 2016 through December 31, 2016, and determines that countervailable subsidies are being provided to producers and exporters of chloro isos. The final net subsidy rates are listed below in ''Final Results of Administrative Review.''

DATES: Applilcable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Omar Qureshi or Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone 202–482–5307 or 202–482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 2014, Commerce published the CVD *Order* on chloro isos from China.[1] On November 30, 2018, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[2] We invited interested parties to comment on the *Preliminary Results.* On February 15, 2019, we received case briefs from the petitioners,[3] the Government of China (GOC), and from the mandatory respondents, Heze Huayi [4] and Kangtai.[5] [6] On February 22, 2019, we received rebuttal briefs from the petitioners, the GOC, and from the mandatory respondents, Heze Huayi and Kangtai.[7] On January 28, 2019, 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.[8] On May 9, 2019, Commerce extended the time period for issuing the final results to June 18, 2019.[9] On June 4, 2019, Commerce fully extended the time period for issuing the final results to July 12, 2019.[10]

Scope of the Order

The products covered by the *Order* are chloro isos, which are derivatives are cyanuric acid, described as chlorinated s-triazine triones. Chloro isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes; the written product description of the scope of the *Order* is dispositive. For a full description of the scope, *see* the Issues and Decision Memorandum.[11]

Analysis of Comments Received

All issues raised in the parties' briefs are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Order,* 79 FR 67424 (November 13, 2014) (*Order*).

[2] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2016,* 83 FR 63159 (December 7, 2018) and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

[3] Bio-Lab, Inc., Clearon Corporation, and Occidental Chemical Corporation (collectively, the petitioners).

[4] Heze Huayi Chemical Co., Ltd. (Heze Huayi).

[5] Juancheng Kangtai Chemical Co., Ltd. (Kangtai).

[6] *See* Petitioners' Letter, ''Case Brief of Bio-Lab, Inc., Clearon Corp. and Occidental Chemical Corporation,'' dated February 15, 2019, 2019; GOC's Letter, ''GOC Administrative Case Brief: Third Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C–570–991),'' dated January 16, 2018; and Heze Huayi and Kangtai's Letter, ''Chlorinated Isocyanurates from the People's Republic of China: Case Brief,'' dated February 15, 2019.

[7] *See* Petitioners' Letter, ''Rebuttal Brief of Bio-Lab, Inc., Clearon Corp. and Occidental Chemical Corporation.'' dated February 22, 2019; GOC's Letter, ''GOC Rebuttal Brief: Third Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C–570–991),'' dated February 22, 2019; and Heze Huayi and Kangtai's Letter, ''Chlorinated Isocyanurates from the People's Republic of China: Rebuttal Brief,'' dated February 22, 2019.

[8] *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.

[9] *See* Memorandum, ''Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Final Results of Third Countervailing Administrative Review,'' dated May 9, 2019.

[10] *See* Memorandum, ''Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Final Results of Third Countervailing Administrative Review,'' dated June 4, 2019.

[11] *See* Memorandum, ''Decision Memorandum for Final Results and Partial Rescission of Review of Countervailing Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China,'' dated concurrently with this notice (Issues and Decision Memorandum).

Changes Since the Preliminary Results

Based on case briefs, rebuttal briefs, and all supporting documentation, we made no changes from the *Preliminary Results.*

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[12] The Issues and Decision Memorandum contains a full description of the methodology underlying Commerce's conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we determine the following net subsidy rates for the 2016 administrative review:

Company	Subsidy rate (percent)
Heze Huayi Chemical Co., Ltd.	1.71
Juancheng Kangtai Chemical Co., Ltd.	1.54

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results of review, to liquidate shipments of subject merchandise produced and/or exported by the companies listed above, entered, or withdrawn from warehouse, for consumption on or after January 1, 2016 through December 31, 2016, at the *ad valorem* rates listed above.

Cash Deposit Instructions

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 12, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. Background
III. List of Interested Party Comments
IV. Scope of the Order
V. Changes From the Preliminary Results
VI. Subsidies Valuation Information
VII. Benchmarks
VIII. Use of Facts Otherwise Available and Adverse Inferences
IX. Programs Determined To Be Countervailable
X. Programs Determined Not To Confer Measurable Benefits
XI. Programs Determined Not To Be Used During the POR
XII. Analysis of Comments
Comment 1: Applying AFA to the Export Buyer's Credit Program
Comment 2: AFA Rate
XIII. Conclusion

[FR Doc. 2019–15919 Filed 7–31–19; 8:45 am]

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[12] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XQ001

Taking and Importing of Marine Mammals

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

ACTION: Notice; affirmative finding annual renewals for Ecuador, El Salvador, Guatemala, Mexico, Peru, and Spain.

SUMMARY: The NMFS Assistant Administrator (Assistant Administrator) has renewed affirmative findings for the Governments of Ecuador, El Salvador, Guatemala, Mexico, Peru, and Spain (referred to hereafter as ''the Nations'') under the Marine Mammal Protection Act (MMPA). These affirmative findings will continue to allow the importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) for 1 year in compliance with the Agreement on the International Dolphin Conservation Program (AIDCP) by purse seine vessels operating under the Nations' jurisdiction or exported from the Nations. NMFS bases the affirmative finding annual renewals on reviews of documentary evidence submitted by the Governments of the Nations and of information obtained from the secretariat of the Inter-American Tropical Tuna Commission (IATTC).

DATES: These affirmative finding annual renewals are effective for the one-year period of April 1, 2019, through March 31, 2020.

FOR FURTHER INFORMATION CONTACT: Justin Greenman, West Coast Region, National Marine Fisheries Service, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Phone: 562–980–3264. Email: *justin.greenman@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.,* allows for importation into the United States of yellowfin tuna harvested by purse seine vessels in the ETP from a nation with jurisdiction over purse seine vessels with carrying capacity greater than 400 short tons that harvest tuna in the ETP only if the nation has an ''affirmative finding'' issued by the NMFS Assistant Administrator. *See* Section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B). If requested the government of such a nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government, the IATTC secretariat, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under the AIDCP and its obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request a new affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS reviews the affirmative finding and determines whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with AIDCP and IATTC

measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the AIDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f)(8), the Assistant Administrator considered documentary evidence submitted by the Governments of The Nations and obtained from the IATTC secretariat and has determined that The Nations have met the MMPA's requirements to receive affirmative finding annual renewals.

After consultation with the Department of State, the Assistant Administrator issued affirmative finding annual renewals to the Nations, allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by purse seine vessels operating under the Nations' jurisdiction or exported from the Nations. Issuance of affirmative finding annual renewals for the Nations does not affect implementation of an intermediary nation embargo under 50 CFR 216.24(f)(9), which apply to exports from a nation that exports to the United States yellowfin tuna or yellowfin tuna products that was subject to a ban on importation into the United States under section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B). These affirmative finding renewals are for the 1-year period of April 1, 2019, through March 31, 2020.

El Salvador's 5-year affirmative finding will remain valid through March 31, 2023, Peru's 5-year affirmative finding will remain valid through March 31, 2022, and Ecuador, Guatemala, Mexico, and Spain's 5-year affirmative findings will remain valid through March 31, 2020, subject to subsequent annual reviews by NMFS.

Dated: July 24, 2019.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2019–16358 Filed 7–31–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XQ002

Taking and Importing of Marine Mammals

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

ACTION: Notice; 5-year affirmative finding for Colombia.

SUMMARY: The NMFS Assistant Administrator (Assistant Administrator) has issued a 5-year affirmative finding for the Government of Colombia under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the Agreement on the International Dolphin Conservation Program (AIDCP) by purse seine vessels operating under Colombian jurisdiction or exported from Colombia. NMFS bases the affirmative finding determination on reviews of documentary evidence submitted by the Government of Colombia and of information obtained from the secretariat of the Inter-American Tropical Tuna Commission (IATTC).

DATES: This affirmative finding is effective for the 5-year period of April 1, 2019, through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: Justin Greenman, West Coast Region, National Marine Fisheries Service, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Phone: 562–980–3264. Email: *justin.greenman@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.,* allows for importation into the United States of yellowfin tuna harvested by purse seine vessels in the ETP from a nation with jurisdiction over purse seine vessels with carrying capacity greater than 400 short tons that harvest tuna in the ETP only if the nation has an ''affirmative finding'' issued by the NMFS Assistant Administrator. *See* Section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B). If requested by the government of such a nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government, the IATTC secretariat, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under the AIDCP and its obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request a new affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS reviews the affirmative finding and determines whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with AIDCP and IATTC measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the AIDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f)(8), the Assistant Administrator considered documentary evidence submitted by the Government of Colombia and obtained from the IATTC secretariat and has determined that Colombia has met the MMPA's requirements to receive an affirmative finding.

After consultation with the Department of State, the Assistant Administrator issued a 5-year affirmative finding to Colombia, allowing the importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by purse seine vessels operating under Colombian jurisdiction or exported from Colombia. Issuance of an affirmative finding for Colombia does not affect implementation of an intermediary nation embargo under 50 CFR 216.24(f)(9), which apply to exports from a nation that exports to the United States yellowfin tuna or yellowfin tuna products that was subject to a ban on importation into the United States under section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B). Colombia's affirmative finding is effective for the 5-year period of April 1, 2019, through March 31, 2024, subject to subsequent annual reviews by NMFS.

Dated: July 24, 2019.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2019–16356 Filed 7–31–19; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2019–0005]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Anchor It! Campaign Survey

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required under the Paperwork Reduction Act of 1995 (PRA), the Consumer Product Safety Commission (CPSC) announces that CPSC has submitted to the Office of Management and Budget (OMB) a new proposed collection of information by the agency on a survey that will evaluate consumer awareness or recognition of CPSC's ''Anchor It!'' campaign. On April 8, 2019, the CPSC published a notice in the **Federal Register** announcing the agency's intent to seek approval of this collection of information. The CPSC received no comments in response to that notice. Therefore, by publication of this notice, the CPSC announces that it has submitted to the OMB a request for approval of this collection of information.

DATES: Written comments on this request for approval of information collection requirements should be submitted by September 3, 2019.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881.

Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2019–0005.

FOR FURTHER INFORMATION CONTACT: Bretford Griffin, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7037, or by email to: *bgriffin@cpsc.gov.* A copy of the proposed survey submitted to OMB titled ''PRA Anchor It Survey OMB Submittal'' is available at: *www.regulations.gov* under Docket No. CPSC–2019–0005, Supporting and Related Material.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the 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 proposed surveys.

A. Anchor It! Campaign Proposed Survey

CPSC is authorized under section 5(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2054(a), to conduct studies and investigations relating to the causes and prevention of deaths, accidents, injuries, illnesses, other health impairments, and economic losses associated with consumer products. Section 5(b) of the CPSA, 15 U.S.C. 2054(b), further provides that CPSC may conduct research, studies, and investigations on the safety of consumer products or test consumer products and develop product safety test methods and testing devices.

In October 2018, CPSC issued a report ''Product Instability or Tip-Over Injuries and Fatalities Associated with Televisions, Furniture, and Appliances'' (2018 Report), which showed that emergency departments across the United States treated an estimated 27,300 television- or furniture stability-related injuries annually in 2015–2017 (8,200 involved televisions or both televisions and furniture and 19,100 involved only furniture).[1] The 2018 Report also reviewed death incidents from 2000 through 2017, and found 507 fatalities (342 involved televisions or both televisions and furniture and 165 involved only furniture.) The 2018 Report showed that children account for the vast majority of both fatalities (83%), as well as the majority of estimated non-fatal emergency department-treated injuries (50%) caused by TV/furniture instability. Of child fatalities, 72 percent involved TV tip-over, and 24 percent furniture tip-over.

To address the hazard associated with TV/furniture tip-overs, as early as 2015, CPSC implemented an information and education campaign called, ''Anchor It!'' that stressed the importance of safely and securely mounting TVs and furniture to walls with a goal of reducing the number of injuries and deaths due to TV/furniture tip-over.[2] CPSC seeks, through the proposed survey, to evaluate consumer awareness or recognition of the ''Anchor It!'' campaign, consumer comprehension of the risks and remedies of TV/furniture tip over and anchoring, and consumer behavior and attitude change from the ''Anchor It!'' campaign.

The proposed survey will collect data from a sample of approximately 600 parent and non-parent caregivers of children ages 0–5 years to assess their current behaviors about anchoring furniture and/or televisions in homes, their attitudes and beliefs about anchoring, their knowledge of the CPSC and the ''Anchor It!'' campaign, and their intentions about anchoring in the future. The proposed survey consists of a highly varied national sample. The proposed survey data will enable CPSC to assess individuals' existing knowledge of anchoring furniture and televisions, and inform recommendations on how to modify the ''Anchor It!'' campaign to better target and educate parents and non-parent caregivers. Findings that arise from the proposed survey may also be used by CPSC in designing future studies.

CPSC has entered into a contract with Fors Marsh Group (FMG) to conduct the proposed survey and collect the data. The National Opinion Research Center (NORC) will program and administer the final survey over the internet. NORC will contact participants electronically via email. The proposed survey will be administered using a secure online platform, and the results from the proposed survey will be accessible only to authorized personnel. Following data collection, FMG will summarize the results and provide a final report, along with the dataset, to CPSC staff.

B. Burden Hours

The proposed survey will take approximately 20 minutes to complete. We estimate the number of respondents to be 600. We estimate the total annual burden hours for respondents to be 200 hours. The monetized hourly cost is $36.22, as defined by the average total hourly cost to employers for employee compensation for employees across all occupations as of June 2018, reported by the Bureau of Labor Statistics. We estimate the total cost burden to be $7,244 (200 hours × $36.22). The total cost to the federal government for the contract to design and conduct the proposed survey is $210,112.

[1] *https://www.cpsc.gov/s3fs-public/Product%20Instability%20or%20Tip%20Over%20Report%20Oct%202018_STAMPED.pdf?J6AwbQ.ZwNQKkWQknOKUDi4ur0i.6D73.*

[2] *https://www.cpsc.gov/Safety-Education/Safety-Education-Centers/Tipover-Information-Center/.*

C. Submission to OMB

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 before submitting the collection to OMB for approval. On April 8, 2019, the CPSC published a notice of the proposed collection in the **Federal Register**. (84 FR 13912). The CPSC did not receive any comments. However, CPSC staff made a few editorial changes to the survey to fix typographical errors (*e.g.,* revise ''*SafeProducts.gov*'' to ''*SaferProducts.gov*''), and included a few clarifying questions in the survey, such as whether the children in the home ever climb and/or pull on furniture? (*e.g.,* dressers, bookshelves),'' and whether the participant ever saw an ad/news story/public service announcement about anchoring furniture. These questions merely serve to make the existing questions in the survey more clear and understandable for participants, and do not otherwise alter or expand the scope of the survey instrument. Accordingly, the CPSC has submitted the proposed collection to OMB. A copy of the proposed survey titled ''PRA Anchor It Survey OMB Submittal'' is available at: *www.regulations.gov* under Docket No. CPSC–2019–0005, Supporting and Related Material.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2019–16366 Filed 7–31–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting

AGENCY: General Counsel of the Department of Defense, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces will take place.

DATES: Open to the public, Friday, August 23, 2019, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: Doubletree by Hilton Crystal City, 300 Army Navy Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dwight Sullivan, 703–695–1055 (Voice), *dwight.h.sullivan.civ@mail.mil* (Email). Mailing address is DAC–IPAD, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Website: *http://dacipad.whs.mil/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), Congress tasked the DAC–IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the thirteenth public meeting held by the DAC–IPAD. For the first session the Committee will receive a briefing from the DAC–IPAD Data Working Group regarding preliminary fiscal year 2018 data on acquittal rates for sexual assault in the military and an overview of the draft Department of Defense *Report on Allegations of Collateral Misconduct Against Individuals Identified as the Victim of Sexual Assault in the Case Files of a Military Criminal Investigative Organization.* The Committee will discuss the Department of Defense draft Report on Allegations of Collateral Misconduct Against Individuals Identified as the Victim of Sexual Assault in the Case Files of a Military Criminal Investigative Organization. The Committee will hold a question and answer session with Service representatives regarding the collateral misconduct report. The Committee will then hear from three Service member panels composed of (1) the Services' Criminal Law/Military Justice Division Chiefs; (2) the Special Victims' Counsel/Victims' Legal Counsel Program Managers; and (3) the Trial Defense Service Organization Chiefs regarding their perspectives on conviction and acquittal rates, the preferral and referral process, and victim declination in sexual assault cases. The Committee will receive a status update from the Case Review Working Group and a presentation by the Data Working Group regarding the 2018 case adjudication data report plan. For its final session, the Committee will review and deliberate on the Department of Defense collateral misconduct report, the testimony received, and the Services' written responses to questions regarding conviction and acquittal rates, the preferral and referral process, and victim declination in sexual assault cases.

Agenda: 9:00 a.m.–9:10 a.m. Public Meeting Begins; 9:10 a.m.–9:25 a.m. DAC–IPAD Data Working Group Presentation of Conviction and Acquittal Rates and Overview of Draft Department of Defense *Report on Allegations of Collateral Misconduct Against Individuals Identified as the Victim of Sexual Assault in the Case Files of a Military Criminal Investigative Organization;* 9:25 a.m.–10:00 a.m. DAC–IPAD Member Questions Regarding the Draft Department of Defense Report on Allegations of Collateral Misconduct Against Individuals Identified as the Victim of Sexual Assault in the Case Files of a Military Criminal Investigative Organization; 10:00 a.m.–11:30 a.m. Panel 1: Perspectives of Services' Military Justice Division Chiefs Regarding Conviction and Acquittal Rates, the Case Adjudication Process, and Victim Declination in the Military Justice Process; 11:30 a.m.–11:45 a.m. Break; 11:45 a.m.–1:15 p.m. Panel 2: Perspectives of Services' Special Victims' Counsel/Victims' Legal Counsel Program Managers Regarding Conviction and Acquittal Rates, the Case Adjudication Process, and Victim Declination in the Military Justice Process; 1:15 p.m.–2:00 p.m. Lunch; 2:00 p.m.–3:20 p.m. Panel 3: Perspectives of Services' Trial Defense Service Organization Chiefs Regarding Conviction and Acquittal Rates, the Case Adjudication Process, and Victim Declination in the Military Justice Process; 3:20 p.m.–3:30 p.m. Break; 3:30 p.m.–3:45 p.m. Case Review Working Group Status Update; 3:45 p.m.–4:15 p.m. Data Working Group Presentation of 2018 Case Adjudication Data Report Plan; 4:15 p.m.–4:45 p.m. Committee Deliberations: Department of Defense draft Report on Allegations of Collateral Misconduct Against Individuals Identified as the Victim of Sexual Assault in the Case Files of a Military Criminal Investigative Organization; presenter testimony; and the Services'

written responses to DAC–IPAD questions regarding conviction and acquittal rates, the case adjudication process, and victim declination in sexual assault cases; 4:45 p.m.–5:00 p.m. Public Comment; 5:00 p.m. Public Meeting Adjourned.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. Individuals requiring special accommodations to access the public meeting should contact the DAC–IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made. In the event the Office of Personnel Management closes the government due to inclement weather or for any other reason, please consult the website for any changes to the public meeting date or time.

Written Statements: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public session. Written comments must be received by the DAC–IPAD at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC–IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC–IPAD operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. Oral statements from the public will be permitted, though the number and length of such oral statements may be limited based on the time available and the number of such requests. Oral presentations by members of the public will be permitted from 4:45 p.m. to 5:00 p.m. on August 23, 2019, in front of the Committee members.

Dated: July 26, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–16373 Filed 7–31–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0061]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Application and Related Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 3, 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–0061. 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 Jon Utz, 202–377–4040.

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: Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Application and Related Forms.

OMB Control Number: 1845–0065.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households *Total Estimated Number of Annual Responses:* 254,800.

Total Estimated Number of Annual Burden Hours: 127,400.

Abstract: The Discharge Application: Total and Permanent Disability serves as the means by which an individual who is totally and permanently disabled, as defined in section 437(a) of the Higher Education Act of 1965, as amended, applies for discharge of his or her Direct Loan, FFEL, or Perkins loan program loans, or TEACH Grant service obligation. The form collects the information that is needed by the U.S. Department of Education (the Department) to determine the individual's eligibility for discharge based on total and permanent disability. The Post-Discharge Monitoring: Total and Permanent Disability form serves as the means by which an individual who has received a total and permanent disability discharge provides the Department with information about his or her annual earnings from employment during the 3-year post-discharge monitoring period that begins on the date of discharge. The Applicant Representative Designation: Total and Permanent Disability form serves as the means by which an applicant for a total and permanent disability discharge may (1) designate a representative to act on his or her behalf in connection with the

applicant's discharge request, (2) change a previously designated representative, or (3) revoke a previous designation of a representative.

Dated: July 29, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–16417 Filed 7–31–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice; correction.

SUMMARY: On July 3, 2019, we published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2019 for CSP—Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools, Catalog of Federal Domestic Assistance (CFDA) numbers 84.282B and 84.282E. This notice corrects footnote 6 by adding ''Massachusetts'' to the list of States that have approved amendment requests that authorize the State educational agency (SEA) to make subgrants for replication and expansion, thereby making developers located in Massachusetts ineligible to apply for this grant competition.

DATES: This correction is applicable August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Hans Neseth, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E215, Washington, DC 20202–5970. Telephone: (202) 401–4125. *Email: charterschools@ed.gov.*

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: On July 3, 2019, we published in the **Federal Register** a notice inviting applications for new awards for FY 2019 for CSP—Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (84 FR 31852). This notice corrects footnote 6 by adding ''Massachusetts'' to the list of States that have approved amendment requests that authorize the SEA to make subgrants for replication and expansion, thereby making developers located in Massachusetts ineligible to apply for this grant competition.

Correction

In FR Doc. 2019–14267, we are revising footnote 6 on page 31858 in the first column to read as follows: States in which the SEA currently has an approved CSP SEA grant application under the ESEA, as amended by NCLB (*i.e.,* a grant award made in fiscal year 2016 or earlier), and have approved amendment requests that authorize the SEA to make subgrants for replication and expansion, include California, District of Columbia, Massachusetts, Nevada, Ohio, and Oregon. We will not consider applications from applicants in these States under CFDA 84.282E either.

Program Authority: Title IV, part C of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (20 U.S.C. 7221–7221j).

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 29, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019–16437 Filed 7–31–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities—National Center on Accessible Educational Materials for Learning

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation. As such, we are issuing a notice inviting applications for new awards for fiscal year (FY) 2019 for Educational Technology, Media, and Materials for Individuals with Disabilities—National Center on Accessible Educational Materials for Learning, Catalog of Federal Domestic Assistance (CFDA) number 84.327Z. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES: *Applications Available:* August 1, 2019.

Deadline for Transmittal of Applications: September 3, 2019.

Pre-Application Webinar Information: No later than August 6, 2019, OSERS will post pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. The webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

Pre-Application Q & A Blog: No later than August 6, 2019, OSERS will open a blog where interested applicants may post questions about the application requirements for this competition and where OSERS will post answers to the questions received. OSERS will not respond to questions unrelated to the application requirements for this competition. The blog may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html* and will remain open until August 20, 2019. After the blog closes, applicants should direct questions to the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at

www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT: Tara Courchaine, U.S. Department of Education, 400 Maryland Avenue SW, Room 5054E, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6462. Email: *Tara.Courchaine@ed.gov.*

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:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program are to (1) improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for children with disabilities; (3) provide support for captioning and video description that is appropriate for use in the classroom; and (4) provide accessible educational materials (AEM) to children with disabilities in a timely manner.[1]

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in sections 674(b)(2) and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*).

Absolute Priority: For FY 2019 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is: National Center on Accessible Educational Materials for Learning.

Background: The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Accessible Educational Materials for Learning (Center). The Center will work with State educational agencies (SEAs), local educational agencies (LEAs), and other stakeholders to improve the quality, availability, and timely delivery of AEM and related technologies for use by infants, toddlers, children, and youth with disabilities (hereafter referred to as ''individuals with disabilities,'' which includes ''eligible persons'' who are blind, have a visual impairment or perceptual or reading disability or have a physical disability affecting their ability to read [2]). We intend the Center, in partnership with parents, families, and diverse stakeholders, to improve opportunities and raise expectations for individuals with disabilities to (1) participate in high-quality early learning programs, (2) meet high expectations through meaningful engagement and progress in the general education curriculum, (3) demonstrate improved outcomes on assessments, (4) meet State academic standards, and (5) transition to postsecondary education or the workforce. In short, we intend the Center to help address the complex issue of access to educational materials and the general education curriculum for individuals with disabilities.

Under section 612(a)(1) of the IDEA, States must ensure that a free appropriate public education (FAPE) is made available to all children with disabilities. IDEA also requires that all children with disabilities are included in all general State and districtwide assessment programs (see section 612(a)(16)). Additionally, SEAs and LEAs are responsible for ensuring that individuals with disabilities who need instructional materials in accessible formats, but are not included under the definition of ''blind or other persons with print disabilities,'' [3] receive AEM in a timely manner (34 CFR 300.172(b)(3) and 300.210(b)(3); 20 U.S.C. 1412(a)(23) and 1413(a)(6)). Accessible educational materials and technologies enable individuals with disabilities to have access to, be involved in, and make progress in the general education curriculum (or for a preschool child, to participate in appropriate activities) and assessments.

Over the past 15 years, the reliance on static print curricula and materials has shifted to digital resources, technologies, and open educational resources (OERs). Digital resources and technologies hold promise for personalized and enhanced learning for individuals with disabilities in education and workplace settings. However, when accessibility is not meaningfully considered during the creation, procurement, or curation [4] process, these new technologies can become barriers to full access to the general education curriculum. This is also true for children required to use OERs or to access instruction through learning management systems.

Many OERs are in Portable Document Format (PDF), most of which do not meet basic standards for accessibility. Making PDF materials accessible involves the tedious process of rendering and reconstructing the materials. As a result, individuals with disabilities often do not receive materials in a timely manner, or use alternate materials that are different from materials available to their peers without disabilities. Also, far too often, they cannot use their accommodations or assistive technology (AT) on State-mandated tests due to issues with inoperability, privacy, and security concerns. These problems persist even when the AT is an approved device or resource. In addition, individuals responsible for the procurement and curation of materials are sometimes unaware of student accessibility needs and requirements, which may result in inappropriate purchases.

Finally, children who require embossed braille to learn essential early literacy skills often cannot access interactive digital resources. Therefore, States, districts, and educators need support in developing strategies to help children who are blind, while maintaining equal access to high-quality educational materials.

In order to provide equal access and support improved learning opportunities for all children, regardless

[1] Applicants should note that other laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.;* 28 CFR part 35) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794; 34 CFR part 104), may require that State educational agencies and local educational agencies provide captioning, video description, and other accessible educational materials to children with disabilities when such materials are necessary to provide children with disabilities with equally integrated and equally effective access to the benefits of the educational program or activity, or as part of a ''free appropriate public education'' as defined in the Department of Education's Section 504 regulation.

[2] The Marrakesh Treaty Implementation Act amended section 121 of the Copyright Act to provide new terms and definitions. The Treaty updates beneficiaries in section 121 from ''blind or other persons with disabilities'' to ''eligible persons''. See *www.copyright.gov/legislation/2018_marrakesh_faqs.pdf.*

[3] The Library of Congress regulations (36 CFR 701.6(b)(1)) related to the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) provide that ''blind persons or other persons with print disabilities'' include: (i) Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees. (ii) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material. (iii) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations. (iv) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

[4] ''Digital curation is the active involvement of information professionals in the management, including the preservation, of digital data for future use.'' See *www.emeraldinsight.com/doi/abs/10.1108/10650750710831466.*

of ability or need, States, districts, postsecondary institutions, families, publishers, and other stakeholders will benefit from opportunities to increase their capacity to deliver high-quality AEM. State and local systems need TA to develop, procure, curate, and use AEM, including digital educational materials. The Center must be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Priority

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Accessible Educational Materials for Learning (Center). Under this priority, the Center, at a minimum, must—

(a) Provide TA to increase the capacity of SEAs, LEAs, stakeholders, and personnel in early learning programs, schools including public charter and nonpublic schools, institutions of higher education (IHEs), and workplaces to provide and support evidence-based practices [5] and compliance training to use AEM and related technologies with individuals who need them to access instruction;

(b) Provide TA to SEAs and other stakeholders on accessibility requirements to increase the availability and use of OERs;

(c) Provide TA to SEAs and LEAs on the procurement and curation of print, digital, and born accessible materials, including OERs;

(d) Provide support on the use of AEM and related technologies with State-mandated assessments (including student privacy, interoperability, and the alignment of AEM used for daily instruction and high-stakes assessments);

(e) Increase the capacity of educators to author accessible OERs for individuals with disabilities;

(f) Connect resources and personnel for the blind and visually impaired to the broader AEM community, which includes individuals with high-incidence disabilities (*e.g.,* learning disabilities, mild autism, or mild intellectual disability) and individuals who are deaf and hard of hearing, to align efforts [6] and increase the use of accessible materials and resources in schools;

(g) Increase publisher and vendor awareness of the need for accessible digital materials (including Web Content Accessibility Guidelines (WCAG) 2.0, World Wide Web Consortium (W3C) web standards, and voluntary product accessibility templates (VPATs));

(h) Build the capacity of IHEs to include instruction on AEM and related technologies in their teacher and administrator preparation programs;

(i) Recommend to the Office of Special Education Programs (OSEP) necessary revisions or updates to the technical specifications of the National Instructional Materials Accessibility Standard (NIMAS) to ensure that (1) the technical specifications are consistent with current industry standards, and (2) digital files can be easily and efficiently converted into accessible formats that meet the needs of eligible individuals; and

(j) Collaborate with appropriate OSEP-funded projects related to the NIMAS, AEM, literacy, or reading to increase awareness of accessible materials.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need for AEM and related technologies to support equal opportunities in early learning programs, schools, IHEs, and workplaces. To meet this requirement the applicant must—

(i) Present applicable national, State, regional, or local data demonstrating the need for AEM and related technologies in early learning programs, schools, IHEs, and workplaces for individuals with disabilities, including those who may be underserved; and

(ii) Demonstrate knowledge of the following:

(A) Benefits, services, or opportunities that are available through the use of AEM and related technologies in early learning programs, schools, IHEs, and workplaces that are fully accessible to individuals with disabilities, including those who may be underserved;

(B) Standards and technical specifications for the preparation of electronic files and used for efficient conversion into accessible formats;

(C) Accepted accessibility standards and industry-developed specifications for digital materials and technologies used in schools and workplaces;

(D) Implications of being a #GoOpen [7] State and considerations needed to ensure equal access to AEM and related technologies in a timely manner for individuals with disabilities; and

(E) TA resources available to stakeholders and personnel in early learning programs, schools, IHEs, and workplaces to support the design, development, maintenance, distribution, timely delivery, and use of AEM and related technologies, including AEM and related technologies that promote Science, Technology, Engineering, or Math (STEM) Education;

(2) Increase the capacity of stakeholders to design, develop, maintain, and distribute AEM and related technologies that conform to current industry standards and, as appropriate, NIMAS. To address this requirement the applicant must—

(i) Identify current policies, procedures, and practices used by early learning programs, schools, IHEs, workplaces, and other stakeholders to ensure the availability and use of AEM and related technologies;

(ii) Identify systemic barriers, gaps, or challenges, including challenges with the use of OERs and interactive digital resources, faced by early learning programs, schools, IHEs, workplaces, and other stakeholders to ensure the availability and use of AEM and related technologies; and

(iii) Identify the potential impact of the recent Marrakesh Treaty Implementation Act on the items in (i) and (ii) above;

(3) Increase knowledge, using identified dissemination strategies, of SEAs, LEAs, and other stakeholders to develop, implement, and sustain efficient, unified procurement, curation, and distribution systems and improve existing systems to ensure the availability and use of AEM and related technologies in early learning programs, schools, IHEs, and workplaces.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have

[5] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

[6] In most SEAs and LEAs, the individuals responsible for providing AEM to children are separated by disability type or need. For example, those responsible for providing AEM to blind and visually impaired children are different than those providing AEM to children who are deaf and hard of hearing, children with high-incidence disabilities, or children with physical disabilities. These providers do not necessarily communicate and work gets done in parallel, rather than collaboratively.

[7] The Department's #GoOpen initiative supports States and districts in their use of openly licensed educational resources to transform teaching and learning. See *https://tech.ed.gov/open/.*

traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients of the grant (*e.g.,* by creating materials in accessible formats);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model [8] by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research. To meet this requirement, the applicant must describe—

(i) How the proposed project will align to current research, policies, and practices related to the benefits, services, or opportunities that are available through the use of AEM and related technologies in schools and workplaces;

(ii) How the proposed project will further develop the AEM knowledge base;

(iii) How the proposed project will support the alignment of the SEA distribution systems, including in States and LEAs that have committed to the Department's #GoOpen initiative, to ensure the quality, availability, and timely delivery of AEM and related technologies to individuals with disabilities, including those who may be underserved;

(iv) Workplace policies, procedures, and practices for the adoption and implementation of accessible workplace technologies; and

(v) The process the proposed project will use to incorporate current research and practices to guide the development and delivery of its products and services; and

(5) Develop new products and services that are of high quality and sufficient intensity and meet current accessibility standards to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed activities to identify, develop, or expand the knowledge base of SEAs, LEAs, and other stakeholders on AEM and technologies in early learning programs, schools, and workplaces;

(ii) Its proposed plan to identify dissemination strategies to ensure SEAs, LEAs, and other stakeholders have access to products and services;

(iii) Its proposed plan to identify educational benefits, services, and opportunities for using AEM and related technologies in early learning programs, schools, IHEs, and workplaces;

(iv) Its proposed plan to address gaps, challenges, or systemic barriers to, and critical components of, efficient, unified, and effective SEA distribution systems including issues around procurement and curation;

(v) Its proposed plan to identify policies, procedures, and practices addressing accessible workplace technologies;

(vi) Its proposed plan to identify technology design criteria that conform to accepted accessibility standards, NIMAS, and, when appropriate, widely used electronic publishing industry standards (EPUB accessibility, WCAG 2.0 AA, W3C web standards, VPATs);

(vii) Its proposed approach to universal, general TA,[9] including the number and type of intended recipients of the products and services under this approach. To address this requirement, the applicant must, at a minimum, describe—

(A) The proposed project's plan to disseminate information gained from the knowledge development activities;

(B) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(C) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level;

(D) Its proposed plan to provide universal, general TA to meet the needs of multiple audiences (including SEAs, LEAs, early childhood providers, schools including public charter and nonpublic schools, IHEs, workplaces, publishers, vendors, OER creators, parents, and families) using the information described in paragraph (b)(4) of this priority so that the data and information are easily accessible by multiple audiences (*e.g.,* websites, webinars, newsletters, guidebooks, research syntheses, conference presentations, and published articles); and

(E) Its proposed plan to increase access to comprehensive and accurate information on implementing relevant legal requirements and on the use of strategies that result in the project's intended outcomes by early learning programs, schools, IHEs, and workplaces, and, as appropriate, by other stakeholders to support the design, development, maintenance, distribution, procurement, timely delivery, and use of AEM and related technologies;

(viii) Its proposed approach to targeted, specialized TA,[10] including the recipients of the products and services under this approach. To address this requirement, the applicant must describe—

(A) Its proposed plan to provide support to, and coordinate with, federally funded projects, national professional organizations, and their State and local affiliates to increase their efficiency and effectiveness in disseminating their products and delivering their services within SEA systems for the development, maintenance, distribution, procurement, and curation of AEM and related

[8] Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

[9] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[10] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

technologies in early learning programs, schools, IHEs, and workplaces;

(B) Its proposed plan to work with SEAs and State assessment developers and vendors to ensure interoperability with AT devices and accessibility for eligible individuals; and

(C) Its proposed plan to facilitate communication and increased collaboration among multiple stakeholders, including publishers, OER producers, and vendors, to solve problems, share information and materials, and deliver a consistent message on the importance of implementing this priority to ensure full benefits, services, and supports to intended audiences, as appropriate, in early learning programs, schools, IHEs, and workplaces; and

(ix) Its approach to intensive, sustained TA,[11] including the intended recipients of the products and services under this approach. To address this requirement, the applicant must describe—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of State- and local-level personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local level;

(C) Its proposed plan for assisting SEAs, LEAs, charter management organizations, and private school organizations to build or enhance training systems that include professional development based on adult learning principles and coaching and ensure their timely delivery; and

(D) Its proposed plan for working with appropriate levels of the education system (*e.g.,* Part C, SEAs, regional TA providers, IHEs, districts, schools, families, and workforce) to ensure that there is communication between each level and that efficient, effective, and unified procurement, curation, and distribution systems are sustained to ensure the timely delivery of AEM;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(iv) How the proposed project will improve the likelihood that the products and services will be used in a variety of settings;

(7) Ensure effective communication and collaboration between project staff, stakeholders, OSEP, and other OSEP-funded projects. To address this requirement, the applicant must—

(i) Describe how the proposed project will communicate and collaborate on an ongoing basis with other OSEP-funded projects, including OSEP-funded Parent Training and Information Centers (PTIs) and Community Parent Resource Centers (CPRCs), to provide training and informational resources for parents and families;

(ii) Describe how the proposed project will collaborate with publishers, accessible media producers, technology developers, vendors, distributors, and others with expertise in AEM production; and

(iii) Describe how the proposed project will communicate using a wide variety of media methods (presentations, publication, conference attendance, demonstrations) to reach a broad range of technology developers, publishers, and end users, such as educators, individuals with disabilities, and parents and families of individuals with disabilities.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching the project's target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIP3), the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIP3, as needed, to specify the performance measures to be addressed in the project's annual performance report;

(2) Cooperate with CIP3 staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

[11] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors that will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative.

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with and approved by the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $1,200,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2020 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $1,200,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project

activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of the IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2019.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages, and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- *Use one of the following fonts:* Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance of and need for project (15 points).*

(1) The Secretary considers the significance of and need for the proposed project.

(2) In determining the significance of and need for the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses;

(ii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies;

(iii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population; and

(iv) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) *Quality of project design and services (30 points).*

(1) The Secretary considers the quality of the design of, and the services to be provided by, the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives;

(iii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs;

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(vi) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator;

(ii) The qualifications, including relevant training and experience, of key project personnel;

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iv) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(v) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(vi) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project;

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives is brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition,

you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities program. These measures are:

- *Program Performance Measure #1:* The percentage of Educational Technology, Media, and Materials Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure #2:* The percentage of Educational Technology, Media, and Materials Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure #3:* The percentage of Educational Technology, Media, and Materials Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure #4.1:* The Federal cost per unit of accessible educational materials funded by the Educational Technology, Media, and Materials Program.
- *Program Performance Measure #4.2:* The Federal cost per unit of accessible educational materials from the National Instructional Materials Accessibility Center funded by the Educational Technology, Media, and Materials Program.
- *Program Performance Measure #4.3:* The Federal cost per unit of video description funded by the Educational Technology, Media, and Materials Program (long-term measure).

These measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in their annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW, Room 5081A, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2019–16354 Filed 7–31–19; 8:45 am]

BILLING CODE 4000–01–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 8, 2019, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See

SUPPLEMENTARY INFORMATION for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
- July 11, 2019

B. *Report*
- Annual Report on the Farm Credit System's Young, Beginning, and Small Farmer Mission Performance: 2018 Results

C. *New Business*
- Proposed Rule—Investment Management
- Proposed Rule—Implementation of CECL Methodology for Allowances and Related Adjustments

Dated: July 29, 2019.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2019–16480 Filed 7–30–19; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0799]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 3, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@OMB.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0799.

Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Form No.: FCC Form 602.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal government.

Number of Respondents and Responses: 4,115 respondents and 4,115 responses.

Estimated Time per Response: .5 hours–1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 5,217 hours.

Total Annual Cost: $762,300.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The FCC Form 602 is necessary to obtain the identity of the filer and to elicit information required by Section 1.2112 of the Commission's rules regarding: (1) Persons or entities holding a 10 percent or greater direct or indirect ownership interest or any general partners in a general partnership holding a direct or indirect ownership

interest in the applicant (''Disclosable Interest Holders''); and (2) All FCC-regulated entities in which the filer or any of its Disclosable Interest Holders owns a 10 percent or greater interest. The data collected on the FCC Form 602 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires that entities filing with the Commission use an FRN. The FCC Form 602 was designed for, and must be filed electronically by, all licensees that hold licenses in auctionable services.

The FCC Form 602 is comprised of the Main Form containing information regarding the filer and the Schedule A is used to collect ownership data pertaining to the Disclosable Interest Holder(s). Each Disclosable Interest Holder will have a separate Schedule A.

Thus, a filer will submit its FCC Form 602 with multiple copies of Schedule A, as necessary, to list each Disclosable Interest Holder and associated information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–16345 Filed 7–31–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, August 1, 2019

July 25, 2019.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, August 1, 2019 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC.

Item No.	Bureau	Subject
1	WIRELINE COMPETITION	TITLE: Establishing the Rural Digital Opportunity Fund. SUMMARY: The Commission will consider a Notice of Proposed Rulemaking that would propose to adopt a two-phase reverse auction framework for the Rural Digital Opportunity Fund, committing $20.4 billion in high-cost universal service support to bring high-speed broadband service to millions of unserved Americans. (WC Docket Nos. 19–126, 10–90).
2	OFFICE OF ECONOMICS & ANALYTICS	TITLE: Digital Opportunity Data Collection. SUMMARY: The Commission will consider a Report and Order that would establish the Digital Opportunity Data Collection, a new data collection that will collect geospatial broadband coverage data from fixed providers, and that would make targeted changes to the existing Form 477 to reduce filing burdens. The Commission will also consider a Second Further Notice of Proposed Rulemaking that would seek comment on enhancing the new data collection, incorporating mobile voice and broadband, and improving satellite broadband reporting. (WC Docket Nos. 19–195, 11–10).
3	WIRELINE COMPETITION	TITLE: Promoting Telehealth in Rural America. SUMMARY: The Commission will consider a Report and Order that would overhaul the Rural Health Care Program by streamlining and simplifying the way health care providers apply for and calculate universal service support amounts, promoting transparency and predictability in the program, and taking new steps to guard against waste, fraud, and abuse. (WC Docket No. 17–310).
4	INTERNATIONAL	TITLE: Streamlining Licensing Procedures for Small Satellites. SUMMARY: The Commission will consider a Report and Order that would a new, optional streamlined application process designed for a class of satellites referred to as ''small satellites.'' (IB Docket No. 18–86).
5	PUBLIC SAFTEY HOMELAND SECURITY.	TITLE: Kari's Law/RAY BAUM'S Act Report and Order. SUMMARY: The Commission will consider a Report and Order that would address calls to 911 made from multi-line telephone systems, pursuant to Kari's Law, the conveyance of dispatchable location with 911 calls, as directed by RAY BAUM'S Act, and the consolidation of the Commission's 911 rules. (PS Docket Nos. 18–261, 17–239).
6	OFFICE OF ECONOMICS & ANALYTICS	TITLE: 833 Toll-Free Number Auction. SUMMARY: The Commission will consider a Public Notice that would adopt the procedures for the auction of certain toll-free numbers in the 833 code. (AU Docket No. 19–101; WC Docket No. 17–192; CC Docket No. 95–155).
7	MEDIA BUREAU	TITLE: Improving Low Power FM Radio Service. SUMMARY: The Commission will consider a Notice of Proposed Rulemaking that would modernize the LPFM technical rules to provide more regulatory flexibility for licensees. (MB Docket No. 19–193, 17–105).
8	MEDIA BUREAU	TITLE: Implementation of Section 621. SUMMARY: The Commission will consider a Third Report and Order that would address issues raised by a remand from the U.S. Court of Appeals for the Sixth Circuit concerning how franchising authorities may regulate incumbent cable operators. (MB Docket No. 05–311).
9	WIRELINE COMPETITION	TITLE: Anti-Spoofing Rules. SUMMARY: The Commission will consider a Second Report and Order that would amend its Truth in Caller ID rules to implement the anti-spoofing provisions of the RAY BAUM'S Act. (WC Docket Nos. 18–335 and 11–39).

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–16449 Filed 7–31–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012108–007.

Agreement Name: World Liner Data Agreement.

Parties: ANL Singapore Pte. Ltd.; APL Co. Pte. Ltd.; CMA CGM, S.A.; COSCO SHIPPING Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Hamburg Sud; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Independent Container Line, Ltd.; Maersk Line A/S; Mediterranean Shipping Company S.A.; Nile Dutch Africa Line B.V.; Orient Overseas Container Line Limited; and Zim Integrated Shipping Services Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment adds APL Co. Pte. Ltd. and ANL Singapore Pte. Ltd. as parties to the Agreement and deletes United Arab Shipping Company S.A.G. as a party to the Agreement.

Proposed Effective Date: 9/8/2019.

Location: *https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/362.*

Dated: July 26, 2019.

Rachel Dickon,

Secretary.

[FR Doc. 2019–16344 Filed 7–31–19; 8:45 am]

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 August 9, 2019.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Andrew S. Samuel, Dillsburg, Pennsylvania;* to acquire voting shares of LINKBANCORP, Inc., Camp Hill, Pennsylvania, and thereby indirectly acquire shares of LINKBANK, West Chester, Pennsylvania.

Board of Governors of the Federal Reserve System, July 26, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–16353 Filed 7–31–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 2019.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *GBank Financial Holdings, Inc., Las Vegas, Nevada;* to acquire Bankcard Services LLC, Las Vegas, Nevada, and thereby indirectly engage in data processing activities pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, July 29, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–16424 Filed 7–31–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the

assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 26, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Lake Shore III Corporation, Glenwood City, Wisconsin;* to acquire 100 percent of the voting shares of First American Bank, National Association, Hudson, Wisconsin.

Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First State Bancshares, Inc., New London, Wisconsin;* to merge with Pioneer Bancorp, Inc., and thereby indirectly acquire Pioneer Bank, both of Auburndale, Wisconsin.

Board of Governors of the Federal Reserve System, July 26, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–16352 Filed 7–31–19; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File Nos. 182 3106 and 182 3107]

Aleksandr Kogan and Alexander Nix; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements; Request for comment.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before September 3, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Linda Holleran Kopp (202–326–2267), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 24, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions*.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 3, 2019. Write ''Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Aleksandr Kogan and Alexander Nix; File Nos. 182 3106 and 182 3107'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the

comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 3, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, two agreements containing consent orders from Aleksandr Kogan and Alexander Nix, individuals.

The proposed consent orders have been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements and take appropriate action or make final the agreements' proposed orders.

Aleksandr Kogan, until September 2018, was a Senior Research Associate and Lecturer at the Department of Psychology at the University of Cambridge in the United Kingdom. Kogan was also the developer of a Facebook application called the GSRApp, sometimes publicly referred to as the ''thisisyourdigitallife'' app.

Alexander Nix, until April 2018, was the Chief Executive Officer of Cambridge Analytica LLC and the head of SCL Elections Ltd.

The Commission's proposed complaint alleges that Kogan, together with the data analytics company, Cambridge Analytica, LLC, and its Chief Executive Officer, Alexander Nix, used the GSRApp to harvest certain Facebook user profile data from approximately 250,000–270,000 Facebook users who directly interacted with the app (''App Users''), as well as 50–65 million of the ''friends'' in those users' Facebook social network. The proposed complaint alleges that Respondents obtained the App Users' consent to collect their Facebook profile data through false and deceptive means.

The Commission's proposed complaint alleges a violation of Section 5(a) of the Federal Trade Commission Act, specifically that Respondents' representation to App Users that it would not ''download [their] name or any other identifiable information'' was deceptive because the GSRApp, in fact, collected identifiable information from these users, including their Facebook User ID.[1]

The proposed consent orders contain injunctive provisions addressing Kogan's and Nix's alleged unlawful conduct. Part I of the proposed consent orders prohibits Kogan and Nix from making false or deceptive statements regarding the extent to which they protect the privacy and confidentiality of Covered Information as defined in the proposed consent orders, including:

A. The extent to which they collect, use, share, or sell any Covered Information; and

B. The purposes for which they collect, use, share, or sell any Covered Information.

Part II of the proposed consent orders relates to the deletion and destruction of Covered Information collected through the GSRApp, and any information or work product, including any algorithms, derived from such Covered Information, and requires Kogan and Nix to:

A. Provide a written statement, sworn under penalty of perjury, with the name, address, and phone number for each person with whom they shared any Covered Information collected from consumers through GSRApp, and any information or work product that originated, in whole or in part, from this Covered Information; and

B. Delete or destroy all Covered Information collected from consumers though the GSRApp, and any information or work product, including any algorithms or equations, that originated, in whole or in part, from this Covered Information, which destruction must generally occur within ten (10) days from the effective date of the proposed orders. Kogan and Nix must then provide a statement, sworn under penalty of perjury, confirming that the data has been destroyed or deleted.

Parts III through VII of the proposed consent orders are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondents to provide information or documents necessary for the Commission to monitor compliance. The proposed consent orders will be in effect for twenty (20) years.

The purpose of this analysis is to aid public comment on the proposed orders. It is not intended to constitute an official interpretation of the proposed complaint or proposed orders, or to modify in any way the proposed orders' terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–16372 Filed 7–31–19; 8:45 am]

BILLING CODE 6750–01–P

[1] The Commission also issued an administrative complaint against Cambridge Analytica alleging a similar deception count as well as two additional counts related to its participation in Privacy Shield, a framework that allows companies to transfer personal data lawfully from the European Union to the United States. The complaint alleges that representations on Cambridge Analytica's website that Cambridge Analytica participated in Privacy Shield after May 2018 were deceptive because the company did not take the steps necessary to renew Cambridge Analytica's certification when it expired in May 2018. The complaint also alleges that representations on Cambridge Analytica's website that Cambridge Analytica adheres to Privacy Shield's principles were deceptive because Cambridge Analytica failed to comply with Privacy Shield's requirement to affirm to the Commerce Department that the company would continue to apply the principles to personal information that it received during the time it participated in the program.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–2330]

Pathology Peer Review in Nonclinical Toxicology Studies: Questions and Answers; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Pathology Peer Review in Nonclinical Toxicology Studies: Questions and Answers.'' This draft guidance represents FDA's current thinking on the management and conduct of pathology peer review performed during good laboratory practice (GLP)-

compliant toxicology studies. When pathology peer review occurs as part of a nonclinical laboratory study conducted in compliance with GLP regulations, it should be well-documented. However, documentation practices during pathology peer review have not been clearly defined and vary among nonclinical testing facilities. This question-and-answer (Q&A) draft guidance is intended to clarify FDA's recommendations concerning the management, conduct, and documentation of pathology peer review.

DATES: Submit either electronic or written comments on the draft guidance by September 30, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2019–D–2330 for ''Pathology Peer Review in Nonclinical Toxicology Studies: Questions and Answers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Tahseen Mirza, Center for Drug Evaluation and Research, Office of Study Integrity and Surveillance, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5330, Silver Spring, MD 20993, 301–796–7645; or Stephen Ripley, Office of the Center Director, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911; or Judy Davis, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1216, Silver Spring, MD 20993, 301–796–6636; or Hilary Hoffman, Center for Veterinary Medicine, Office of New Animal Drug Evaluation, Food and Drug Administration, 7500 Standish Place, Rm. 389, Rockville, MD, 20855, 240–402–8406; or Yuquang Wang, Center for Food Safety and Nutrition, Office of the Center Director, Food and Drug Administration, 5001 Campus Drive, Rm. 4A035, College Park, MD, 20740, 240–402–1757; or Kimberly Benson, Center for Tobacco Products, Office of Science, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993, 301–796–1327.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Pathology Peer Review in Nonclinical Toxicology Studies: Questions and Answers.'' This draft guidance represents FDA's current thinking on the management and conduct of pathology peer review performed during GLP-compliant toxicology studies.

The histopathological assessment of tissue samples is one of the key activities performed during GLP-compliant toxicology studies. Commonly, histopathological assessment includes an initial read of

tissue slides by the study pathologist and a subsequent review (referred to as pathology peer review) by a second pathologist. Pathology peer review may be particularly useful in situations where unique or unexpected findings are noted or when the reviewing pathologist has a particular expertise with a class of compounds. When pathology peer review occurs as part of a nonclinical laboratory study conducted in compliance with 21 CFR part 58 (GLP regulations), it should be well-documented in the study records. However, documentation practices during pathology peer review have not been clearly defined and vary among nonclinical testing facilities.

The GLP regulations include general requirements for histopathology evaluation (for example, it requires that standard operating procedures be established to cover histopathology), and pathology peer review can be valuable to the histopathology evaluation during a GLP study even though it is not specifically addressed in the GLP regulations. This Q&A draft guidance is intended to clarify FDA's recommendations concerning the management and conduct of pathology peer review when performed during GLP-compliant toxicology studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Pathology Peer Review in Nonclinical Toxicology Studies: Questions and Answers.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The following collections of information regarding GLP-compliant toxicology studies have been approved under OMB control number 0910–0119:

- § 58.29 related to personnel who conduct nonclinical laboratory studies;
- § 58.35 for preparing quality control units;
- § 58.81 for preparing and maintaining standard operating procedures for testing facilities; pathology peer review should be planned, conducted, documented, and reported in accordance with established procedure;
- § § 58.120, 58.185, and 58.190 for preparing a final report for each study, including a protocol and any changes to the protocol and for maintaining documentation, protocols, and final reports generated from nonclinical laboratory studies.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, or https://www.regulations.gov*.

Dated: July 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16361 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1662]

Vulvovaginal Candidiasis: Developing Drugs for Treatment; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Vulvovaginal Candidiasis: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the overall clinical development program and clinical trial designs to support drugs for treating vulvovaginal candidiasis (VVC). This guidance incorporates the comments received for and finalizes the draft guidance for industry of the same name issued July 1, 2016.

DATES: The announcement of the guidance is published in the **Federal Register** on August 1, 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–1662 for ''Vulvovaginal Candidiasis: Developing Drugs for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

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

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Shrimant Mishra, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6382, Silver Spring, MD 20993–0002, 301–796–2301.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Vulvovaginal Candidiasis: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the overall clinical development program and clinical trial designs to support drugs for treating VVC.

This guidance finalizes the draft guidance for industry of the same name announced in the **Federal Register** on July 1, 2016 (81 FR 43212). There were five docket comments received for the draft guidance. Changes from the draft to the final include clarifying edits, such as to the introduction section and definition of VVC, which were made after consideration of docket comments received. This guidance also adds clarification around clinical trial designs and the timing of the primary efficacy endpoint, which is based on the drug's half-life, and dosing regimen.

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 ''Vulvovaginal Candidiasis: Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014, and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: July 29, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16426 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3049]

E8(R1) General Considerations for Clinical Studies; International Council for Harmonisation; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''E8(R1) General Considerations for Clinical Studies.'' The draft guidance was prepared under the auspices of the International Council for Harmonisation (ICH), formerly the International Conference on Harmonisation. The draft guidance describes internationally accepted principles and practices for the design and conduct of clinical studies of drug and biologic products. In addition, the draft guidance provides an overview of the types of clinical studies that may be performed and data sources during the product's life cycle. The draft guidance is intended to promote the quality of the studies submitted to regulatory authorities, while allowing for flexibility.

DATES: Submit either electronic or written comments on the draft guidance by September 30, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2019–D–3049 for ''E8(R1) General Considerations for Clinical Studies.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Mark Levenson, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 21, Rm. 4626, Silver Spring, MD 20993–0002, 301–796–2097; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

Regarding the ICH: Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6364, Silver Spring, MD 20993–0002, 301–796–4548.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, regulatory authorities and industry associations from around the world have participated in many important initiatives to promote international harmonization of regulatory requirements under the ICH. FDA has participated in several ICH meetings designed to enhance harmonization, and FDA is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and reduce differences in technical requirements for drug development among regulatory Agencies.

ICH was established to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products for human use among regulators around the world. The six founding members of the ICH are the European Commission; the European Federation of Pharmaceutical Industries Associations; FDA; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; and the Pharmaceutical Research and Manufacturers of America. The Standing Members of the ICH Association include Health Canada and Swissmedic. Any party eligible as a Member in accordance with the ICH Articles of Association can apply for membership in writing to the ICH Secretariat. The ICH Secretariat, which coordinates the preparation of documentation, operates as an international nonprofit organization and is funded by the Members of the ICH Association.

The ICH Assembly is the overarching body of the Association and includes representatives from each of the ICH members and observers. The Assembly is responsible for the endorsement of draft guidelines and adoption of final guidelines. FDA publishes ICH guidelines as FDA guidance.

In May 2019, the ICH Assembly endorsed the draft guideline entitled ''E8(R1) General Considerations for Clinical Studies'' and agreed that the guideline should be made available for public comment. The draft guideline is the product of the E8(R1) Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the E8(R1) Expert Working Group.

The draft revised guidance describes internationally accepted principles and practices in the design and conduct of clinical studies of drug and biologic products. The original ICH guidance ''E8 General Considerations for Clinical Trials'' (available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm073132.pdf*) was adopted in 1997 and has not undergone revision. Since its adoption, clinical trial design and conduct have become more complex, impacting the time and feasibility of developing drugs. In response, the draft revised guidance directly addresses study quality to ensure the protection of study subjects and the generation of reliable and meaningful results, while promoting study efficiency. E8(R1) focuses on the identification of factors that are critical to the study quality and the

management of risks to those factors. Additionally, a wider range of study designs and data sources play an increasingly important role in drug development and are not adequately addressed in the original ICH E8 guidance. Hence, the draft revised guidance addresses a broad range of study designs and data sources. The revised guidance also provides an updated cross-referencing to other relevant ICH guidelines that inform the design, planning and conduct of clinical research, without reproducing the detailed material found in those guidelines.

This draft guidance has been left in the original ICH format. The final guidance will be reformatted and edited to conform with FDA's good guidance practices regulation (21 CFR 10.115) and style before publication. The draft guidance, when finalized, will represent the current thinking of FDA on ''E8(R1) General Considerations for Clinical Studies.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.regulations.gov, https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: July 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16384 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1659]

Bacterial Vaginosis: Developing Drugs for Treatment; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Bacterial Vaginosis: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of bacterial vaginosis (BV). This guidance finalizes the draft guidance of the same name issued on July 14, 2016.

DATES: The announcement of the guidance is published in the **Federal Register** on August 1, 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–1659 for ''Bacterial Vaginosis: Developing Drugs for Treatment''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903

New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Edward Weinstein, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6394, Silver Spring, MD 20993–0002, 240–402–3767; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Bacterial Vaginosis: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of new topical and systemic drugs for the treatment of BV.

This guidance finalizes the draft guidance of the same name issued on July 14, 2016 (81 FR 45509). Changes in this final guidance include clarification about the timing of the primary efficacy endpoints, which are based on the intended treatment duration and the half-life of the topical or systemic drug. Minor edits were included for better clarity, such as guidance applicability to both topical and systemic drugs.

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 ''Bacterial Vaginosis: Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: July 29, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16425 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1562]

Uncomplicated Urinary Tract Infections: Developing Drugs for Treatment; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Uncomplicated Urinary Tract Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of new drugs for the treatment of uncomplicated urinary tract infections. This guidance finalizes the draft guidance of the same name issued May 10, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on August 1, 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–1562 for ''Uncomplicated Urinary Tract Infections: Developing Drugs for Treatment''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed

except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6244, Silver Spring, MD 20993–0002, 301–796–1400.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Uncomplicated Urinary Tract Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of new drugs for the treatment of uncomplicated urinary tract infections.

This guidance finalizes the draft guidance of the same name issued May 10, 2018 (83 FR 21784). There were no comments regarding the draft guidance submitted to the public docket. We made some editorial changes made in the final guidance primarily for clarification.

Issuance of this guidance fulfills a portion of the requirements of Title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to review and, as appropriate, revise not fewer than three guidance documents per year for the conduct of clinical trials with respect to antibacterial and antifungal drugs.

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 ''Uncomplicated Urinary Tract Infections: Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312, 314, and 601 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338, respectively.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov*.

Dated: July 29, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16423 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3132]

General Clinical Pharmacology Considerations for Neonatal Studies for Drugs and Biological Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''General Clinical Pharmacology Considerations for Neonatal Studies for Drugs and Biological Products.'' This draft guidance is intended to assist sponsors of new drug applications (NDAs), biologics license applications (BLAs) for therapeutic biologics, and supplements who are planning to conduct clinical studies in neonatal populations. The issuance of this draft guidance on clinical pharmacology considerations for neonatal studies for drugs and biological products is stipulated under the FDA Reauthorization Act of 2017 (FDARA).

DATES: Submit either electronic or written comments on the draft guidance by October 30, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–

2019–D–3132 for '' General Clinical Pharmacology Considerations for Neonatal Studies for Drugs and Biological Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Rajnikanth Madabushi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2173, Silver Spring, MD 20993, 301–796–1537 or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''General Clinical Pharmacology Considerations for Neonatal Studies for Drugs and Biological Products.'' This draft guidance is intended to assist sponsors of NDAs, BLAs for therapeutic biologics, and supplements who are planning to conduct clinical studies in neonatal populations. This draft guidance is adjunctive to the December 2014 draft FDA guidance entitled *General Clinical Pharmacology Considerations for Pediatric Studies for Drugs and Biological Products,* as it addresses general clinical pharmacology considerations in neonates, a pediatric subpopulation. The issuance of this draft guidance on clinical pharmacology considerations for neonatal studies for drugs and biological products is stipulated under section 505 of FDARA.

Given that most drugs used in Neonatal Intensive Care Units are used in an off-label capacity, studies of therapeutic products need to be conducted in neonates. In addition, therapies need to be developed for conditions unique to neonates. This draft guidance addresses: (1) Subgroup classifications of neonates; (2) general pharmacokinetic, pharmacodynamic, and pharmacogenomic considerations for clinical pharmacology studies in neonates; and (3) clinical pharmacology considerations for any planned studies in neonates whether the studies are conducted pursuant to the Best Pharmaceuticals for Children Act, the Pediatric Research Equity Act, or neither. This draft guidance does not discuss the timing to initiate neonatal studies. Questions regarding the appropriate timing for the initiation of neonatal studies should be discussed with the relevant FDA review division.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''General Clinical Pharmacology Considerations for Neonatal Studies for Drugs and Biological Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information for submitting of NDAs in 21 CFR 314.50(d)(7), including pediatric use information and the submission of waiver requests in § 314.90, have been approved under OMB control number 0910–0001. The collections of information for submitting BLAs, including pediatric use information and waiver requests under 21 CFR 601.27, have been approved under OMB control number 0910–0338. The collections of information for submitting investigational new drug applications in § 312.47(b)(1)(iv), including plans for pediatric studies and the submission of waiver requests in § 312.10, have been approved under OMB control number 0910–0014. The collections of information for requesting meetings with FDA about drug development programs in §§ 312.47 and 312.82 have been approved under OMB control number 0910–0014. The collections of information for prescription drug labeling in 21 CFR 201.56 and 21 CFR 201.57 have been approved under OMB control number 0910–0572. The collections of information related to expedited review programs for serious conditions have been approved under OMB control number 0910–0765.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.* Guidance documents are also available at *https://*

www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics or *http://www.regulations.gov.*

Dated: July 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16375 Filed 7–31–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Maternal, Infant, and Early Childhood Home Visiting Program Home Visiting Budget Assistance Tool, OMB No. 0906–0025—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than September 30, 2019.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Home Visiting Budget Assistance Tool, OMB No. 0906–0025—Revision.

Abstract: HRSA is requesting continued approval and revision to the Home Visiting Budget Assistance Tool (HV-BAT) based on results of the previous pilot test. The tool collects information on standardized cost metrics from programs that deliver home visiting services, as outlined in the HV-BAT. Prior to Fiscal Year (FY) 2021, entities receiving Maternal, Infant, and Early Childhood Home Visiting (MIECHV) formula funds that are states, jurisdictions, territories, and nonprofit awardees may submit cost data using the HV-BAT to HRSA. HRSA will review the data submitted for accuracy and quality control, to test the tool's capacity to support state program functions such as program planning and budgeting, and to collect data to estimate national program costs. Beginning in FY 2021, HRSA will require reporting of HV-BAT data for one-third of awardees in each year for the purpose of informing program planning and budgeting described in awardee submissions of the annual formula funding application.

MIECHV Program, authorized by section 511 of the Social Security Act, 42 U.S.C. 711, and administered by HRSA in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States, Tribal entities, and certain nonprofit organizations are eligible to receive funding from the MIECHV Program and have the flexibility to tailor the program to serve the specific needs of their communities. Funding recipients may subaward grant funds to local implementing agencies (LIAs) in order to provide services to eligible families in at-risk communities.

HRSA revised the intended purpose of the data collection using the HV-BAT. Original clearance under this OMB control number was for pilot testing the reliability of a standardized cost reporting tool among evidence-based home visiting programs. HRSA revised the data collection tool to reflect findings and recommendations from the pilot study to ensure ease of use among LIAs. Changes were made to instructions and definitions based on feedback collected from participants in the pilot study. As this revision seeks to continue collection of comprehensive home visiting cost data for all LIAs in each state, the data can be aggregated to produce state and national cost estimates in addition to supporting procurement activities and sub-recipient monitoring. The burden increased as the pilot study identified a longer average amount of time to complete the tool than was originally estimated.

Need and Proposed Use of the Information: Immediately following OMB clearance, HRSA intends to make the tool available as an optional resource for all awardees. If awardees choose to immediately use the HV-BAT as an optional tool, awardees will be required to submit the data collected with the tool to HRSA. This will allow HRSA to test the feasibility of collecting comprehensive cost data at the state level; estimate national level costs for use in conducting research and analysis of home visiting costs; understand cost variation; assess how comprehensive program cost data can inform other policy priorities, such as innovative financing strategies; review the data to ensure accuracy; and analyze the data for the purpose of federal research.

Beginning in FY 2021, HRSA will require reporting of HV-BAT data for one-third of awardees in each year for the purpose of informing program planning and budgeting described in awardee submissions of the annual formula funding application. HRSA anticipates that one-third of the awardees will participate in this data collection each year and HRSA will identify which third of the awardees will be required to submit HV-BAT data in that year. This process will ease burden on awardees by requiring data collection for each awardee once every 3 years and allowing HRSA to capture a national data set every three years.

Likely Respondents: MIECHV Program awardees (n=19).

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 Information Collection Request 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
Home Visiting Budget Assistance Tool (HV-BAT)	19	13	247	11	2,717
Total	19		247		2,717

Note: The burden estimate assumes that ⅓ of all MIECHV awardees will respond in each year. On average awardees have 13 LIAs (based on 2018 MIECHV program data) that will complete the HV-BAT, and on average it took LIAs 11 hours to complete the HV-BAT in the pilot study (OMB Control No. 0906–0025) of the tool.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–16376 Filed 7–31–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Molecular Analysis Technologies.

Date: September 19, 2019.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W260, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W260, National Cancer Institute, NIH, Bethesda, MD 20892–9745, (240) 276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Program Project 1.

Date: September 19–20, 2019.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike Rockville, MD 20852.

Contact Person: Clifford W Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Bethesda, MD 20892–8329, 240–276–6343, *schweinfestcw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Traceback Testing: Outreach for Genetic Counseling of Mutation Carriers.

Date: September 25, 2019.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 29, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–16446 Filed 7–31–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Team-Based Design Review.

Date: October 24, 2019.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 957, Bethesda, MD 20892, 301–496–4773, *zhour@nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; T32 Institutional Training Program Review Meeting.

Date: October 28–29, 2019.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute

of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, 301–496–3398, *hayesj@nih.gov*.

Dated: July 29, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–16385 Filed 7–31–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Council of Research Advocates, September 9, 2019 at 9:30 a.m. to 4 p.m., National Institutes of Health Building 31, Room 10A28, 31 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 15, 2019, 84 FR 4487.

This meeting notice is amended to change the meeting start time and location. The meeting will be held on September 9, 2019 at 9:00 a.m. at the National Institutes of Health, Building 40, Room 1201/1203, 40 Convent Drive, Bethesda, MD 20892. This meeting is open to the public.

Dated: July 29, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–16445 Filed 7–31–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0085]

Agency Information Collection Activities: Administrative Rulings

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 September 3, 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** (84 FR 13948) on April 8, 2019, 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: Administrative rulings.

OMB Number: 1651–0085.

Abstract: The collection of information in 19 CFR part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested persons for the issuance of administrative rulings. These rulings pertain to the interpretation of applicable laws related to prospective and current transactions involving classification, marking, and country of origin. The collection of information in Part 177 of the CBP Regulations is also necessary to enable CBP to make proper decisions regarding the issuance of binding rulings that modify or revoke prior CBP binding rulings. This collection of information is authorized by 19 U.S.C. 66, 1202, (General Note 3(i), Harmonized Tariff Schedule of the United States). The application to obtain an administrative ruling is accessible at: *https://apps.cbp.gov/erulings*.

Action: CBP proposes to extend the expiration date of this information collection with no increase or decrease in the overall estimated burden hours. However there was a reduction in the Appeals respondent group and an increase in the Administrative Rulings respondent group due to updated agency estimates, in addition there was a decrease in the estimated time per response for the Appeals respondent group. There is no change to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Rulings

Estimated Number of Respondents: 3,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Responses: 3,500.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 35,000.

Appeals

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Responses: 100.

Estimated Time per Respondent: 30 hours.

Estimated Total Annual Burden Hours: 3,000.

Dated: July 29, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–16387 Filed 7–31–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Madison (FEMA Docket No.: B–1928).	Unincorporated areas of Madison County (19–04–1087P).	The Honorable Dale W. Strong, Chairman, Madison County Commission, 100 North Side Square, Huntsville, AL 35801.	Engineering Department, 100 Hughes Road, Madison, AL 35758.	July 29, 2019	010151
Russell (FEMA Docket No.: B–1928).	City of Phenix City (17–04–3686P).	The Honorable Eddie N. Lowe, Mayor, City of Phenix City, 1206 7th Avenue, Phenix City, AL 36867.	Engineering and Public Works Department, 1206 7th Avenue, Phenix City, AL 36867.	July 5, 2019	010184
Tuscaloosa (FEMA Docket No.: B–1924).	City of Northport (18–04–7201P).	The Honorable Donna Aaron, Mayor, City of Northport, 3500 McFarland Boulevard, Northport, AL 35476.	Planning and Inspections Department, 3500 McFarland Boulevard, Northport, AL 35476.	July 9, 2019	010202
Tuscaloosa (FEMA Docket No.: B–1924).	Unincorporated areas of Tuscaloosa County (18–04–7201P).	The Honorable Ward D. Robertson, III, Probate Judge, Tuscaloosa County, 714 Greensboro Avenue, Tuscaloosa, AL 35401.	Tuscaloosa County Public Works Department, 2810 35th Street, Tuscaloosa, AL 35401.	July 9, 2019	010201
California: Orange (FEMA Docket No.: B–1924).	City of Irvine (18–09–2376P).	Mr. John Russo, City of Irvine Manager, 1 Civic Center Plaza, Irvine, CA 92606.	Department of Public Works, 1 Civic Center Plaza, Irvine, CA 92606.	July 12, 2019	060222
Colorado:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arapahoe (FEMA Docket No.: B–1924).	City of Centennial (18–08–1262P).	The Honorable Stephanie Piko, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 7437 South Fairplay Street, Centennial, CO 80112.	July 5, 2019	080315
Garfield (FEMA Docket No.: B–1924).	Town of Parachute (18–08–1058P).	The Honorable Roy McClung, Mayor, Town of Parachute, 222 Grand Valley Way, Parachute, CO 81635.	Town Hall, 222 Grand Valley Way, Parachute, CO 81635.	June 20, 2019	080215
Garfield (FEMA Docket No.: B–1924).	Unincorporated areas of Garfield County (18–08–1058P).	The Honorable John Martin, Chairman, Garfield County Board of Commissioners, 108 8th Street, Suite 101, Glenwood Springs, CO 81601.	Garfield County Administration Building, 108 8th Street, Glenwood Springs, CO 81601.	June 20, 2019	080205
Jefferson (FEMA Docket No.: B–1924).	Unincorporated areas of Jefferson County (18–08–0795P).	The Honorable Libby Szabo, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Golden, CO 80419.	July 12, 2019	080087
Summit (FEMA Docket No.: B–1931).	Town of Breckenridge (18–08–0752P).	The Honorable Eric Mamula, Mayor, Town of Breckenridge, P.O. Box 168, Breckenridge, CO 80424.	Public Works Department, 1095 Airport Road, Breckenridge, CO 80424.	July 18, 2019	080172
Summit (FEMA Docket No.: B–1931).	Unincorporated areas of Summit County (18–08–0752P).	The Honorable Thomas C. Davidson, Commissioner, Summit County Board of Commissioners, P.O. Box 68, Breckenridge, CO 80424.	Summit County Commons, 0037 Peak One Drive, Frisco, CO 80442.	July 18, 2019	080290
Delaware: Sussex (FEMA Docket No.: B–1924).	Unincorporated areas of Sussex County (18–03–1948P).	The Honorable Michael H. Vincent, President, Sussex County Council, P.O. Box 589, Georgetown, DE 19947.	Sussex County Planning and Zoning Department, #2 The Circle, Georgetown, DE 19947.	July 19, 2019	100029
Florida:					
Charlotte (FEMA Docket No.: B–1924).	Unincorporated areas of Charlotte County (18–04–6799P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	July 5, 2019	120061
Clay (FEMA Docket No.: B–1924).	Unincorporated areas of Clay County (18–04–6869P).	The Honorable Mike Cella, Chairman, Clay County Board of Commissioners, P.O. Box 1366, Green Cove Springs, FL 32043.	Clay County Zoning Department, 477 Houston Street, Green Cove Springs, FL 32043.	July 9, 2019	120064
Lee (FEMA Docket No.: B–1924).	Town of Fort Myers Beach (19–04–1243P).	The Honorable Tracey Gore, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	July 18, 2019	120673
Marion (FEMA Docket No.: B–1924).	Unincorporated areas of Marion County (18–04–6729P).	The Honorable Michelle Stone, Chair, Marion County Board of Commissioners, 601 Southeast 25th Avenue, Ocala, FL 34471.	Marion County Public Works Department, 601 Southeast 25th Avenue, Ocala, FL 34471.	July 9, 2019	120160
Miami-Dade (FEMA Docket No.: B–1924).	City of Miami (19–04–1242P).	The Honorable Francis X. Suarez, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Building Department, 444 Southwest 2nd Avenue, 4th Floor, Miami, FL 33130.	July 18, 2019	120650
Monroe (FEMA Docket No.: B–1928).	Unincorporated areas of Monroe County (19–04–1616P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	July 22, 2019	125129
Orange (FEMA Docket No.: B–1917).	Unincorporated areas of Orange County (18–04–6487P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Division, 4200 South John Young Parkway, Orlando, FL 32839.	July 5, 2019	120179
Volusia (FEMA Docket No.: B–1924).	City of Deltona (18–04–7217P).	Ms. Jane K. Shang, Manager, City of Deltona, 2345 Providence Boulevard, Deltona, FL 32725.	City Hall, 2345 Providence Boulevard, Deltona, FL 32725.	July 16, 2019	120677
Georgia:					
Liberty (FEMA Docket No.: B–1935).	City of Flemington (19–04–0357P).	The Honorable Paul Hawkins, Mayor, City of Flemington, 156 Old Sunbury Road, Flemington, GA 31313.	Liberty Consolidated Planning Commission, 100 Main Street, Suite 7520, Hinesville, GA 31313.	July 18, 2019	130124
Liberty (FEMA Docket No.: B–1935).	Unincorporated areas of Liberty County (19–04–0357P).	The Honorable Donald Lovette, Chairman, Liberty County Board of Commissioners, 112 North Main Street, Hinesville, GA 31313.	Liberty County Building and Licensing Department, 112 North Main Street, Hinesville, GA 31313.	July 18, 2019	130123
Muscogee (FEMA Docket No.: B–1928).	Columbus Consolidated Government (17–04–3686P).	The Honorable Teresa Tomlinson, Mayor, City of Columbus, 100 East 10th Street, Columbus, GA 31901.	Stormwater Division, 420 10th Street, Columbus, GA 31901.	July 5, 2019	135158
Maryland: Prince George's (FEMA Docket No.: B–1924).	Unincorporated areas of Prince George's County (18–03–1633P).	The Honorable Angela D. Alsobrooks, Prince George's County Executive, 1301 McCormick Drive, Suite 4000, Largo, MD 20774.	Prince George's County Inglewood Center II, 1801 McCormick Drive, Suite 500, Largo, MD 20774.	July 19, 2019	245208
North Carolina: Wake (FEMA Docket No.: B–1916).	Town of Apex (18–04–6277P).	The Honorable Lance Olive, Mayor, Town of Apex, P.O. Box 250, Apex, NC 27502.	Engineering Department, 73 Hunter Street, Apex, NC 27502.	July 16, 2019	370467
Pennsylvania:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Beaver (FEMA Docket No.: B–1928).	Borough of Big Beaver (19–03–0284P).	The Honorable Don Wachter, Mayor, Borough of Big Beaver, 114 Forest Drive, Darlington, PA 16115.	Zoning and Code Enforcement Department, 114 Forest Drive, Darlington, PA 16115.	July 15, 2019	422307
Beaver (FEMA Docket No.: B–1928).	Township of Darlington (19–03–0284P).	The Honorable Chad Crawford, Mayor, Township of Darlington Board of Supervisors, 3590 Darlington Road, Darlington, PA 16115.	Zoning and Code Enforcement Department, 3590 Darlington Road, Darlington, PA 16115.	July 15, 2019	422312
Bedford (FEMA Docket No.: B–1924).	Borough of Hyndman (18–03–1776P).	The Honorable Newton Huffman, Mayor, Borough of Hyndman, P.O. Box 74, Hyndman, PA 15545.	Borough Hall, 3945 Center Street, Suite 2, Hyndman, PA 15545.	July 1, 2019	420021
Bedford (FEMA Docket No.: B–1924).	Township of Londonderry (18–03–1776P).	The Honorable Stephen Stouffer, Chairman, Township of Londonderry Board of Supervisors, P.O. Box 215, Hyndman, PA 15545.	Township Hall, 4303 Hyndman Road, Hyndman, PA 15545.	July 1, 2019	421345
Montgomery (FEMA Docket No.: B–1917).	Borough of Ambler (18–03–1837P).	The Honorable Frank DeRuosi, President, Borough of Ambler Council, 131 Rosemary Avenue, Ambler, PA 19002.	Borough Hall, 131 Rosemary Avenue, Ambler, PA 19002.	July 8, 2019	420947
Montgomery (FEMA Docket No.: B–1917).	Township of Upper Dublin (18–03–1837P).	The Honorable Ira S. Tackel, President, Township of Upper Dublin Board of Commissioners, 801 Loch Alsh Avenue, Fort Washington, PA 19034.	Township Hall, 801 Loch Alsh Avenue, Fort Washington, PA 19034.	July 8, 2019	420708
Texas:					
Bexar (FEMA Docket No.: B–1935).	City of San Antonio (18–06–3896P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	July 22, 2019	480045
Bexar (FEMA Docket No.: B–1935).	Unincorporated areas of Bexar County (18–06–2879P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	July 22, 2019	480035
Bexar (FEMA Docket No.: B–1935).	Unincorporated areas of Bexar County (18–06–3896P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	July 22, 2019	480035
Collin (FEMA Docket No.: B–1924).	City of Allen (19–06–0043P).	Mr. Peter H. Vargas, Manager, City of Allen, 305 Century Parkway, Allen, TX 75013.	Engineering and Traffic Department, 305 Century Parkway, Allen, TX 75013.	July 19, 2019	480131
Collin (FEMA Docket No.: B–1928).	City of Celina (18–06–2512P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Services Department, 142 North Ohio Street, Celina, TX 75009.	July 15, 2019	480133
Collin and Denton (FEMA Docket No.: B–1924).	City of Frisco (19–06–0831P).	The Honorable Jeff Cheney, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Engineering Services Department, 6101 Frisco Square Boulevard, Frisco, TX 75034.	July 22, 2019	480134
Collin (FEMA Docket No.: B–1924).	City of Parker (18–06–2161P).	The Honorable Lee Pettle, Mayor, City of Parker, 5700 East Parker Road, Parker, TX 75002.	City Hall, 5700 East Parker Road, Parker, TX 75002.	July 1, 2019	480139
Collin (FEMA Docket No.: B–1928).	Town of Fairview (18–06–1879P).	The Honorable Darion Culbertson, Mayor, Town of Fairview, 372 Town Place, Fairview, TX 75069.	Town Hall, 372 Town Place, Fairview, TX 75069.	July 8, 2019	481069
Collin (FEMA Docket No.: B–1924).	Unincorporated areas of Collin County (18–06–2161P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Emergency Management Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	July 1, 2019	480130
Comal (FEMA Docket No.: B–1931).	City of New Braunfels (18–06–3030P).	The Honorable Barron Casteel, Mayor, City of New Braunfels, 550 Landa Street, New Braunfels, TX 78130.	City Hall, 550 Landa Street, New Braunfels, TX 78130.	July 5, 2019	485493
Kaufman (FEMA Docket No.: B–1924).	City of Forney (18–06–2436P).	The Honorable Rick Wilson, Mayor, City of Forney, 101 East Main Street, Forney, TX 75126.	City Hall, 101 East Main Street, Forney, TX 75126.	July 19, 2019	480410
Parker (FEMA Docket No.: B–1924).	Unincorporated areas of Parker County (18–06–3601P).	The Honorable Pat Deen, Parker County Judge, 1 Courthouse Square, Weatherford, TX 76086.	Parker County Emergency Management Department, 1114 Santa Fe Drive, Weatherford, TX 76086.	July 22, 2019	480520
Smith (FEMA Docket No.: B–1924).	Unincorporated areas of Smith County (18–06–2029P).	The Honorable Nathaniel Moran, Smith County Judge, 200 East Ferguson Street, Suite 100, Tyler, TX 75702.	Smith County Road and Bridge Department, 1700 West Claude Street, Tyler, TX 75702.	July 15, 2019	481185
Tarrant (FEMA Docket No.: B–1935).	City of Fort Worth (18–06–2091P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	City Hall, 200 Texas Street, Fort Worth, TX 76102.	July 5, 2019	480596
Tarrant (FEMA Docket No.: B–1924).	City of Fort Worth (18–06–3021P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	City Hall, 200 Texas Street, Fort Worth, TX 76102.	July 15, 2019	480596
Tarrant (FEMA Docket No.: B–1924).	City of Haslet (18–06–2131P).	The Honorable Bob Golden, Mayor, City of Haslet, 101 Main Street, Haslet, TX 76052.	Planning and Development Department, 101 Main Street, Haslet, TX 76052.	July 11, 2019	480600

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Williamson (FEMA Docket No.: B–1931).	Unincorporated areas of Williamson County (19–06–0529P).	The Honorable Bill Gravell, Jr., Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Engineering Department, 710 South Main Street, Suite 101, Georgetown, TX 78626.	July 22, 2019	481079

[FR Doc. 2019–16403 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1945]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 30, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1945, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Henry County, Iowa and Incorporated Areas Project: 16–07–2275S Preliminary Dates: April 30, 2018 and March 7, 2019	
City of Mount Pleasant	City Hall, 307 East Monroe Street, Mount Pleasant, IA 52641.
City of Olds	City Hall, 111 South Main Street, Olds, IA 52647.
City of Rome	Rome City Hall, 104 East Maple Street, Mount Pleasant, IA 52641.
City of Westwood	Westwood City Hall, 3952 Sycamore Drive, Mount Pleasant, IA 52641.
City of Winfield	City Hall, 115 North Locust Street, Winfield, IA 52659.
Unincorporated Areas of Henry County	Henry County Courthouse, 100 East Washington Street, Mount Pleasant, IA 52641.
O'Brien County, Iowa and Incorporated Areas Project: 16–07–2353S Preliminary Date: March 15, 2019	
City of Calumet	City Hall, 113 West 2nd Street, Calumet, IA 51009.
City of Hartley	City Hall, 11 South Central Avenue, Hartley, IA 51346.
City of Paullina	City Hall, 127 South Main Street, Paullina, IA 51046.
City of Primghar	City Hall, 160 South Hayes Avenue, Primghar, IA 51245.
City of Sanborn	City Hall, 102 Main Street, Sanborn, IA 51248.
City of Sheldon	City Hall, 416 9th Street, Sheldon, IA 51201.
City of Sutherland	City Hall, 110 Ash Street, Sutherland, IA 51058.
Unincorporated Areas of O'Brien County	O'Brien County Courthouse, 155 South Hayes Avenue, Primghar, IA 51245.
Wapello County, Iowa and Incorporated Areas Project: 17–07–0410S Preliminary Dates: December 17, 2018 and April 19, 2019	
City of Agency	Agency City Hall, 104 East Main Street, Agency, IA 52530.
City of Chillicothe	Chillicothe City Hall, 201 Main Street, Chillicothe, IA 52548.
City of Eddyville	Eddyville City Hall, 103 Front Street, Eddyville, IA 52553.
City of Eldon	Eldon City Hall, 421 West Elm Street, Eldon, IA 52554.
City of Ottumwa	Ottumwa City Hall, 105 East 3rd Street, Ottumwa, IA 52501.
Unincorporated Areas of Wapello County	Wapello County Planning, Zoning, and Building Division, 536 Mill Street, Ottumwa, IA 52501.
Winneshiek County, Iowa and Incorporated Areas Project: 17–07–0397S Preliminary Date: January 15, 2019	
City of Calmar	City Hall, 101 South Washington Street, Calmar, IA 52132.
City of Decorah	City Hall, 400 Claiborne Drive, Decorah, IA 52101.
City of Fort Atkinson	City Hall, 98 Elm Street, Fort Atkinson, IA 52144.
City of Jackson Junction	City Hall, 1201 County Road V68, Jackson Junction, IA 52171.
City of Ossian	City Hall, 123 West Main Street, Ossian, IA 52161.
City of Spillville	Spillville Public Library, 201 Oak Street, Spillville, IA 52168.
Unincorporated Areas of Winneshiek County	Winneshiek County Courthouse, 201 West Main Street, Decorah, IA 52101.
Macomb County, Michigan (All Jurisdictions) Project: 13–05–1847S Preliminary Date: December 18, 2018	
City of New Baltimore	City Hall, 36535 Green Street, New Baltimore, MI 48047.
City of St. Clair Shores	City Hall, 27600 Jefferson Avenue, St. Clair Shores, MI 48081.
Township of Chesterfield	Municipal Offices, 47275 Sugarbush Road, Chesterfield, MI 48047.
Township of Harrison	Administrative Offices, 38151 L'Anse Creuse, Harrison Township, MI, 48045.
Wayne County, Michigan (All Jurisdictions) Project: 13–05–4692S Preliminary Date: December 21, 2018	
Charter Township of Brownstown	Charter Township Offices, 21313 Telegraph Road, Brownstown, MI 48183.
City of Detroit	Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 401, Detroit, MI 48226.
City of Ecorse	Albert B. Buday Civic Center, 3869 West Jefferson Avenue, Ecorse, MI 48229.
City of Gibraltar	City Hall, 29450 Munro Avenue, Gibraltar, MI 48173.
City of Grosse Pointe	City Hall, 17147 Maumee Avenue, Grosse Pointe, MI 48230.
City of Grosse Pointe Farms	City Hall, 90 Kerby Road, Grosse Pointe Farms, MI 48236.
City of Grosse Pointe Park	City Office, 15115 East Jefferson Avenue, Grosse Pointe Park, MI 48230.
City of River Rouge	Civic Center, 10600 West Jefferson Avenue, River Rouge, MI 48218.
City of Riverview	City Hall, 14100 Civic Park Drive, Riverview, MI 48193.
City of Rockwood	City Hall, 32409 Fort Road, Rockwood, MI 48173.
City of Trenton	City Hall, 2800 Third Street, Trenton, MI 48183.
City of Wyandotte	City Hall, 3200 Biddle Avenue, Suite 200, Wyandotte, MI 48192.

Community	Community map repository address
Township of Grosse Ile	Township Offices, 9601 Groh Road, Grosse Ile, MI 48138.
Village of Grosse Pointe Shores	Village Offices, 795 Lake Shore Road, Grosse Pointe Shores, MI 48236.
Yellow Medicine County, Minnesota and Incorporated Areas Project: 14–05–4674S Preliminary Dates: August 29, 2016 and January 11, 2019	
City of Canby	City Hall, 110 Oscar Avenue North, Canby, MN 56220.
City of Granite Falls	City Hall, 641 Prentice Street, Granite Falls, MN 56241.
City of Hanley Falls	City Hall, 109B 1st Street North, Hanley Falls, MN 56245.
City of Porter	City Hall, 301 Lone Tree Street, Porter, MN 56280.
City of Wood Lake	City Hall, 88 2nd Avenue West, Wood Lake, MN 56297.
Unincorporated Areas of Yellow Medicine County	Planning and Zoning Office, 1000 10th Avenue, Suite 2, Clarkfield, MN 56223.
Upper Sioux Community	Upper Sioux Community Tribal Office, 5722 Travers Lane, Granite Falls, MN 56241.
Dent County, Missouri and Incorporated Areas Project: 17–07–0683S Preliminary Date: April 9, 2019	
City of Salem	City Administration Building, 400 North Iron Street, Salem, MO 65560.
Unincorporated Areas of Dent County	Dent County Courthouse, 400 North Main Street, Salem, MO 65560.

[FR Doc. 2019–16414 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1946]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 30, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1946, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide

recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf*.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Jefferson County, Colorado and Incorporated Areas **Project: 18–08–0038S Preliminary Date: November 30, 2018**	
City of Arvada	Engineering Department, 8101 Ralston Road, Arvada, CO 80002.
Unincorporated Areas of Jefferson County	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.
Bolivar County, Mississippi and Incorporated Areas **Project: 14–04–4749S Preliminary Date: November 14, 2018**	
Town of Renova	City Hall, 1339 Old Highway 61, Renova, MS 38732.
Unincorporated Areas of Bolivar County	Bolivar County Courthouse Administrator Office, 200 South Court Street, Cleveland, MS 38732.
Coahoma County, Mississippi and Incorporated Areas **Project: 14–04–2384S and 14–04–4749S Preliminary Date: November 14, 2018**	
City of Clarksdale	City Hall, City Clerk's Office, 121 Sunflower Avenue, Clarksdale, MS 38614.
Town of Lula	Town Hall, 118 2nd Street, Lula, MS 38644.
Unincorporated Areas of Coahoma County	Coahoma County Courthouse, 115 1st Street, Clarksdale, MS 38614.
Humphreys County, Mississippi and Incorporated Areas **Project: 14–04–4749S Preliminary Date: November 14, 2018**	
Town of Isola	Town Hall, 203 Julia Street, Isola, MS 38754.
Unincorporated Areas of Humphreys County	Humphreys County Courthouse Tax Assessor's Office, 102 Castleman Street, Belzoni, MS 39038.
Marshall County, Mississippi and Incorporated Areas **Project: 14–04–2384S Preliminary Date: November 14, 2018**	
City of Holly Springs	Utility Department, 1050 Highway 4 East, Holly Springs, MS 38635.
Town of Byhalia	Town Hall, 161 Highway 309 South, Byhalia, MS 38611.
Unincorporated Areas of Marshall County	Marshall County Zoning Department, 590 Highway 178 East, Holly Springs, MS 38635.
Panola County, Mississippi and Incorporated Areas **Project: 14–04–2384S and 14–04–2385S Preliminary Date: November 14, 2018 and February 13, 2019**	
City of Batesville	City Hall, 103 College Street, Batesville, MS 38606.
City of Sardis	City Hall, 114 West Lee Street, Sardis, MS 38666.
Unincorporated Areas of Panola County	Panola County Land Development Office, 245 Eureka Street, Batesville, MS 38606.
Quitman County, Mississippi and Incorporated Areas **Project: 14–04–2384S Preliminary Date: November 14, 2018**	
Unincorporated Areas of Quitman County	Quitman County Courthouse, 220 Chestnut Street, Suite 3, Marks, MS 38646.
Sharkey County, Mississippi and Incorporated Areas **Project: 14–04–4749S Preliminary Date: November 14, 2018**	
Unincorporated Areas of Sharkey County	Sharkey County Courthouse, 120 Locust Street, Rolling Fork, MS 39159.

Community	Community map repository address
Sunflower County, Mississippi and Incorporated Areas Project: 14–04–4749S Preliminary Date: November 14, 2018	
City of Indianola	City Hall, Inspections Department, 101 Front Street, Indianola, MS 38751.
Town of Sunflower	Town Hall, 103 East Quiver Street, Sunflower, MS 38778.
Unincorporated Areas of Sunflower County	Sunflower County Courthouse, EMA/Floodplain Office, 200 Main Street, Indianola, MS 38751.
Tallahatchie County, Mississippi and Incorporated Areas Project: 14–04–2385S Preliminary Date: February 13, 2019	
City of Charleston	City Hall, 26 South Court Square, Charleston, MS 38921.
Unincorporated Areas of Tallahatchie County	Tallahatchie County Courthouse, 1 Court Square, Charleston, MS 38921.
Tate County, Mississippi and Incorporated Areas Project: 14–04–2384S Preliminary Date: November 14, 2018	
Unincorporated Areas of Tate County	Tate County Emergency Management Office, 910 East F. Hale Drive, Senatobia, MS 38668.
Tunica County, Mississippi and Incorporated Areas Project: 14–04–2384S Preliminary Date: November 14, 2018	
Town of Tunica	Town Hall, 909 River Road, Tunica, MS 38676.
Unincorporated Areas of Tunica County	Tunica County Office of Planning and Development, 1061 South Court Street, Tunica, MS 38676.
Washington County, Mississippi and Incorporated Areas Project: 14–04–4749S Preliminary Date: November 14, 2018	
Unincorporated Areas of Washington County	Washington County Courthouse, Permits and Planning Department, 910 Courthouse Lane, Suite A, Greenville, MS 38702.
Yalobusha County, Mississippi and Incorporated Areas Project: 14–04–2385S Preliminary Date: February 13, 2019	
Town of Oakland	City Hall, 13863 Hickory Street, Oakland, MS 38948.
Unincorporated Areas of Yalobusha County	Yalobusha County Courthouse, 201 Blackmur Drive, Water Valley, MS 38965.

[FR Doc. 2019–16413 Filed 7–31–19; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1949]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa.	City of Chandler (19–09–0018P).	The Honorable Kevin Hartke, Mayor, City of Chandler, 175 South Arizona Avenue, Chandler, AZ 85225.	Transportation & Development Department, 215 East Buffalo Street, Chandler, AZ 85225.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 11, 2019	040040
Maricopa.	City of Tempe (19–09–0018P).	The Honorable Mark Mitchell, Mayor, City of Tempe, P.O. Box 5002, Tempe, AZ 85280.	City Hall, Engineering Department, 31 East 5th Street, Tempe, AZ 85281.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 11, 2019	040054
California:						
Contra Costa.	City of Oakley (18–09–2401P).	The Honorable Claire Alaura, Mayor, City of Oakley, 3231 Main Street, Oakley, CA 94561.	Public Works and Engineering Department, 3231 Main Street, Oakley, CA 94561.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 8, 2019	060766
Santa Clara.	City of San Jose (18–09–2460P).	The Honorable Sam Liccardo, Mayor, City of San Jose, Mayor's Office, 200 East Santa Clara Street, 18th Floor, San Jose, CA 95113.	Department of Public Works, 200 East Santa Clara Street Tower, 5th Floor, San Jose, CA 95113.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 10, 2019	060349
Florida:						
Walton.	Unincorporated Areas of Walton County (19–04–0237P).	Mr. Trey Nick, District 4 Commissioner, 263 Chaffin Avenue, DeFuniak Springs, FL 32433.	Walton County Courthouse Annex, 47 North 6th Street, DeFuniak Springs, FL 32435.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 17, 2019	120317
Illinois:						
Grundy.	Unincorporated Areas of Grundy County (18–05–6349P).	Mr. Chris Balkema, Chairman, Grundy County Board, 1320 Union Street, Morris, IL 60450.	Grundy County Administration Building, 1320 Union Street, Morris, IL 60450.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 18, 2019	170256
Grundy.	Village of Carbon Hill (18–05–6349P).	The Honorable Richard Jurzak, Mayor, Village of Carbon Hill, 695 North Holcomb Street, Carbon Hill, IL 60416.	Village Hall, 695 North Holcomb, Carbon Hill, IL 60416.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 18, 2019	170257
Grundy.	Village of Coal City (18–05–6349P).	The Honorable Terry Halliday, Mayor, Village of Coal City, 515 South Broadway Street, Coal City, IL 60416.	Village Hall, 515 South Broadway Street, Coal City, IL 60416.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 18, 2019	170258
Grundy.	Village of Diamond (18–05–6349P).	The Honorable Teresa Kernc, Mayor, Village of Diamond, 1750 East Division Street, Diamond, IL 60416.	Village Hall, 1750 East Division Street, Diamond, IL 60416.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 18, 2019	170259

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Whiteside.	City of Morrison (19–05–1824P).	The Honorable R. Everett Pannier, Mayor, City of Morrison, 200 West Main Street, Morrison, IL 61270.	City Hall, 200 West Main Street, Morrison, IL 61270.	*https://msc.fema.gov/portal/advanceSearch.*.	Sep. 25, 2019	170691
Whiteside.	Unincorporated Areas of Whiteside County (19–05–1824P).	The Honorable James C. Duffy, Chairman, Whiteside County Board, 200 East Knox Street, Morrison, IL 61270.	Whiteside County Courthouse, 200 East Knox Street, Morrison, IL 61270.	*https://msc.fema.gov/portal/advanceSearch.*.	Sep. 25, 2019	170687
Michigan:						
Macomb.	Charter Township of Washington (18–05–3743P).	Mr. Dan O'Leary, Township Supervisor, Charter Township of Washington, 57900 Van Dyke Road, Washington, MI 48094.	City Hall, 57900 Van Dyke Road, Washington, MI 48094.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 16, 2019	260447
Oakland.	City of Novi (19–05–1154P).	The Honorable Bob Gatt, Mayor, City of Novi, 45175 Ten Mile Road, Novi, MI 48375.	Community Development Office, 45175 Ten Mile Road, Novi, MI 48375.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 25, 2019	260175
New York: Wayne.	Town of Walworth (18–02–2086P).	Ms. Susie C. Jacobs, Supervisor, Town of Walworth, 3600 Lorraine Drive, Walworth, NY 14568.	Building Department, 3600 Lorraine Drive, Walworth, NY 14568.	*https://msc.fema.gov/portal/advanceSearch.*.	Dec. 6, 2019	361228
Oregon:						
Clackamas.	City of Happy Valley (19–10–0342P).	The Honorable Tom Ellis, Mayor, City of Happy Valley, City Hall, 16000 Southeast Misty Drive, Happy Valley, OR 97086.	City Hall, 16000 Southeast Misty Drive, Happy Valley, OR 97086.	*https://msc.fema.gov/portal/advanceSearch.*.	Nov. 1, 2019	410026
Deschutes.	City of Bend (18–10–0360P).	The Honorable Sally Russell, Mayor, City of Bend, 710 Northwest Wall Street, Bend, OR 97703.	City Hall, Planning Department, 710 Northwest Wall Street, Bend, OR 97703.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 23, 2019	410056
Grant.	City of Canyon City (19–10–0438P).	The Honorable Steve Fischer, Mayor, City of Canyon City, City Hall, 123 South Washington Street, Canyon City, OR 97820.	City Hall, 123 South Washington Street, Canyon City, OR 97820.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 17, 2019	410075
Grant.	City of John Day (19–10–0438P).	The Honorable Ron Lundbom, Mayor, City of John Day, City Hall, 450 East Main Street, John Day, OR 97845.	City Hall, 450 East Main Street, John Day, OR 97845.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 17, 2019	410077
Grant.	Unincorporated Areas of Grant County (19–10–0438P).	The Honorable Scott Myers, County Judge, Grant County, Grant County Courthouse, 201 South Humbolt Street, Suite 280, Canyon City, OR 97820.	Grant County Planning Department, 201 South Humbolt Suite 170, Canyon City, OR 97820.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 17, 2019	410074
Texas:						
Denton.	City of Carrollton (19–06–1104P).	The Honorable Kevin Falconer, Mayor, City of Carrollton, City Hall, 1945 East Jackson Road, Carrollton, Texas 75006.	Engineering Department, 1945 East Jackson Road, Carrollton, TX 75006.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 24, 2019	480167
Denton.	City of Lewisville (19–06–1104P).	The Honorable Rudy Durham, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, TX 75029.	Engineering Division, 151 West Church Street, Lewisville, TX 75057.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 24, 2019	480195
Washington: Skagit..	City of Mount Vernon (19–10–0683P).	The Honorable Jill Boudreau, Mayor, City of Mount Vernon, P.O. Box 809, Mount Vernon, WA 98273.	City Hall, 910 Cleveland Avenue, Mount Vernon, WA 98273.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 25, 2019	530158
Wisconsin: Dane. ..	Unincorporated Areas of Dane County (18–05–3131P).	Ms. Sharon Corrigan, District 26 Supervisor, City County Building Room 421, 210 Martin Luther King Jr. Boulevard, Madison, WI 53703.	Dane County Zoning Department, Room 116, 210 Martin Luther King Jr. Boulevard, Madison, WI 53703.	*https://msc.fema.gov/portal/advanceSearch.*.	Oct. 24, 2019	550077

[FR Doc. 2019–16412 Filed 7–31–19; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1950]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 30, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1950, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf*.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Larimer County, Colorado and Incorporated Areas **Project: 18–08–0037S Preliminary Date: March 8, 2019**	
Town of Berthoud	Town Hall, 807 Mountain Avenue, Berthoud, CO 80513.
Town of Johnstown	Town Hall, 450 South Parish Avenue, Johnstown, CO 80534.
Unincorporated Areas of Larimer County	Larimer County Courthouse Offices Building, 200 West Oak Street, Fort Collins, CO 80521.

Community	Community map repository address
Citrus County, Florida and Incorporated Areas Project: 13–04–1877S Preliminary Date: September 29, 2018	
City of Crystal River	City Hall, 123 Northwest U.S. Highway 19, Crystal River, FL 34428.
Unincorporated Areas of Citrus County	Citrus County Government Building, 3600 West Sovereign Path, Suite 111, Lecanto, FL 34461.
Hernando County, Florida and Incorporated Areas Project: 13–04–1877S Preliminary Date: August 24, 2018	
City of Weeki Wachee	City Hall, 6131 Commercial Way, Weeki Wachee, FL 34606.
Unincorporated Areas of Hernando County	Hernando County Zoning Division, 789 Providence Boulevard, Brooksville, FL 34601.
Hillsborough County, Florida and Incorporated Areas Project: 13–04–1877S Preliminary Date: October 26, 2018	
City of Tampa	Construction Services Center, 1400 North Boulevard, Tampa, FL 33607.
Unincorporated Areas of Hillsborough County	Hillsborough County Public Works Department, 601 East Kennedy Boulevard, 22nd Floor, Tampa, FL 33602.
Manatee County, Florida and Incorporated Areas Project: 13–04–1877S Preliminary Date: November 30, 2018	
City of Anna Maria	City Hall, 10005 Gulf Drive, Anna Maria, FL 34216.
City of Bradenton	City Hall, 101 Old Main Street West, Bradenton, FL 34205.
City of Bradenton Beach	City Hall, 107 Gulf Drive North, Bradenton Beach, FL 34217.
City of Holmes Beach	City Hall, 5801 Marina Drive, Holmes Beach, FL 34217.
City of Palmetto	Building Department, 601 17th Street West, Palmetto, FL 34221.
Town of Longboat Key	Town Hall, 501 Bay Isles Road, Longboat Key, FL 34228.
Unincorporated Areas of Manatee County	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, FL 34205.

[FR Doc. 2019–16404 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1948]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer

of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Denver	City and County of Denver (19–08–0316P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 18, 2019	080046
El Paso	Town of Palmer Lake (18–08–1108P).	The Honorable John Cressman, Mayor, Town of Palmer Lake, P.O. Box 208, Palmer Lake, CO 80910.	Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 11, 2019	080065
El Paso	Unincorporated areas of El Paso County (18–08–1108P).	The Honorable Mark Waller, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 11, 2019	080059
Weld	Unincorporated areas of Weld County (19–08–0635P).	The Honorable Barbara Kirkmeyer, Chair, Weld County Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Department of Planning Services, 1555 North 17th Avenue, Greeley, CO 80631.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2019	080266
Florida:						
Lee	Town of Fort Myers Beach (19–04–0629P).	The Honorable Anita Cereceda, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 28, 2019	120673
Lee	Town of Fort Myers Beach (19–04–1744P).	The Honorable Anita Cereceda, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 22, 2019	120673
Monroe	Unincorporated areas of Monroe County (19–04–2934P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 10, 2019	125129
Monroe	Unincorporated areas of Monroe County (19–04–3275P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 28, 2019	125129
Orange	City of Ocoee (19–04–0035P).	The Honorable Rusty Johnson, Mayor, City of Ocoee, 150 North Lakeshore Drive, Ocoee, FL 34761.	Planning and Zoning Division, 150 North Lakeshore Drive, Ocoee, FL 34761.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 4, 2019	120185

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Palm Beach	Unincorporated areas of Palm Beach County (18–04–6177P).	The Honorable Mack Bernard, Mayor, Palm Beach County Board of Commissioners, 301 North Olive Avenue, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 11, 2019	120192
Massachusetts:						
Worcester.	Town of Charlton (19–01–0726P).	The Honorable David Singer, Chairman, Town of Charlton Board of Selectmen, 37 Main Street, Charlton, MA 01507.	Town Hall, 37 Main Street, Charlton, MA 01507.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 2, 2019	250299
New Mexico:						
Taos	Town of Taos (18–06–3973P).	The Honorable Daniel R. Barrone, Mayor, Town of Taos, 400 Camino De La Placita, Taos, NM 87571.	Department of Public Works, 400 Camino De La Placita, Taos, NM 87571.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2019	350080
Taos	Town of Taos (18–06–4061P).	The Honorable Daniel R. Barrone, Mayor, Town of Taos, 400 Camino De La Placita, Taos, NM 87571.	Department of Public Works, 400 Camino De La Placita, Taos, NM 87571.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2019	350080
North Carolina:						
Bladen	Town of Elizabethtown (18–04–5359P).	The Honorable Sylvia Campbell, Mayor, Town of Elizabethtown, 805 West Broad Street, P.O. Box 700, Elizabethtown, NC 28337.	Town Hall, 805 West Broad Street, Elizabethtown, NC 28337.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 25, 2019	370027
Durham	City of Durham (18–04–5509P).	The Honorable Steve Schewel, Mayor, City of Durham, 101 City Hall Plaza, Durham, NC 27701.	The City of Durham Public Works Department, 101 City Hall Plaza,, Suite 3100, Durham, NC 27701.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 12, 2019	370086
Onslow	Unincorporated areas of Onslow County (18–04–3141P).	The Honorable Jack Bright, Chairman, Onslow County Board of Commissioners, 234 Northwest Corridor Boulevard, Jacksonville, NC 28540.	Onslow County Planning and Development Department, 234 Northwest Corridor Boulevard, Jacksonville, NC 28540.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2019	370340
Wake	Town of Apex (18–04–7120P).	The Honorable Lance Olive, Mayor, Town of Apex, P.O. Box 250, Apex, NC 27502.	Planning Department, 73 Hunter Street, 2nd Floor, Apex, NC 27502.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 16, 2019	370467
South Carolina:						
Lexington	Unincorporated areas of Lexington County (18–04–6164P).	The Honorable Scott Whetstone, Chairman, Lexington County Council, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	Lexington County Community Development Department, 212 South Lake Drive, Suite 401, Lexington, SC 29072.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 25, 2019	450129
Saluda	Unincorporated areas of Saluda County (19–04–0064P).	Ms. Sandra G. Padget, Saluda County Director, 400 West Highland Street, Saluda, SC 29138.	Saluda County Building Codes Department, 400 W Highland Street, Saluda, SC 29138.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2019	450230
South Dakota:						
Lawrence.	City of Spearfish (19–08–0612P).	The Honorable Dana Boke, Mayor, City of Spearfish, 625 North 5th Street, Spearfish, SD 57783.	City Hall, 625 North 5th Street, Spearfish, SD 57783.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 21, 2019	460046
Texas:						
Bexar	City of San Antonio (18–06–2819P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 3, 2019	480045
Bexar	City of San Antonio (18–06–2885P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 9, 2019	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Bexar	City of San Antonio (18–06–3814P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 16, 2019	480045
Bexar	Unincorporated areas of Bexar County (18–06–2501P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	480035
Bexar	Unincorporated areas of Bexar County (18–06–2819P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 3, 2019	480035
Bexar	Unincorporated areas of Bexar County (19–06–0167P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	480035
Collin	City of McKinney (18–06–1366P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 21, 2019	480135
Dallas	City of Dallas (18–06–3143P).	The Honorable Michael Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Oak Cliff Municipal Center, 320 East Jefferson Boulevard, Room 312, Dallas, TX 75203.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	480171
Dallas	City of Garland (18–06–3143P).	The Honorable Lori Barnett Dodson, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	City Hall, 200 North 5th Street, Garland, TX 75040.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	485471
Dallas	City of Rowlett (18–06–3143P).	The Honorable Tammy Dana-Bashian, Mayor, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	City Hall, 4000 Main Street, Rowlett, TX 75088.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	480185
Harris	City of Houston (19–06–2522P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77002.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 21, 2019	480296
Tarrant	City of Fort Worth (18–06–3936P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2019	480596
Tarrant	City of Keller (18–06–1585P).	The Honorable Pat McGrail, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	Public Works Department, 1100 Bear Creek Parkway, Keller, TX 76248.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 24, 2019	480602
Webb	Unincorporated areas of Webb County (18–06–2680P).	The Honorable Tano E. Tijerina, Webb County Judge, 1000 Houston Street, 3rd Floor, Laredo, TX 78040.	Webb County Planning Department, 1110 Washington Street, Suite 302, Laredo, TX 78040.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 25, 2019	481059

[FR Doc. 2019–16411 Filed 7–31–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM954000 L14400000.BX0000 LXSSG0200000 17X]

Notice of Cancellation of Portions of Plats of Survey and Filing of Supplemental Plats and Amended Field Notes, New Mexico/Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of cancellation.

SUMMARY: Portions of the plats of survey described below have been cancelled and supplemental plats and amended field notes have been filed by the New Mexico State Office, Bureau of Land Management (BLM), Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: For information about these cancellations, supplemental plats, and amended field notes, please contact Chris McDonald, Acting Chief Cadastral Surveyor for NM, OK, KS, and TX, at *cpmcdona@blm.gov,*

or 505–954–2042, during normal business hours.

SUPPLEMENTARY INFORMATION:

Indian Meridian, Oklahoma (OK)

On May 16, 2006, a Notice entitled ''Filing of Plats of Survey; Oklahoma'' was published in the **Federal Register** (71 FR 28371), concerning the dependent resurvey and survey in Township 5 South, Range 14 West, of the Indian Meridian, officially filed June 22, 2006, for Groups 81 and 126 OK. A supplemental plat approved and filed on January 18, 2018, was prepared to correct clerical errors in the plats referenced in the May 16, 2006, Notice, clarifying that any references to the location of the Texas/Oklahoma border do not reflect the United States' position as to the present-day political boundary between the States of Texas and Oklahoma.

Indian Meridian, Oklahoma (OK)

On June 12, 2009, a Notice entitled ''Filing of Plats of Survey; New Mexico, Oklahoma, Texas and Kansas'' was published in the **Federal Register** (74 FR 28061), concerning the dependent resurvey and survey in Townships 5 and 6 South, Range 12 West, of the Indian Meridian, officially filed on July 13, 2009, for Group 85 OK.

Portions of the plats referenced in the June 12, 2009, Notice, specifically the gradient boundary, medial line, partition lines, and the extension of the rectangular survey system located south of the adjusted 1875 left (north) bank meanders of the Red River were cancelled effective November 16, 2017. A supplemental plat was prepared and the field note record was amended to reflect this cancellation. The supplemental plat was filed November 20, 2017.

Indian Meridian, Oklahoma (OK)

On February 25, 2010, a Notice entitled ''Filing of Plats of Survey; New Mexico, Oklahoma'' was published in the **Federal Register** (75 FR 8739), concerning the dependent resurvey and survey in Township 5 South, Range 13 West, of the Indian Meridian, and Township 5 South, Range 15 West, of the Indian Meridian, officially filed July 19, 2010, for Groups 80 and 82 OK.

Portions of these plats referenced in the February 25, 2010, Notice, specifically the gradient boundary, medial line, partition lines, and the extension of the rectangular survey system located south of the adjusted 1875 left (north) bank meanders of the Red River were cancelled effective November 16, 2017, and November 17, 2017. Supplemental plats were prepared and the field note records were amended to reflect these cancellations. The supplemental plats were filed November 20, 2017.

Authority: 43 U.S.C. Chapter 3.

Christopher P. McDonald,

Acting Chief Cadastral Surveyor for NM, OK, KS, and TX.

[FR Doc. 2019–16402 Filed 7–31–19; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1143]

Certain Pickup Truck Folding Bed Cover Systems and Components Thereof; Commission Determination Not To Review an Initial Determination Terminating the Investigation as to a Single Respondent Based on a Consent Order Stipulation and Consent Order, and Amending the Complaint and Notice of Investigation; Issuance of Consent Order; and Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 27) of the presiding administrative law judge (''ALJ''): (1) Terminating the above-captioned investigation as to respondent Sunwood Industries Co., Ltd. (''Sunwood'') of Jiangsu, China based on a consent order stipulation and consent order, and (2) amending the complaint and notice of investigation. The Commission has issued the respective consent order and is requesting written submissions on remedy, the public interest, and bonding concerning defaulting respondent Ningbo Huadian Cross Country Automobile Accessories Co., Ltd. (''Ningbo'') of Ningbo, China.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 15, 2019, based on a complaint filed on behalf of Extang Corporation and Laurmark Enterprises, Inc. d/b/a BAK Industries (collectively, ''Complainants''), both of Ann Arbor, Michigan. 84 FR 4534–35 (Feb. 15, 2019). The complaint alleges violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), based upon the importation into the United States, sale for importation, and the sale within the United States after importation of certain pickup truck folding bed cover systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. D620,877; 7,188,888; 7,484,788; 8,061,758; 8,182,021; and 8,690,224; and U.S. Trademark Registration Nos. 5,104,393 and 3,904,016. The Commission's notice of investigation names numerous respondents, including Ningbo and Sunwood. The Office of Unfair Import Investigations (''OUII'') is also a party to the investigation. The Commission previously found Ningbo in default. Order No. 23 (May 3, 2019), *unreviewed by* Comm'n Notice (May 29, 2019). All other respondents, with the exception of Sunwood, have been terminated from the investigation based on consent order stipulation and proposed consent order. *See* Order Nos. 13–19 (Apr. 12, 2019), *unreviewed by* Comm'n Notice (May 8, 2019); Order Nos. 20–21 (Apr. 26, 2019), *unreviewed by* Comm'n Notice (May 15, 2019).

On May 30, 2019, Complainants and Sunwood filed a joint motion to terminate the investigation as to Sunwood based on a consent order stipulation and proposed consent order. On June 11, 2019, OUII filed a response supporting the joint motion, including a request to amend the complaint and notice of investigation to change the full name of Sunwood to reflect the correct entity being accused.

On July 3, 2019, the ALJ issued the subject ID (Order No. 27) granting the joint motion for termination as to Sunwood. The ALJ found that the consent order stipulation and consent

order satisfy the requirements of Commission Rule 210.21(c) (19 CFR 210.21(c)). He further found, pursuant to Commission Rule 210.50(b)(2) (19 CFR 210.50(b)(2)), that there is no indication that termination of this investigation as to Sunwood based on the consent order stipulation would adversely impact the public interest. The ALJ also found that good cause exists, pursuant to Commission Rule 210.4 (19 CFR 210.14), to grant OUII's request and amend the complaint and notice of investigation to accurately reflect the correct name for respondent Sunwood as Changzhou Sunwood International Trading Co., Ltd. The ALJ terminated the investigation before him because Sunwood is the last participating respondent and Complainants did not request a general exclusion order. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID and has issued the requested consent order.

Section 337(g)(1) (19 U.S.C. 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)) authorize the Commission to order limited relief against a respondent found in default, unless after consideration of the public interest factors in Section 337(g)(1), it finds that such relief should not issue. Accordingly, in connection with the final disposition of this investigation, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered with respect to Ningbo. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding.

Complainants and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the date that the asserted patents expire, the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation. The written submissions regarding remedy, bonding, and the public interest and proposed remedial orders must be filed no later than close of business on August 12, 2019. Reply submissions must be filed no later than the close of business on August 19, 2019. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary pursuant to Section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1143'') in a prominent place on the cover page and/or the first page. (*See* Handbook on Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: July 29, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–16447 Filed 7–31–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–75 (Monitoring)]

Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Monitoring Developments in the Domestic Industry Institution and Scheduling Notice for the Subject Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission has instituted investigation No. TA–201–75 (Monitoring), Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other

[1] All contract personnel will sign appropriate nondisclosure agreements.

Products: Report on Monitoring of Developments in the Domestic Industry, for the purpose of preparing the report to the President and the Congress required by section 204(a)(2) of the Trade Act of 1974 on its monitoring of developments in the domestic industry following the President's decision to impose a safeguard measure on imports of certain crystalline silicon photovoltaic (''CSPV'') cells, whether or not partially or fully assembled into other products (including, but not limited to, modules, laminates, panels, and building-integrated materials)(''CSPV products''), as described in Proclamation 9693 of January 23, 2018.

DATES: July 25, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 23, 2018, the President, pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253) (Trade Act), issued Proclamation 9693, imposing a safeguard measure on imports of CSPV products, in the form of (a) a tariff-rate quota on imports of solar cells not partially or fully assembled into other products and (b) an increase in duties on imports of modules. The proclamation was published in the **Federal Register** on January 25, 2018 (83 FR 3541). The measure took effect on February 7, 2018, for a period of four years, or through February 7, 2022. The President imposed the measure following receipt of a report from the Commission in November 2017 under section 202 of the Trade Act (19 U.S.C. 2252) that contained an affirmative determination, remedy recommendations, and certain additional findings (see Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products), investigation No. TA–201–75, USITC Publication 4739, November 2017).

Section 204(a)(1) of the Trade Act (19 U.S.C. 2254(a)(1)) requires the Commission to monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition, as long as any action under section 203 of the Trade Act remains in effect. Whenever the initial period of such an action exceeds 3 years, section 204(a)(2) requires the Commission to submit a report on the results of the monitoring to the President and the Congress no later than the mid-point of the initial period of the relief—in this case by February 7, 2020. Section 204(a)(3) requires the Commission to hold a hearing in the course of preparing such report.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 206, subparts A and F (19 CFR part 206).

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register.** The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of confidential business information (CBI).—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 CFR 206.17(a)(3)(iii)) under an administrative protective order (APO) issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

The Commission may include CBI in the report it sends to the President and to the U.S. Trade Representative. Additionally, all information, including CBI, submitted in this investigation may be disclosed to and used by (i) the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes.

The Commission will not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on December 5, 2019, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 2, 2019. All persons desiring to appear at the hearing and make an oral presentation should participate in a prehearing conference to be held on December 4, 2019 at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2), and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is November 26, 2019. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is December 12, 2019. In addition, any person who has not entered an appearance as a party to the investigation may submit, on or before December 12, 2019, a written statement concerning the matters to be addressed in the Commission's report to the President. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules. Any CBI that is provided will be subject to limited disclosure under the APO (see above) and may be included in the

report that the Commission sends to the President and the U.S. Trade Representative. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 204(a) of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Numbering of investigations under section 204.—This investigation incorporates a new investigation title and numbering system. Under section 204, the Commission may be required to prepare up to four types of reports under section 204 after the President proclaims relief—reports on monitoring of the remedy, modification of the remedy, extension of the remedy, and evaluation of the effectiveness of the remedy. To make it easier for the public to identify the related section 201 proceeding, the Commission will use the original investigation number, followed by a one-word description of the type of report (monitoring, modification, extension, or evaluation), and the title of the investigation. The title and number of this investigation follow the new format.

By order of the Commission.

Issued: July 26, 2019.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2019–16363 Filed 7–31–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0091]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; National Response Team Customer Satisfaction Survey

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed collection OMB 1140–0091 (National Response Team Customer Satisfaction Survey) is being revised due to an increase in the number of respondents and total burden hours, since the last renewal in 2016.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Jennifer George, Fire Investigations & Arson Enforcement Division, either by mail at ATF NCETR, Corporal Road, Building 3750, Redstone Arsenal, Huntsville, AL 35898, by email at *Jennifer.George@atf.gov,* or by telephone at 256–261–7614.

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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* National Response Team Customer Satisfaction Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local or Tribal Government.

Other (if applicable): None.

Abstract: The National Response Team Customer Satisfaction Survey is used to obtain feedback regarding services provided by the ATF National Response Team.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 32 respondents will utilize the survey, and it will take each respondent approximately 15 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is eight (8) hours, which is equal to 32 (# of respondents) * 1 (# of responses per respondent) * .25 (15 minutes).

7. *An Explanation of the Change in Estimates:* The adjustment to the public burden includes an increase the number of respondents from 20 in 2016, to 32. Consequently, the total burden hours has also increased from 5 hours in 2016, to 8 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.405A, Washington, DC 20530.

Dated: July 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16395 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0055]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Identification of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed collection OMB 1140–0055 (Identification of Explosive Materials) is being revised due to a reduction in the number of respondents, responses and public burden hours, since the last renewal in 2016.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Anita Scheddel, Program Analyst, ATF Explosives Industry Programs Branch, either by mail at 99 New York Ave NE, Washington, DC 20226, or by email at *eipbinformationcollection@atf.gov,* or by telephone at 202–648–7158.

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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection* (check justification or form 83): Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Identification of Explosive Materials.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): None.

Abstract: Marking of explosives enables law enforcement entities to more effectively trace explosives from the manufacturer through the distribution chain, to the end purchaser. This process is used as a tool in criminal enforcement activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,153 respondents will respond to this IC approximately 520 times, and it will take each respondent approximately three (3) seconds to provide response twice per day.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 932.9 or 933 hours, which is equal to 2,153 (# of respondents) * 260 (number of workdays) * 0.00166667 hours (total six (6) seconds to respond each day).

7. *An Explanation of the Change in Estimates:* The adjustment associated with this collection is a decrease in the number of respondents by 52. Consequently, the total responses and burden hours have reduced by 27, 040 and 23 hours respectively, since the last renewal in 2016.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16393 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0004]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Interstate Firearms Shipment Theft/Loss Report—ATF F 3310.6

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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. The proposed collection OMB 1140–0004 (Interstate Firearms Shipment Theft/Loss Report—ATF F 3310.6) is being revised due to an adjustment in burden, since there is an increase in the number of respondents and burden hours, since the last renewal in 2016.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Neil Troppman, ATF National Tracing Center either by mail at 244 Needy Road, Martinsburg, WV 25405, by email

at *neil.troppman@atf.gov,* or by telephone at 304–260–3643.

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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (*check justification or form 83): Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Interstate Firearms Shipment Theft/Loss Report.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF F 3310.6.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Federal Government.

Abstract: 27 CFR part 478 requires Federal Firearms Licensees' (FFLs) who discover that a firearm(s) it shipped was stolen or lost in transit, must report the theft or loss to ATF and the appropriate local authorities within 48 hours of discovery. Reports can be filed using the Interstate Firearms Shipment Theft/Loss Report—ATF Form 3310.6.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 950 respondents will utilize the form, and it will take each respondent approximately 20 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 317 hours, which is equal to 950 (# of respondents) *1 (# of responses per respondents) * .3333 (20 minutes).

7. *An Explanation of the Change in Estimates:* The adjustment associated with this collection include an increase in both the respondents and total burden hours for this IC by 400 and 182 respectively, since the last renewal in 2016.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16394 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0005]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change of a Currently Approved Collection; Application and Permit for Importation of Firearms, Ammunition, and Defense Articles—ATF Form 6—Part I (5330.3A)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 September 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Desiree M. Dickinson, ATF Firearms and Explosives Imports Branch either by mail at 244 Needy Road, Martinsburg, WV 25405, or by email at *desiree.dickinson@atf.gov,* or by telephone at 304–616–4584.

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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection* (*check justification or form 83*): Extension with change of a currently approved collection.

2. *The Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Defense Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 6—Part I (5330.3A).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Individuals or households, Federal Government, State, Local or Tribal Government.

Abstract: The Application and Permit for Importation of Firearms, Ammunition, and Defense Articles—ATF Form 6—Part I (5330.3A) allows ATF to determine if the article(s) described on the application qualifies for importation. It also serves as authorization for the importer.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 10,000 respondents will utilize the form, and it will take each respondent approximately 39 minutes to provide their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 6,500 hours, which is equal to 10,000 (# of respondents) * 1 (# of responses per respondents) * .65 (39 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: July 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16392 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Information Warfare Research Project Consortium

Notice is hereby given that, on July 12, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Information Warfare Research Project Consortium (''IWRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Abside Networks, Inc., Acton, MA; Acuity Systems LLC, Herndon, VA; Advanced Systems Supportability Engineering Technologies & Tools (ASSETT), Manassas, VA; Advantaged Solutions Inc., Washington, DC; Agema Technology Inc., Mission Viejo, CA; Alamo City Engineering Services Inc., San Antonio, TX; Alion Science and Technology Corporation, McLean, VA; Alpha Proto, Casselberry, FL; Amazon Web Services, Inc., Seattle, WA; ANSOL, Inc., San Diego, CA; Anthem Engineering, LLC, Elkridge, MD; Ardalyst Federal, LLC, Annapolis, MD; AT&T Corp., Oakton, VA; ARKS Enterprises Inc., Virginia Beach, VA; At The Table Productions, Santa Monica, CA; Atlas Executive Consulting LLC, North Charleston, SC; Big Metal Additive Inc., Evergreen, CO; BMC Software Inc., McLean, VA; Carahsoft Technology Corporation, Reston, VA; Cask Technologies, LLC, San Diego, CA; CDW Government LLC, Vernon Hills, IL; ClearShark LLC, Hanover, MD; Chesapeake Technology International Corp., California, MD; Clemson University, Clemson, SC; CogniTech Corporation, Salt Lake City, UT; ColdQuanta Inc., Boulder, CO; CommTech Systems Inc., El Cajon, CA; Computer Technologies Consultants, Inc., McLean, VA; Converged Security Solutions LLC (CSS), Reston, VA; CORASCLOUD Inc. dba CORAS Inc., McLean, VA; Cypher Analytics Inc., San Diego, CA; DUST Identity, Inc., Needham, MA; Effecture LLC, San Diego, CA; ENT Technologies Inc., San Diego, CA; Enterprise Information Services, Inc., Vienna, VA; Epiq Design Solutions Inc., Schaumburg, IL; FCN Inc., Rockville, MD; Fenix Group Inc., Chantilly, VA; Forcepoint Federal LLC, Herndon, VA; G2IT LLC, Annapolis, MD; Galorath Federal Incorporated, Alexandria, VA; Gemtek Technology Inc. DBA Connect Pro, Walnut, CA; Global Defense Inc. (GDI), Arlington, VA; Golden Tech Systems Inc., Waxhaw, NC; Harris Corporation, Government Communications, Systems Wireless Product Group, Palm Bay, FL; Hewlett Packard Enterprise Company (HPE), Reston, VA; HII Technical Solutions Corporation (Huntington Ingalls Industries), Virginia Beach, VA; Hitachi Vantara Federal Corporation, Reston, VA; Identify3D, Inc., San Francisco, CA; ICE ITS INC., Ashburn, VA; Imagine Believe Realize, Orlando, FL; Immersion CyKor, LLC, Annapolis, MD; immixGroups EC America Inc., McLean, VA; Impact Resources, Inc. dba IR Technologies, Bristow, VA; IMPRES Technology Solutions Inc., Santa Fe Springs, CA; Infor (US) Inc., Alpharetta, GA; Innovative Defense Technologies, Arlington, VA; Ionic Security Inc., Atlanta, GA; IQVIA Government Solutions Inc., Falls Church, VA; Iron Bow Technologies, LLC, Herndon, VA; ISHPI Information Technologies Inc., Mount Pleasant, SC; ITT Enidine Inc., Orchard Park, NY; iXBlue Defense Systems, Inc., Lincoln, RI; Jasper Solutions Inc., Huntington Station, NY; Knight Sky LLC, Frederick, MD; KPMG LLP Federal Services, McLean, VA; Kudu Dynamics, LLC, Chantilly, VA; L2NL, LLC, Charleston, SC; L3 Telemetry and RF Products Division, San Diego, CA; LinQuest Corporation, Los Angeles, CA; Lockheed Martin Corporation, Littleton, CO; Louisiana Technology Group Inc. (LATG), New Orleans, LA; MacAulay-Brown, Inc., Dayton, OH; Main Sail LLC, Cleveland, OH; Management Services Group, Inc. dba Global Technical Systems (GTS), Virginia Beach, VA; ManTech Advanced Systems International Inc., Herndon, VA; MaXentric Technologies, LLC, Fort Lee, NJ; McAfee Public Sector, LLC, Columbia, MD; Mercom Incorporated (DBA Mercom Corporation), Pawleys Island, SC; Merlin International Inc., Tysons, VA; MetroStar Systems, Inc., Reston, VA; Micro USA Inc., Poway, CA; MicroStrategy Incorporated, Tysons Corner, VA; Motorola Solutions Inc., Chicago, IL; NAG, LLC dba NAG Marine, Norfolk, VA; Navatek LLC, Honolulu, HI; NCS Technologies, Inc., Gainesville, VA; NetApp US Public Sector, Vienna, VA; Netizen Corporation, Allentown, PA; Northrop Grumman Systems Corporation, McLean, VA; NTT DATA Federal Services, Inc., Herndon, VA; NuWave Solutions, McLean, VA; Oceus Networks Inc., Reston, VA; ODME Solutions, LLC, San Diego, CA; Okta Inc., San Francisco, CA; Pacific Star Communications Inc., Portland, OR; Pegasystems Inc., Cambridge, MA; PeopleTec Inc., Huntsville, AL; Perspecta Enterprise, Herndon, VA; Perspecta Inc., Chantilly, VA; Perspecta Labs, Basking Ridge, NJ; Phacil Inc., Arlington, VA; Planck Aerosystems Inc., San Diego, CA; Poplicus Inc. DBA Govini, Arlington, VA; Praescient Analytics LLC, Alexandria, VA; Presidio Networked Solutions LLC, Fulton, MD; PreTalen, Ltd., Beavercreek, OH; Progeny Systems Corporation, Manassas, VA; ProModel Corporation, Allentown, PA; Qlik Technologies Inc., King of Prussia, PA; QRC LLC dba QRC Technologies, Fredericksburg, VA; Quality Technology Incorporated (QuTech), Lanham, MD; Quark Security Inc., Columbia, MD; Quest Government Services Inc. dba CenturyLink QGS, Arlington, VA; Radiant Logic Inc., Sterling, VA; RavenTek Solution Partners LLC, Herndon, VA; Raytheon Company, Portsmouth, RI; Realization Technologies, Inc., Sunnyvale, CA;

Redhorse Corporation, San Diego, CA; Resource Management Concepts, Inc., Lexington Park, MD; Second Front Systems, Inc., Arlington, VA; RunSafe Security Inc., McLean, VA; SailPoint Technologies Inc., Austin, TX; Sealing Technologies Inc., Columbia, MD; Sechan Electronics Inc., Lititz, PA; Sev1Tech Inc., Woodbridge, VA; Shipcom Federal Solutions, Arlington, VA; Spectare Systems Inc., Pennington, NJ; Spinvi Consulting LLC, Alexandria, VA; Stottler Henke Associates Inc., San Mateo, CA; Subsystem Technologies Inc., Arlington, VA; Syneren Technologies Corporation, Arlington, VA; Systems Engineering Associates Corporation (SEA CORP), Middletown, RI; Systems Technology Forum Ltd., Fredericksburg, VA; Telecommunication Solutions Group Inc., Raleigh, NC; The Arcanum Group Inc., Englewood, CO; The Charles Stark Draper Laboratory Inc., Cambridge, MA; The Design Knowledge Company (TDKC), Fairborn, OH; The Pennsylvania State University, University Park, PA; ThoughtSpot, Inc., Palo Alto, CA; ThunderCat Technology, LLC, Reston, VA; Totus Ventures, LLC dba Totus Imaging, Summerville, SC; TQI Solutions Inc., Norfolk, VA; TrustComm Inc., Stafford, VA; Ultramain Systems Inc., Albuquerque, NM; Verizon Business Network Services Inc., Ashburn, VA; Viasat Inc., Carlsbad, CA; Vickers & Nolan Enterprises, LLC, Stafford, VA; Vsolvit LLC, Ventura, CA; VT Milcom Inc., Virginia Beach, VA; Welkins, LLC, Downers Grove, IL; and WGS Systems, LLC, Frederick, MD, have been added as parties to this venture.

Also, BioRankings, St. Louis, MO; Engineering Science Analysis Corp., Tempe, AZ; PEMCCO Inc., Virginia Beach, VA; SIFT LLC, Minneapolis, MN; and UtopiaCompression Corporation, Los Angeles, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IWRP intends to file additional written notifications disclosing all changes in membership.

On October 15, 2018, IWRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 23, 2018 (83 FR 53499).

The last notification was filed with the Department on January 28, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 2019 (84 FR 4536).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–16428 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on June 19, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Amsted Rail, Chicago, IL, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership or planned activities.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on April 25, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 17, 2019 (84 FR 28073).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–16427 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenJS Foundation

Notice is hereby given that, on July 12, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation (''OpenJS Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, XNSIO, Bengaluru, INDIA; BrowserStack, Plano, TX; CloudGrey, Houston, TX; Coil, San Francisco, CA; SitePen, Palo Alto, CA; SourceGraph, San Francisco, CA; The Blog Starter, Inverness, IL; and Sauce Labs, San Francisco, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on April 1, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 12, 2019 (84 FR 14972).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–16436 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical Technology Enterprise Consortium

Notice is hereby given that, on July 11, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301

et seq. (''the Act''), Medical Technology Enterprise Consortium (''MTEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Haima Therapeutics LLC, Cleveland, OH; Montana State University, Bozeman, MT; Intelligent Automation, Inc., Rockville, MD; Becton Dickinson & Company, Franklin Lakes, NJ; JumpStartCSR, Seattle, WA; 911 Medical Devices, LLC, Houston,TX; Planned Systems International, Inc., Columbia, MD; Temkin Associates, LLC dba Pleiotek, Bethesda, MD; Philips North America, LLC, Cambridge,MA; Caci, Inc.-Federal, Chantilly, VA; Crius Technology Group, Austin, TX; Irving Burton Associates, Inc. (IBA), Falls Church, VA; Dustoff Technologies, LLC, Saint Augustine, FL; FullSekurity Corporation, Irving, TX; Jakris Technologies LLC, dba Digital Enterprise Solutions (DES), Wailuku HI; ISEC7 Inc., Baltimore, MD; IQVIA Government Solutions Inc., Falls Church, VA; Recogniti LLP, Hagerstown, MD; and Regents of the University Michigan, Ann Arbor, MI, have been added as parties to this venture.

Also, Aktivax, Inc., Broomfield, CO; Amethyst Technologies, LLC, Baltimore, MD; Anu Life Sciences, Sunrise, FL; BioTime, Inc., Alameda, CA; Blumio, Inc, San Francisco, CA; Brain Mapping Foundation, West Hollywood, CA; Brown University, Providence, RI; CAE Healthcare, Inc., Sarasota, FL; California Institute of Biomedical Research (Calibr), La Jolla, CA; Cellphire, Inc., Rockville, MD; Change Ventures GP, LLC, Charleston, SC; Chimerix, Inc., Durham, NC; Dignitas Technologies, Orlando, FL; Fibralign Corp., Union City, CA; Integrated MicroSciences, LLC, Frederick, MD; LayerBio, Inc., Arlington, MA; MalarVx, Inc., Seattle, WA; NanoDirect, LLC, Baltimore, MD; OXYVITA Inc., Middletown, NY; Pendar Technologies LLC, Cambridge, MA; Protocentral Inc., Woburn, MA; QBiotics Limited, Taringa, AUSTRALIA; ReNetX Bio, Inc., New Haven, CT; Responde2 Corporation, Mountain View, CA; SAVIR GmbH, Berlin, GERMANY; Selfit Medical Ltd., Ramat Ha'sharon, ISRAEL; Serpin Pharma, Nokesville, VA; Sheltagen Medical Ltd., Atlit, ISRAEL; SmartMD Systems Inc., Manchester Center, VT; SOL–DEL MEDICAL LTD., KFAR SABA, ISRAEL; Solution Guidance Corporation, Chantilly, VA; Sonica LLC Evanston, IL; StemBioSys Inc., San Antonio, TX; SynDaver Labs, Tampa, FL; The Children's Hospital Corporation dba Boston Children's Hospital, Boston, MA; The Trustees of Columbia University in the City of New York, New York, NY; The University of Alabama at Birmingham, Birmingham, AL; Triton Systems Inc, Chelmsford, MA; Tympanogen, Inc., Williamsburg, VA; University of Illinois at Chicago, Chicago, IL; University of Miami, Coral Gables, FL; University of Nebraska Medical Center, Omaha, NE; URO–RESEARCH, LLC, Houston, TX; and West Virginia University Research Corporation, Morgantown, WV, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MTEC intends to file additional written notifications disclosing all changes in membership.

On May 9, 2014, MTEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on April 8, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 2, 2019 (84 FR 18864).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–16432 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—3D PDF Consortium, Inc.

Notice is hereby given that, on July 3, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 3D PDF Consortium, Inc. (''3D PDF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Jackson Begg Limited, Waterloo, CANADA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 3D PDF intends to file additional written notifications disclosing all changes in membership.

On March 27, 2012, 3D PDF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2012 (77 FR 23754).

The last notification was filed with the Department on April 12, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 29, 2019 (84 FR 18088).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–16429 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed New Information Collection Activity; Comment Request, Proposed Study Entitled ''The National Baseline Study on Public Health, Wellness, & Safety''

AGENCY: National Institute of Justice, U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, National Institute of Justice, is 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: The Department of Justice encourages public comment and will accept input until September 30, 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 Christine Crossland, National Institute of Justice, Office of Research, Evaluation, and Technology, 810 Seventh Street NW, Washington, DC 20531 (overnight 20001) or via email at *NIJ_NationalBaselineStudy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Institute of Justice, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New survey.

2. *The Title of the Form/Collection:* ''The National Baseline Study on Public Health, Wellness, & Safety''.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable component within the U.S. Department of Justice is the National Institute of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Title IX, Section 904(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law No. 109–162 (codified at 42 U.S.C. 3796gg–10 note), as amended by Section 907 of the Violence Against Women Reauthorization Act, Public Law No.113–4, mandates that the National Institute of Justice (NIJ), in consultation with the U.S. Department of Justice's Office on Violence Against Women (OVW), conduct a National Baseline Study (NBS) on violence against American Indian (AI) and Alaska Native (AN) women living in tribal communities. NIJ's NBS will examine violence against AI and AN women (including domestic violence, dating violence, sexual assault, and stalking) and identify factors that place AI and AN women at risk for victimization and propose recommendations to improve effectiveness of these responses. NIJ's NBS survey was designed to: (1) Provide an accurate reporting of violence against AI and AN women in tribal communities; (2) provide reliable, valid estimates of the scope of the problem; and (3) identify barriers to and possible solutions for dealing with these significant public safety issues.

The NBS will be conducted in geographically dispersed tribal communities across the U.S. (lower 48 and Alaska) using a NIJ-developed sampling strategy for which the primary aim is to provide an accurate *national* victimization rate of violence against adult AI and AN women specifically living in tribal communities. This information collection is a one-time information collection and is expected to take approximately thirty-six months from the time the first participant is enrolled until the last survey is administered.

The NBS is critical to quantifying the magnitude of violence and victimization in tribal communities and understanding service needs. At the end of this study, the NBS is expected to produce a deeper understanding of the issues faced by Native American women living in Indian Country and Alaska Native villages and help formulate public policies and prevention strategies to decrease the incidence of violent crimes against AI and AN women.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated range of burden for respondents is expected to be between 30 minutes to 1.5 hours for completion. Based on instrument testing results, we expect an average of 60 minutes per respondent. The following factors were considered when creating the burden estimate: The estimated total number of sites (40), households within sites (25), and respondents within households (1.5) in the sampling plan for a total of 1,500 expected respondents. NIJ estimates that nearly all of the approximately 1,500 respondents will fully complete the questionnaire.

6. An estimate of the total public burden (in hours) associated with the collection: The estimated public burden associated with this collection is 1,500 hours. It is estimated that each of the 1,500 respondents will take 1 hour to complete a questionnaire (1,500 respondents × 1 hour = 1,500 hours). We estimate a 36-month data collection period, with approximately half of the interviews completed each year, or an annualized burden of 500 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.405A, Washington, DC 20530.

Dated: July 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16391 Filed 7–31–19; 8:45 am]

BILLING CODE 4410–23–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before September 3, 2019.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Email: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect a copy of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Office of Standards, Regulations, and Variances at 202–693–9447 (voice),

mcconnell.sheila.a@dol.gov (email), or 202–693–9440 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2019–020–C.

Petitioner: Rockwell Mining, LLC, 300 Kanawha Boulevard, East (ZIP 25301), P.O. Box 273, Charleston, West Virginia 25321–0273.

Mine: Matewan Tunnel Mine, MSHA I.D. No. 46–08610, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1108(c) (Approved conveyor belts).

Modification Request: The petitioner requests a modification of the Part 14 belt standard because the unique layout of the mine as well as additional safety measures that will be put in place will make the conveyor belt in the Tunnel Mine at least as safe as compliance with Part 14.

The petitioner states that:

(1) The Tunnel Mine is a straight, three-entry tunnel mine developed in 1998. The mine has been non-producing since 1998. At the time of development, the sole purpose of the project was to provide an excavation to install a conveyor system to transport raw coal. The seam is 33 inches thick, requiring 48 inches of outseam excavation to facilitate the conveyor system. The Tunnel Mine does not liberate any methane.

(2) The Tunnel Mine consists of three entries developed on a straight course 10,500 feet from outcrop to outcrop. The roof in the belt entry (center entry) is supported by 6-foot fully grouted bolts with T5 steel channels in every row. Steel straps and four-foot conventional bolts support the ribs. The final conveyor structure is offset in the entry to provide complete access along its entire length. Thus, the ventilation system will not likely be compromised by roof or rib integrity measures.

(3) The 42-inch conveyor is 12,445 feet long and is powered by two separate drive installations located on the surface at each end of the underground excavation (500 HP at Rocklick and 1,000 HP at Harris). The conveyor is uniquely designed to turn over on each end to maintain the material handling surface in an upward facing position. Both the top and bottom structure are troughed 35 degrees to provide simultaneous transportation capacity on the top and return portions of the belt. The conveyor uses special belt with steel cable carcass related at 1,900 pounds per inch of belt width (PIW). Traveling 680 feet per minute (FPM), the belt system has a carrying capacity of 1,000 tons per hour (TPH) on each belt (top and bottom totaling 2,000 TPH).

(4) The Tunnel Mine currently only transports a fraction of its design capacity. Currently, the Tunnel Mine transports only raw coal from two continuous miner sections in the Black Oak Mine with an estimated daily volume of 4,000 raw tons to Rocklick. The return belt capacity is not utilized at the mine.

—The portal at the Preparation Plant side of the Tunnel Mine is known as the Rocklick Portal. The portal at the other end is known as the Harris Portal. The Tunnel Mine is ventilated from the Rocklick Portal with a 5.5 foot blowing fan with a 1,200 rpm speed, set to Blade Setting No. 5, producing 95,000 cfm of airflow.

—At the Rocklick Portal, fresh air enters in the No. 1 entry and travels to the No. 11 crosscut and splits. A small portion of the air goes to entry Nos. 2 and 3 from crosscut No. 11 back to the Rocklick Portal. The remaining air flows to the Harris Portal from crosscuts 11 to 75 in all three entries. The air in the Tunnel Mine is considered neutral.

—The existing belt, which is believed to have been installed between 2005 and 2007, is in excellent condition with little wear. There are no belt drives, tails, or dumping points on the underground portion of the belt flight. The belt runs one shift per day, approximately 8 to 9 hours. At the Harris Portal, an additional 1,250 feet of conveyor takes the belt to the Black Oak Mine surface loading point. At the Rocklick Portal, about 500 feet of conveyor belt takes the coal to the raw coal pile.

—The Tunnel Mine has numerous safety features at or above the minimum standards, including:

(a) Mandoors every 300 feet on each stopping line.

(b) Carbon monoxide monitors every 1,000 feet.

(c) The conveyor has belt alignment rollers every 1,000 feet.

(d) Fire taps located every 300 feet. Hoses are located at breaks 1, 37, and 74, which exceeds the minimum requirements.

(e) The operator x-rays the belt annually to ensure the integrity of the existing belt.

(f) Two-way communications (pager phones) are located underground at every seventh break throughout the mine. The control room operator at Rocklick monitors the communication system. Two-way wireless radios worn by the surface employees can communicate with the examiner underground.

(g) The roadways are graveled.

(h) Emergency belt stop switches every seventh break.

(i) No violations have been issued on the belt since May 19, 1998.

—Certified examiners travel the belt entry on a two-man ride to examine the belt once per shift and record those findings in the required mine books.

—Normally, the Tunnel Mine operates with only one miner underground while the belt is running. The examiners of the Tunnel Mine are a certified foreman and electricians. Examinations take about 1 hour per shift. When necessary, a certified miner helps with maintenance and other tasks in the mine.

—There are no belt drives, tailpieces, or electric motors inside the Tunnel Mine. The belt only runs through the mine on conveyor structure and rollers.

—The belt is approximately 1 inch thick, 42 inches wide and has steel cable imbedded in the belt. The belt at each end is turned over so that the coal side is always facing up on transport and return. The design greatly reduces any spillage and accumulations in the mine.

—Self-Contained Self-Rescuer caches are stored at breaks 14, 28, 37, 42, 56, and 70. There ae also emergency barricade materials kept in the No. 3 entry.

—The Tunnel Mine also has emergency lifelines throughout. Further, the

following significant fire detection and fire-fighting devices are in the mine:

(1) The beltline has 13 smoke detection and carbon monoxide (CO) sensors approximately every 5 to 6 breaks. The CO sensors are currently set to ''low alarm'' at 5 parts per millions (ppm) and ''high alarm'' at 10 ppm, far below levels that present any danger to miners. The CO monitoring system will be programmed to shut off the belt at ''high alarm'' and;

(2) The two-man ride used to examine the belt has self-rescuers and separate fire extinguishers.

—The only alternative to using the Tunnel Mine belt will be to truck Black Oak Mine coal to Rocklick. This will significantly increase the number of trucks on Route 85 in Boone County between Black Oak and Rocklick Preparation Plant. The increase in trucks going in and out of the Rocklick Preparation Plant will also add congestion to the load out traffic flow.

—The operator has not experienced any safety issues with the conveyor belt in the Tunnel Mine nor has it received any 30 CFR 75.400 citations for accumulations of combustible materials during current ownership. The operator has not experienced any fire related issues on the conveyor belt at the Tunnel Mine nor has it experienced any significant issues with rollers on the belt in the Tunnel Mine beyond routine maintenance.

—Based on a chemical laboratory analysis, the belt has been confirmed to be Part 18 compliant. The belt has not been tested for Part 14 compliance due to the operator's difficulty in finding an appropriate testing facility.

The petitioner proposes the following alternative method of achieving the purposes of the standard:

(a) Prior to a qualified person entering the mine, the CO system data from the prior 2 hours will be monitored for any sign of combustion. At the end of coal transport each day (fire run), the CO system data from the prior 4 hours will be monitored for any signs of combustion (*i.e.,* CO or smoke detection by CO monitors on the belt).

(b) A daily functional (bump) test of at least one sensor will be conducted for CO in addition to the weekly functional test required under 30 CFR 75.1103–8. A different sensor will be bump tested each day.

(c) The operator will train miners on the location of Part 18 belt and interim safety measures being taken herein and revise instruction under 30 CFR 75.1502 as appropriate.

(d) An immediate functional test of the fire suppression system along with additional tests will be conducted weekly. A daily visual inspection of the entire fire suppression system will be conducted by a qualified person.

(e) The operator will install a ''waterwall system'' every 900 feet that will be tapped into the CO monitoring system. The waterwall will activate at 50 ppm of CO. The waterwall will provide a minimum of 50 psi and 45 GPM of water curtain from roof to floor and rib to rib.

(f) Except during the on-shift exam, the belt will be cleared of coal and will run empty during examinations. Examinations generally take less than one hour. Currently, the belt runs approximately 8–9 hours a day.

(g) Other than replacing water pumps, no motors, electrical equipment, or belt drives will be added underground and no changes will be made to the belt configuration or layout while this petition is in effect.

(h) Examiners will enter the mine from the Harris Portal at the downwind side so the examiner is traveling towards the fan. From entries 75 to 11, the examiner will be traveling into fresh air. From crosscut No. 11 to the Rocklick Portal, fresh air will come from behind the examiner for those 11 breaks.

(i) Examiners will be trained to immediately notify the dispatcher in the event of CO detection. Radio contact is established throughout the Tunnel Mine beltline. Should a fire be encountered and not extinguished according to the Mine Act, the examiner will withdraw from the Tunnel Mine and notify MSHA as required under applicable law.

(j) If the CO detection system is down, the belt will not operate until necessary repairs have been made.

(k) All necessary replacement belt will be Part 14 compliant. As the belt is repaired and sections replaced, Part 14 belt will be used.

(l) The belt will not be in operation while most maintenance is conducted on the beltline.

(m) The operator will continue annual x-ray examinations.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2019–16390 Filed 7–31–19; 8:45 am]

BILLING CODE 4520–43–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9:00 a.m., August 19, 2019.

PLACE: On board MISSISSIPPI V at Caruthersville City Front, Caruthersville, Missouri.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Louis and Memphis Districts; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9:00 a.m., August 20, 2019.

PLACE: On board MISSISSIPPI V at Helena Harbor Boat Ramp, Helena, Arkansas.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9:00 a.m., August 21, 2019.

PLACE: On board MISSISSIPPI V at Vicksburg City Front, Vicksburg, Mississippi.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any

issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9:00 a.m., August 23, 2019.

PLACE: On board MISSISSIPPI V at City Dock, Baton Rouge, Louisiana.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles A. Camillo, telephone 601–634–7023.

Charles A. Camillo,

Director, Mississippi River Commission.

[FR Doc. 2019–16520 Filed 7–30–19; 11:15 am]

BILLING CODE 3720–58–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 050–00284, 070–01374, 030–32322, and 030–38726; NRC–2019–0156]

In the Matter of Idaho State University

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order to Idaho State University on May 2, 2019. The purpose of the confirmatory order was to document commitments made as part of a settlement agreement between Idaho State University and the NRC to address inadequate management oversight for Idaho State University's radiation protection program and a failure to prioritize resources for the radiation safety staff such that their responsibilities could be implemented. The confirmatory order also documented commitments to address Idaho State University's failure to effectively control radioactive materials in its possession, exhibited by multiple violations identified during inspections and the inadequate extent of condition review related to the violations involving a lost source.

DATES: The confirmatory order was issued and effective on May 2, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0156 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0156. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Confirmatory Order to Idaho State University is available in ADAMS under Accession No. ML19122A123.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Casey Alldredge, Region IV, U.S. Nuclear Regulatory Commission, Arlington, TX 76011–4511; telephone: 817–681–3027, email: *Casey.Alldredge@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 26th day of July, 2019.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order

I

Idaho State University (ISU or licensee) is the holder of the licenses identified in the Attachment to this Confirmatory Order issued by the U.S. Nuclear Regulatory Commission (NRC or Commission), in accordance with the Atomic Energy Act of 1954, as amended, and Parts 30, 40, 50, and 70 of Title 10 of the *Code of Federal Regulations* (10 CFR).

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on March 27, 2019.

II

On January 10, 2019, the NRC issued Inspection Report 030–32322/2018–001 (Agencywide Documents Access and Management System (ADAMS) Accession ML19011A015) to ISU which documented the identification of one apparent violation that was considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violation of 10 CFR 30.34(i) involved the failure to secure two portable gauges containing radioactive sources to prevent unauthorized access or removal.

By letter dated January 10, 2019, the NRC notified ISU of the results of the inspection with an opportunity to: (1) Attend a predecisional enforcement conference or (2) participate in an ADR mediation session in an effort to resolve this concern.

In response to the NRC's offer, ISU requested the use of the NRC's ADR process. On March 27, 2019, the NRC and ISU met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During the ADR session, ISU and the NRC reached a preliminary settlement agreement. The elements of the agreement included the list of violations, corrective actions that ISU already completed, and future agreed upon actions as follows:

Severity Level IV Violations in NRC Inspection Report 030–32322/2018–001

A. Failure to ensure that each container of licensed material bore a durable, clearly visible label that provided sufficient information to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures;

B. Failure to conduct a physical inventory every 6 months to account for all sealed sources possessed under the license;

C. Failure to permit access to contamination areas only when staff were under the supervision of senior

Environmental Health and Safety Department personnel;

D. Failure to clearly document surveys so that others can understand them and removed postings in a decommissioned lab without approval of the radiation safety officer;

E. Failure to transfer radioactive materials to another organization only when authorization was obtained from the radiation safety officer;

F. Failure to post each area or room in which there was used or stored an amount of licensed material exceeding 10 times the quantity of such material specified in Appendix C to 10 CFR part 20 with a conspicuous sign or signs bearing the radiation symbol and the words ''CAUTION, RADIOACTIVE MATERIAL(S)'' or ''DANGER, RADIOACTIVE MATERIAL(S)'';

G. Failure to prominently post an area to control the spread or accidental intake of radioactive materials as a contamination controlled area;

H. Failure to conduct routine radiological surveys evaluating both the strength of any radiation fields present and as appropriate, the potential presence of radioactive material contamination at a regular periodicity, no less than monthly in labs where dispersible radioactive material is used;

I. Failure to ensure that: (1) Potential radiation exposures from any source, or within any facility, were evaluated by the radiation safety officer or designee to determine protection and monitoring requirements; (2) work areas where radioactive materials had been used and storage areas for these materials were surveyed for external exposure rates whenever changes were made in the quantities, locations or shielding; and (3) user laboratory survey frequencies were daily when radioactive materials were in use or as otherwise specified by Environmental Health and Safety;

J. Failure to test the fume hoods at least annually; and

K. Failure to periodically (at least annually) review the radiation protection program content and implementation.

Corrective Actions Taken by Idaho State University Include

A. Permanent transfer of five portable gauges out of ISU inventory to authorized recipients.

B. Specific corrective actions and commitments of programmatic changes described in the ISU letter to the NRC, dated February 11, 2019, ADAMS Accession ML19044A380.

The Elements of the Agreement, as Signed by Both Parties, Consist of the Following

Third-Party Audit and Causal Evaluation

A. Within 90 days of the issuance date of the Confirmatory Order, one or more third-party person(s) selected by ISU will complete a 100 percent source inventory and submit the results in writing to the NRC and the independent auditor identified and approved in Condition B.

B. Within 30 days of the issuance date of the Confirmatory Order, ISU will submit to the NRC for approval the resumé of one or more third-party persons knowledgeable in the various types of licensed activities at ISU. The person(s) must also have appropriate experience and knowledge of performing audits of the various licensed activities at ISU, performing causal analyses, and development of corrective action plans based on the audit findings and the cause evaluations.

C. The independent third-party person(s) will:

1. Within 150 days of the NRC's approval of the third-party person(s), complete an independent audit of NRC licensed activities across all four NRC licenses (broad scope, production, research and test reactor, and special nuclear material) and provide a report to the NRC of the audit findings. The audit will include, at a minimum: Observation of activities, knowledge interviews of ISU workers and staff, records review, review of the radiation safety committee activities, and approval of authorized users and their uses of licensed material. Over the course of the audit, potential findings must be discussed with ISU management in order to allow ISU to provide any additional information necessary for the auditors to consider in assessing the validity of the finding.

2. Within 60 days after completing the audit above, complete a causal evaluation of the audit findings and NRC enforcement actions from January 1, 2017, to the issuance date of the Confirmatory Order. The independent third-party person(s) may also conduct causal evaluations as needed to determine causes of specific significant issues. The third-party person(s) shall discuss their causal methodologies and recommended corrective actions with ISU management in order to allow ISU to provide any additional information necessary for the auditors to consider in assessing the validity of their causal evaluations.

Corrective Actions

D. Within 60 days of receiving the third-party person(s) causal evaluation and recommended corrective actions, ISU shall submit to the NRC its corrective action plan with a schedule for completion of the actions it takes. If ISU determines it will not adopt one or more recommended corrective actions from the third-party person(s), ISU must identify to the NRC, in its plan, the basis for not accepting the third-party recommendation(s). All corrective actions must be completed within 18 months of the corrective action plan submittal to the NRC.

E. Within 90 days of the issuance date of the Confirmatory Order, ISU shall develop a procedure to enhance management oversight by requiring radiation safety committee members to participate in radiation safety program audits.

Effectiveness Review

F. Within 6 months after submitting the corrective action plan to the NRC and every 6 months thereafter (subject to Condition G), ISU will perform an effectiveness review of its corrective actions. The review must include at least one independent third-party person on the assessment team. Within 30 days of completion of the effectiveness review, ISU will submit a report to the NRC with the results of its review, the status of the corrective action plan, and the revisions/modifications to the corrective action plan to address any findings.

G. Within 6 months after completion of all corrective actions, ISU will perform a final effectiveness review and submit the report to the NRC.

Administrative Items

H. The NRC and ISU agree that the above elements will be incorporated into a Confirmatory Order.

I. The NRC will consider the Confirmatory Order an escalated enforcement action with respect to any future enforcement actions.

J. In consideration of the elements delineated above, the NRC agrees not to issue a Notice of Violation to ISU for the apparent violation discussed in NRC Inspection Report 030–32322/2018–001, dated January 10, 2019, and not to issue an associated civil penalty.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violation identified in the NRC's January 10, 2019, letter.

On April 29, 2019, ISU consented to issuing this Confirmatory Order with

the commitments, as described in Section V below. Idaho State University further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that ISU's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that ISU's commitments be confirmed by this Confirmatory Order. Based on the above and ISU's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30, 40, 50, and 70, IT IS HEREBY ORDERED THAT LICENSE NOS. 11–27380–01, 11–27380–04, SNM–1373, AND R–110 ARE MODIFIED AS FOLLOWS:

Third-Party Audit and Causal Evaluation

A. Within 90 days of the issuance date of the Confirmatory Order, one or more third-party person(s) selected by ISU will complete a 100 percent source inventory and submit the results in writing to the NRC and the independent auditor identified and approved in Condition B.

B. Within 30 days of the issuance date of the Confirmatory Order, ISU will submit to the NRC for approval the resumé of one or more third-party persons knowledgeable in the various types of licensed activities at ISU. The person(s) must also have appropriate experience and knowledge of performing audits of the various licensed activities at ISU, performing causal analyses, and development of corrective action plans based on the audit findings and the cause evaluations.

C. The independent third-party person(s) will:

1. Within 150 days of the NRC's approval of the third-party person(s), complete an independent audit of NRC licensed activities across all four NRC licenses (broad scope, production, research and test reactor, and special nuclear material) and provide a report to the NRC of the audit findings. The audit will include, at a minimum: Observation of activities, knowledge interviews of ISU workers and staff, records review, review of the radiation safety committee activities, and approval of authorized users and their uses of licensed material. Over the course of the audit, potential findings must be discussed with ISU management in order to allow ISU to provide any additional information necessary for the auditors to consider in assessing the validity of the finding.

2. Within 60 days after completing the audit above, complete a causal evaluation of the audit findings and NRC enforcement actions from January 1, 2017, to the issuance date of the Confirmatory Order. The independent third-party person(s) may also conduct causal evaluations as needed to determine causes of specific significant issues. The third-party person(s) shall discuss their causal methodologies and recommended corrective actions with ISU management in order to allow ISU to provide any additional information necessary for the auditors to consider in assessing the validity of their causal evaluations.

Corrective Actions

D. Within 60 days of receiving the third-party person(s) causal evaluation and recommended corrective actions, ISU shall submit to the NRC its corrective action plan with a schedule for completion of the actions it takes. If ISU determines it will not adopt one or more recommended corrective actions from the third-party person(s), ISU must identify to the NRC, in its plan, the basis for not accepting the third-party recommendation(s). All corrective actions must be completed within 18 months of the corrective action plan submittal to the NRC.

E. Within 90 days of the issuance date of the Confirmatory Order, ISU shall develop a procedure to enhance management oversight by requiring radiation safety committee members to participate in radiation safety program audits.

Effectiveness Review

F. Within 6 months after submitting the corrective action plan to the NRC and every 6 months thereafter (subject to Condition G), ISU will perform an effectiveness review of its corrective actions. The review must include at least one independent third-party person on the assessment team. Within 30 days of completion of the effectiveness review, ISU will submit a report to the NRC with the results of its review, the status of the corrective action plan, and the revisions/modifications to the corrective action plan to address any findings.

G. Within 6 months after completion of all corrective actions, ISU will perform a final effectiveness review and submit the report to the NRC.

The NRC will consider the Confirmatory Order an escalated enforcement action with respect to any future enforcement actions. In consideration of the elements delineated above, the NRC agrees not to issue a Notice of Violation to ISU for the apparent violation discussed in NRC Inspection Report 030–32322/2018–001, dated January 10, 2019, and not to issue an associated civil penalty. This agreement is binding upon successors and assigns of ISU. The Regional Administrator, Region IV may, in writing, relax or rescind any of the above conditions upon demonstration by ISU or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than ISU, may request a hearing within 30 calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter ''petition''), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone

at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document.

The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's Public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff.

Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than ISU) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

[FR Doc. 2019–16368 Filed 7–31–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 050–00482; NRC–2019–0159]

In the Matter of Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order to Wolf Creek Nuclear Operating Corporation on July 18, 2019. The purpose of the confirmatory order was to document commitments that were made as part of a settlement agreement between Wolf Creek Nuclear Operating Corporation and the NRC to address an apparent

violation related to craft personnel deliberately falsifying records regarding a work order associated with the cleaning and inspection of control rod drive mechanisms.

DATES: The confirmatory order was issued and effective on July 18, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0159 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0159. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Confirmatory Order to Wolf Creek Nuclear Operating Corporation is available in ADAMS under Accession No. ML19198A313.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Kramer, Region IV, U.S. Nuclear Regulatory Commission, Arlington, TX 76011–4511; telephone: 817–200–1121, email: *John.Kramer@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 26th day of July, 2019.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order.

I

Wolf Creek Nuclear Operating Corporation (Wolf Creek or Licensee) is the holder of Facility Operating License No. NPF–42 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of *Title 10 of the Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' The license authorizes the operation of Wolf Creek Generating Station (facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Burlington, Kansas.

This Confirmatory Order is the result of a preliminary settlement agreement reached during an alternative dispute resolution (ADR) mediation session conducted on May 30, 2019.

II

On November 22, 2017, the NRC's Office of Investigations (OI), Region IV Field Office, opened an investigation (OI Case 4–2018–008) at the Wolf Creek facility to determine whether craft personnel deliberately falsified records regarding a work order. On November 13, 2018, the investigation was completed. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR 50.9, ''Completeness and accuracy of information,'' in that, on October 31, 2016, a maintenance worker and a supervisor documented inaccurate information regarding the cleaning and inspection of control rod drive mechanisms. By letter dated April 2, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession ML19092A335), the NRC notified Wolf Creek of the results of the investigation with the opportunity to attend a predecisional enforcement conference or to participate in an ADR mediation session in an effort to resolve the concern.

In response to the NRC's offer, Wolf Creek requested the use of the NRC's ADR process to resolve the concerns. On May 30, 2019, the NRC and Wolf Creek met in an ADR session mediated by a professional mediator arranged through the Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. The terms of this Confirmatory Order are based on the elements of the agreement reached during the ADR session.

III

During the ADR session held on May 30, 2019, Wolf Creek and the NRC reached a preliminary settlement agreement. Corrective actions already taken by Wolf Creek that were discussed included:

A. The Chief Nuclear Officer issued a communication to the entire plant regarding expectations for accurately performing and documenting work activities, focusing on ''Your Signature Is Your Word'' and ''Look for, Understand, and Mitigate Risk'' related to making assumptions.

B. Wolf Creek performed remediation with the individuals involved to reinforce and institutionalize Wolf Creek standards and expectations with a focus on complete and accurate documentation, which included face-to-face discussion with the plant manager and the site vice president.

C. Wolf Creek developed a procedure AP18–001, ''Emerging Concerns,'' to improve the quality of investigations, including investigations involving deliberate misconduct.

D. Wolf Creek conducted an internal investigation into employee deliberate misconduct with external counsel.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

Communications

A. Within 1 month of the issuance date of the Confirmatory Order, Wolf Creek will issue a stand-alone communication from the Chief Nuclear Officer to all employees and contractor personnel that willful violations will not be tolerated. The communication will stress the importance of procedural adherence, ensuring that documents are complete and accurate, and of potential consequences for engaging in willful violations. This message will be balanced with the recognition that people do make mistakes and when that happens, it is Wolf Creek's expectation that its employees and contractors will identify and document issues in accordance with licensee procedures.

B. Within 4 months of the issuance date of the Confirmatory Order, Wolf Creek will hold meetings with all employees and long-term contractor personnel to address integrity and trustworthiness. The meetings will: (1) Stress the importance of procedural adherence, ensuring that documents are complete and accurate, and of potential consequences for engaging in willful violations; (2) describe the circumstances of this case, the results of the root cause evaluation, and Wolf Creek's corrective actions; (3) include the expectation to immediately raise safety concerns when observed; (4) address how to proceed when work order documentation is incomplete.

C. Within 4 months of the issuance date of the Confirmatory Order, Wolf Creek will reinforce expectations with regards to 10 CFR 50.9, completeness and accuracy of information, and 10 CFR 50.5, deliberate misconduct, by providing an overview of the last 5 years

of pertinent NRC enforcement actions with Operations, Fire Watch, Maintenance, and Radiation Protection staff.

D. Within 6 months of the issuance date of the Confirmatory Order, Wolf Creek will complete its efforts to reinforce site expectations through posters and the morning brief communications, which will specifically address 10 CFR 50.9 and 10 CFR 50.5, and its applicable ''Professional to the Core'' behaviors meant to ensure high quality work and high-quality work products.

E. Within 6 months of the issuance date of this Confirmatory Order, Wolf Creek will develop a presentation to be delivered to an appropriate industry forum (*e.g.,* Regional Utility Group or Strategic Teaming and Resource Sharing) subject to acceptance of the conference organizing committees.

1. This presentation will include the significance of the incident that formed the basis for this violation, the consequences of the actions, the responsibilities of personnel involved, and the completed and planned corrective actions.

2. Wolf Creek will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the presentation within 30 days of submittal.

F. Within 18 months of the issuance date of this Confirmatory Order, Wolf Creek will deliver the presentation developed in Element E to an industry forum.

Evaluation

G. Within 3 months of the issuance date of the Confirmatory Order, Wolf Creek will complete a root cause analysis of the circumstances that led to the incomplete and inaccurate information violation and develop corrective actions.

H. Within 6 months of the issuance date of the Confirmatory Order, Wolf Creek will benchmark 2 other licensee sites to determine how other licensees detect and address incomplete and inaccurate information, including falsified records, and then develop actions from the benchmarks as appropriate.

Training

I. Within 4 months of the issuance date of this Confirmatory Order, Wolf Creek will provide in-person training to station staff (employees and long-term contractors) that emphasizes expectations for completeness and accuracy in documentation, the expectation to stop when unsure, the expectation to write a condition report if encountering unexpected conditions, and what it means when an individual signs or initials a document. Wolf Creek will add training on these subjects to initial or ''onboarding'' training. The scope of the initial training may differ between Wolf Creek employees and contractors.

J. Within 12 months of the issuance date of this Confirmatory Order, Wolf Creek will provide training to all maintenance personnel (craft, supervisors, and managers) that describes work order process timeliness, signature or initial requirements, and the process to follow if documents are incomplete (*e.g.,* missing signatures). Subsequently, a training request will be initiated to analyze training frequency on this topic and Wolf Creek will follow its training process to completion.

K. Within 12 months of the issuance date of this Confirmatory Order, Wolf Creek will implement annual compliance and ethics training to all employees to address 10 CFR 50.9 and 10 CFR 50.5, compliance therewith, and consequences for non-compliance. In addition, the training will describe what it means when an individual signs or initials a document.

Corrective Actions

L. Within 6 months of the completion of refueling outage 23, Wolf Creek will perform a self-assessment on work order documentation quality by sampling 40 quality-related sub-work order packages performed during the refueling outage. The work order packages selected shall include substantial in-field work. The sample scope will be approved by the regulatory affairs manager and provided to the Wolf Creek NRC resident staff. The assessment team composition shall include an external peer in addition to station personnel. The results of the self-assessment will be reviewed by the Corrective Action Review Board and documented in the corrective action program system.

M. Within 6 months of the completion of refueling outage 24, Wolf Creek will perform a self-assessment on work order documentation quality by sampling 40 quality-related sub-work order packages performed during the refueling outage. The work order packages selected shall include substantial in-field work. The sample scope will be approved by the regulatory affairs manager and provided to the Wolf Creek NRC resident staff. The assessment team composition shall include an external peer in addition to station personnel. The results of the self-assessment will be reviewed by the Corrective Action Review Board and documented in the corrective action program system.

N. Within 4 months of the issuance date of the Confirmatory Order, Wolf Creek will conduct a nuclear safety culture survey developed by a third-party.

O. Within 30 months of the completion of the survey in Element N, Wolf Creek will conduct a second nuclear safety culture survey.

P. By December 31 of 2020, 2021, and 2022, Wolf Creek will perform an annual effectiveness review of its corrective actions associated with the Confirmatory Order. The annual effectiveness review will include the insights from benchmarks, site performance, self-assessments, and safety culture surveys. Wolf Creek will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the annual effectiveness review.

Administrative Items

Q. By December 31 of each year until 2023, Wolf Creek will provide in writing to the Regional Administrator, Region IV, a summary of the actions implemented under this Confirmatory Order, the results achieved, and any additional corrective actions initiated as a result of this Confirmatory Order.

R. Wolf Creek will retain a copy, for 5 years from document creation, of all documents created as a result of this Confirmatory Order.

S. In the event of the transfer of the license of Wolf Creek to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license.

T. In consideration of the elements delineated above, the NRC agrees not to issue a Notice of Violation for the violation discussed in NRC Inspection Report 05000482/2019010 and NRC Investigation Report 4–2018–008 dated April 2, 2019 (EA–18–165) and not to issue an associated civil penalty.

U. The NRC will consider the Confirmatory Order an escalated enforcement action with respect to any future enforcement actions.

V. The NRC and Wolf Creek agree that the above elements will be incorporated into a Confirmatory Order.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violation identified in the NRC's April 2, 2019, letter.

On July 11, 2019, Wolf Creek consented to issuing this Confirmatory Order with the commitments, as

described in Section V below. Wolf Creek further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that Wolf Creek's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Wolf Creek's commitments be confirmed by this Confirmatory Order. Based on the above and Wolf Creek's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NO. NPF–42 IS MODIFIED AS FOLLOWS:

Communications

A. Within 1 month of the issuance date of this Confirmatory Order, Wolf Creek will issue a stand-alone communication from the Chief Nuclear Officer to all employees and contractor personnel that willful violations will not be tolerated. The communication will stress the importance of procedural adherence, ensuring that documents are complete and accurate, and of potential consequences for engaging in willful violations. This message will be balanced with the recognition that people do make mistakes and when that happens, it is Wolf Creek's expectation that its employees and contractors will identify and document issues in accordance with licensee procedures.

B. Within 4 months of the issuance date of this Confirmatory Order, Wolf Creek will hold meetings with all employees and long-term contractor personnel to address integrity and trustworthiness. The meetings will: (1) Stress the importance of procedural adherence, ensuring that documents are complete and accurate, and of potential consequences for engaging in willful violations; (2) describe the circumstances of this case, the results of the root cause evaluation, and Wolf Creek's corrective actions; (3) include the expectation to immediately raise safety concerns when observed; (4) address how to proceed when work order documentation is incomplete.

C. Within 4 months of the issuance date of this Confirmatory Order, Wolf Creek will reinforce expectations with Operations, Fire Watch, Maintenance, and Radiation Protection staff with regards to 10 CFR 50.9, completeness and accuracy of information, and 10 CFR 50.5, deliberate misconduct, by providing an overview of the last 5 years of pertinent NRC-wide enforcement actions.

D. Within 6 months of the issuance date of this Confirmatory Order, Wolf Creek will complete its efforts to reinforce site expectations through posters and the morning brief communications, which will specifically address 10 CFR 50.9 and 10 CFR 50.5, and its applicable ''Professional to the Core'' behaviors meant to ensure high quality work and high-quality work products.

E. Within 6 months of the issuance date of this Confirmatory Order, Wolf Creek will develop a presentation to be delivered to an appropriate industry forum (*e.g.,* Regional Utility Group or Strategic Teaming and Resource Sharing) subject to acceptance of the conference organizing committees.

1. This presentation will include the significance of the incident that formed the basis for this violation, the consequences of the actions, the responsibilities of personnel involved, and the completed and planned corrective actions.

2. Wolf Creek will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the presentation within 30 days of submittal.

F. Within 18 months of the issuance date of this Confirmatory Order, Wolf Creek will deliver the presentation developed in Element E to an industry forum.

Evaluation

G. Within 3 months of the issuance date of this Confirmatory Order, Wolf Creek will complete a root cause analysis of the circumstances that led to the incomplete and inaccurate information violation and develop corrective actions.

H. Within 6 months of the issuance date of this Confirmatory Order, Wolf Creek will benchmark 2 other licensee sites to determine how other licensees detect and address incomplete and inaccurate information, including falsified records, and then develop actions from the benchmarks as appropriate.

Training

I. Within 4 months of the issuance date of this Confirmatory Order, Wolf Creek will provide in-person training to station staff (employees and long-term contractors) that emphasizes expectations for completeness and accuracy in documentation, the expectation to stop when unsure, the expectation to write a condition report if encountering unexpected conditions, and what it means when an individual signs or initials a document. Wolf Creek will add training on these subjects to initial or ''onboarding'' training. The scope of the initial training may differ between Wolf Creek employees and contractors.

J. Within 12 months of the issuance date of this Confirmatory Order, Wolf Creek will provide training to all maintenance personnel (craft, supervisors, and managers) that describes work order process timeliness, signature or initial requirements, and the process to follow if documents are incomplete (*e.g.,* missing signatures). Subsequently, a training request will be initiated to analyze training frequency on this topic and Wolf Creek will follow its training process to completion.

K. Within 12 months of the issuance date of this Confirmatory Order, Wolf Creek will implement annual compliance and ethics training to all employees to address 10 CFR 50.9 and 10 CFR 50.5, compliance therewith, and consequences for non-compliance. In addition, the training will describe what it means when an individual signs or initials a document.

Corrective Actions

L. Within 6 months of the completion of Refueling Outage 23, Wolf Creek will perform a self-assessment on work order documentation quality by sampling 40 quality-related sub-work order packages performed during the refueling outage. The work order packages selected shall include substantial in-field work. The sample scope will be approved by the regulatory affairs manager and provided to the Wolf Creek NRC resident staff. The assessment team composition shall include an external peer in addition to station personnel. The results of the self-assessment will be reviewed by the Corrective Action Review Board and documented in the corrective action program system.

M. Within 6 months of the completion of Refueling Outage 24, Wolf Creek will perform a self-assessment on work order documentation quality by sampling 40 quality-related sub-work order packages

performed during the refueling outage. The work order packages selected shall include substantial in-field work. The sample scope will be approved by the regulatory affairs manager and provided to the Wolf Creek NRC resident staff. The assessment team composition shall include an external peer in addition to station personnel. The results of the self-assessment will be reviewed by the Corrective Action Review Board and documented in the corrective action program system.

N. Within 4 months of the issuance date of this Confirmatory Order, Wolf Creek will conduct a nuclear safety culture survey developed by a third-party.

O. Within 30 months of the completion of the survey in Element N, Wolf Creek will conduct a second nuclear safety culture survey.

P. By December 31 of 2020, 2021, and 2022, Wolf Creek will perform an annual effectiveness review of its corrective actions associated with this Confirmatory Order. The annual effectiveness review will include the insights from benchmarks, site performance, self-assessments, and safety culture surveys. Wolf Creek will modify its corrective actions as needed, and consistent with this Confirmatory Order, based on the results of the annual effectiveness review.

Administrative Items

Q. By December 31 of each year until 2023, Wolf Creek will provide in writing to the Regional Administrator, Region IV, a summary of the actions implemented under this Confirmatory Order, the results achieved, and any additional corrective actions initiated as a result of this Confirmatory Order.

R. Wolf Creek will retain a copy, for 5 years from document creation, of all documents created as a result of this Confirmatory Order.

In the event of the transfer of the license of Wolf Creek to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license. The NRC will consider this Confirmatory Order an escalated enforcement action with respect to any future enforcement actions at Wolf Creek. The Regional Administrator, Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by Wolf Creek of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Wolf Creek, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter ''petition''), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's Public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited

delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Wolf Creek) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission.

Dated this 18th day of July 2019.

Scott A. Morris,

Regional Administrator, NRC Region IV.

[FR Doc. 2019–16367 Filed 7–31–19; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Solicitation of Nominations for Appointment to the Advisory Committee of the Pension Benefit Guaranty Corporation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is soliciting nominations for appointment to the Advisory Committee of the PBGC.

DATES: Nominations must be received on or before September 16, 2019. Please allow three weeks for regular mail delivery to PBGC.

ADDRESSES: Nominations must be submitted to Judith Larsen, Office of the Director, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or as email attachments to *OfficeOfTheDirector@pbgc.gov.* If sending electronically, please use an attachment in Word or pdf format.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC or the Corporation) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Section 4002(h) of ERISA provides for the establishment of an Advisory Committee to the Corporation. The Advisory Committee consists of seven members appointed by the President from among individuals recommended by the PBGC Board of Directors, which consists of the Secretaries of Labor, Treasury, and Commerce. The Advisory Committee members are as follows:

- Two representatives of employee organizations;
- two representatives of employers who maintain pension plans; and
- three representatives of the general public.

No more than four members of the Committee shall be members of the same political party. Anyone currently subject to federal registration requirements as a lobbyist is not eligible for appointment.

Advisory Committee members must have experience with employee organizations, employers who maintain defined benefit pension plans, the administration or advising of pension plans, or in related fields. Appointments are for three-year terms. Reappointments are possible but are subject to the appointment process.

The Advisory Committee's prescribed duties include advising the Corporation as to its policies and procedures relating to investment of moneys, and other issues as the Corporation may request or as the Advisory Committee determines appropriate. The Advisory Committee meets at least six times each year. At least one meeting is a joint meeting with the PBGC Board of Directors.

By February 19, 2020, the terms of two of the Advisory Committee members representing employee organizations and one of the Advisory Committee members representing the general public will have expired. Therefore, PBGC is seeking nominations for three seats.

PBGC is committed to equal opportunity in the workplace and seeks a broad-based and diverse Advisory Committee.

If you or your organization wants to nominate one or more people for appointment to the Advisory Committee to represent employee organizations or the general public, you may submit nominations to PBGC. Nominations may be in the form of a letter, resolution or petition, signed by the person making the nomination or, in the case of a nomination by an organization, by an authorized representative of the organization. PBGC encourages you to include additional supporting letters of nomination. PBGC will not consider self-nominees who have no supporting letters. Please do not include any information that you do not want publicly disclosed.

Nominations, including supporting letters, should:

- State the person's qualifications to serve on the Advisory Committee (including any specialized knowledge or experience relevant to the nominee's proposed Advisory Committee position);
- state that the candidate will accept appointment to the Advisory Committee if offered;
- include which of the positions (representing interest group) the candidate is being nominated to fill;

• include the nominee's full name, work affiliation, mailing address, phone number, and email address;

• include the nominator's full name, mailing address, phone number, and email address; and

• include the nominator's signature, whether sent by email or otherwise.

PBGC will contact nominees for information on their political affiliation and their status as registered lobbyists. Nominees should be aware of the time commitment for attending meetings and actively participating in the work of the Advisory Committee. Historically, this has meant a commitment of at least 15 days per year. PBGC has a process for vetting nominees under consideration for appointment.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–16422 Filed 7–31–19; 8:45 am]

BILLING CODE 7709–02–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request OMB approval of revised collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is modifying the collection of information under its regulation on Payment of Premiums (OMB control number 1212–0009; expiring June 30, 2021) and intends to request that the Office of Management and Budget (OMB) approve the revised collection of information under the Paperwork Reduction Act for three years. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before September 30, 2019.

ADDRESSES: Comments may be submitted by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Email: paperwork.comments@pbgc.gov.*

• *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to Payment of Premiums. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided.

Copies of the revisions to the collection of information may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 6563. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 6563.)

SUPPLEMENTARY INFORMATION: Section 4007 of title IV of the Employee Retirement Income Security Act of 1974 (ERISA) requires pension plans covered under title IV pension insurance programs to pay premiums to PBGC. All plans covered by title IV pay a flat-rate per-participant premium. An underfunded single-employer plan also pays a variable-rate premium based on the value of the plan's unfunded vested benefits.

Pursuant to section 4007, PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Under § 4007.3 of the premium payment regulation, the plan administrator of each pension plan covered by title IV of ERISA is required to file a premium payment and information prescribed by PBGC for each premium payment year. Premium information is filed electronically using ''My Plan Administration Account'' (''My PAA'') through PBGC's website. Under § 4007.10 of the premium payment regulation, plan administrators are required to retain records about premiums and information submitted in premium filings.

Premium filings report (i) the flat-rate premium and related data (all plans), (ii) the variable-rate premium and related data (single-employer plans), and (iii) additional data such as identifying information and miscellaneous plan-related or filing-related data (all plans). PBGC needs this information to identify the plans for which premiums are paid, to verify whether the amounts paid are correct, to help PBGC determine the magnitude of its exposure in the event of plan termination, to help track the creation of new plans and transfer of participants and plan assets and liabilities among plans, and to keep PBGC's insured-plan inventory up to date. That information and the retained records are also needed for audit purposes.

PBGC intends to modify the 2020 filing and instructions to require that plans offering a lump sum window [1] separately report the number of participants in pay status who were offered and elected a lump sum in addition to the related current requirement with respect to participants not in pay status. This change reflects recent guidance issued by the Internal Revenue Service.[2] In addition, PBGC intends to change the reporting period for risk transfer activity (lump sum windows and annuity purchases). Rather than the period falling between 60 days before the prior filing and 60 days before the current filing, the reporting period will be the prior premium payment year.

PBGC also intends to modify the filing instructions for a plan that reports that a premium filing will be the last for the plan and checks the ''cessation of covered status'' box as the reason. Currently, such a plan must provide an explanation as to why they believe coverage has ceased and then PBGC typically contacts the plan to verify that coverage has ceased. PBGC is proposing to add to the instructions that a plan that claims cessation of coverage status should complete a coverage determination request.

PBGC intends to update the premium rates and make conforming, clarifying, and editorial changes to the premium filing instructions.

The collection of information under the regulation has been approved through June 30, 2021, by OMB under control number 1212–0009. PBGC intends to request that OMB approve the revised collection of information for three years. 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.

PBGC estimates that it will receive 31,245 premium filings per year from

[1] PBGC's premium filing instructions define a lump sum window as a temporary opportunity to elect a lump sum in lieu of future annuity payments that is offered to individuals meeting specified criteria who would not otherwise be eligible to elect a lump sum.

[2] See Notice 2019–18, 2019–13 I.R.B. 915.

31,245 plan administrators under this collection of information. PBGC further estimates that the annual burden of this collection of information is 13,540 hours and $21,621,540.

PBGC is soliciting public comments to—

- 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 methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–16351 Filed 7–31–19; 8:45 am]

BILLING CODE 7709–02–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 542 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–175, CP2019–197.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–16362 Filed 7–31–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33579; File No. 812–15014]

ETF Opportunities Trust, et al.; Notice of Application

July 29, 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) actively-managed 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; (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; and (f) certain Funds (''Feeder Funds'') to create and redeem Creations Units in-kind in a master-feeder structure.

APPLICANTS: ETF Opportunities Trust (the ''Trust''), a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series, Ridgeline Research LLC (the ''Initial Adviser''), a Delaware limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940, and Foreside Fund Services, LLC (the ''Initial Distributor'').

FILING DATES: The application was filed on March 29, 2019 and amended on June 6, 2019 and July 5, 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 August 23, 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: ETF Opportunities Trust, 8730 Stony Point Parkway, Suite 205, Richmond, VA 23235; Ridgeline Research LLC, 14961 Finegan Farm Dr., Darnestown, Maryland 20874; and Foreside Fund Services, LLC, Three Canal Plaza, Suite 100, Portland, Maine 04101.

FOR FURTHER INFORMATION CONTACT: Thankam A. Varghese, Senior Counsel, at (202) 551–6446 or Parisa Haghshenas, 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 actively-managed exchange traded funds (''ETFs'').[1] Fund shares will be

[1] Applicants request that the order apply to the initial Fund, as well as to future series of the Trust and any existing or future open-end management investment companies or series thereof (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF, and their respective existing or future Master Funds. Any Fund will (a) be advised by the Initial Adviser or

Continued

purchased and redeemed at their NAV in Creation Units only (other than pursuant to a distribution reinvestment program described in the application). 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. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Instruments''). Each Fund will disclose on its website the identities and quantities of the Portfolio Instruments that will form the basis for the Fund's calculation of NAV at the end of the day.

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 hold non-U.S. Portfolio Instruments and that effect creations and redemptions of Creation Units in kind, 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 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 Portfolio Instruments 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.[2] 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. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. 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.

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, a ''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] 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, moreover, 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.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16441 Filed 7–31–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86493; File No. SR-CboeEDGX–2019–028]

Self-Regulatory Organizations; Cboe EDGX 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 Adopt Rule 21.22 (Complex Automated Improvement Mechanism)

July 26, 2019.

I. Introduction

On April 26, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') 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 adopt Exchange Rule 21.22, Complex Automated Improvement Mechanism (''C–AIM'' or ''C–AIM Auction''), to permit the use of the Exchange's Automated Improvement Mechanism (''AIM'' or ''AIM Auction'') for complex orders. The proposed rule change was published for comment in the **Federal Register** on May 16, 2019.[3] On June 14, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On June 26, 2019, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[6] The Commission has received no comments regarding the proposal. The Commission is publishing this notice to solicit comment on Amendment No. 1 and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

A. Background

As described more fully in the Notice,[7] the Exchange proposes to adopt Exchange Rule 21.22 to establish the C–AIM Auction for complex orders. The Exchange notes that the C–AIM Auction will operate in a manner that is substantially similar to the Exchange's AIM Auction for single leg orders, with differences to, among other things, ensure that execution prices in the C–AIM Auction are consistent with complex order priority principles.[8] The Exchange states that the proposed C–AIM Auction is similar to the complex order price improvement mechanisms of Cboe Exchange, Inc. (''Cboe Options'') and other options exchanges and will provide market participants with an opportunity to receive price improvement for their complex orders.[9]

B. C–AIM Auction Eligibility

The proposal will allow an Options Member (the ''Initiating Member'') to electronically submit for execution a complex order it represents as agent (the ''Agency Order'') against principal interest or a solicited complex order(s), provided the Initiating Member submits the Agency Order for electronic execution in a C–AIM Auction.[10] The Agency Order may be in any class of options traded on the Exchange, and there is no minimum size for Agency Orders.[11] The Initiating Member must stop the entire Agency Order at a stop price that: (1) is at least $0.01 better than the same-side Synthetic Best Bid (''SBB'') or Synthetic Best Offer (''SBO'') [12] if the BBO on any component of the complex strategy represents a Priority Customer order on the Simple Book, or is at or better than the same-side SBB (SBO) if each component of the complex strategy represents a non-Priority Customer order or quote on the Simple Book; (2) is at least $0.01 better than a same-side complex order resting in the Complex Order Book (''COB''),[13] unless the Agency Order is a Priority Customer Order and the resting order is a non-Priority Customer order, in which case the stop price must be at or better than the bid (offer) of the resting complex order; and (3) is at least $0.01 better than the opposite side SBO (SBB) if the BBO of any component of the complex strategy represents a Priority Customer quote or order on the Simple Book, or is at or better than the opposite side SBO (SBB) if the BBO of each component of the complex strategy represents a non-Priority Customer order or quote on the Simple Book.[14] The Initiating Member must specify (A) a single price at which it seeks to execute the Agency Order against the Initiating Order (''single-price submission''), including whether it elects to have last priority in allocation; or (B) an initial stop price and instruction to automatically match the price and size of all C–AIM responses and other trading interest (''auto-match'') up to a designated limit price or at all prices that improve the stop price.[15]

One or more C–AIM Auctions in the same complex strategy for Agency

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85831 (May 10, 2019), 84 FR 22178 (the ''Notice'').

[4] Amendment No. 1 revises the proposal to (1) cap the prices of C–AIM responses based on the Synthetic Best Bid or Offer and the prices of orders resting on the top of the Complex Order Book at the conclusion of the C–AIM Auction, rather than at the beginning of the C–AIM Auction; (2) incorporate the new defined terms ''C–AIM Auction period'' and ''final auction price'' into the proposed rule text; (3) provide additional justification for the proposal to allow an Options Market Maker registered in the applicable series on the Exchange to be solicited to participate in a C–AIM Auction for a complex order that includes those series; (4) provide additional justification for the proposal to allow Agency Orders to execute only against complex interest at the conclusion of a C–AIM Auction; (5) make non-substantive simplifying, clarifying, and correcting changes to the proposed rule text; and (6) make non-substantive clarifications and corrections to the Form 19b–4 discussion of the proposed rule change. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2019–028/srcboeedgx2019028–5679914–185869.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 86202, 84 FR 31646 (July 2, 2019). The Commission designated August 14, 2019, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[7] *See* Notice, *supra* note 3.

[8] *See* Notice, 84 FR at 22184.

[9] *See* Notice, 84 FR at 22178–79.

[10] *See* proposed Exchange Rule 21.22.

[11] *See* proposed Exchange Rule 21.22(a)(1) and (3). In addition, proposed Exchange Rule 21.22(a) provides that: the Initiating Member must mark an Agency Order for C–AIM Auction processing; the Initiating Order must be for the same size as the Agency Order; the price of the Agency Order and Initiating Order must be in an increment of $0.01; the Initiating Member may not designate an Agency Order or Initiating Order as Post Only; and an Initiating Member may only submit an Agency Order to a C–AIM Auction after the Complex Order Book opens. The System rejects or cancels both an Agency Order and an Initiating Order submitted to a C–AIM Auction that do not meet these conditions.

[12] The Synthetic Best Bid or Offer (''SBBO'') is calculated using the best displayed price for each component of a complex strategy from the Simple Book. The Simple Book is the Exchange's regular electronic book of orders. *See* Exchange Rules 21.20(a)(10) and (11). For purposes of proposed Rule 21.22, the SBBO means the SBBO at the particular point in time applicable to the reference. *See* proposed Exchange Rule 21.22.

[13] The COB is the Exchange's electronic book of complex orders and used for all trading sessions. *See* Exchange Rule 21.20(a)(6).

[14] *See* proposed Exchange Rule 21.22(b)(1)–(3) and Amendment No. 1.

[15] *See* proposed Exchange Rule 21.22(b)(4). The System rejects or cancels both an Agency Order and an Initiating Order submitted to a C–AIM Auction that do not meet the conditions of proposed Exchange Rule 21.22(b).

Orders for which the smallest leg is 50 standard option contracts (or 500 mini-option contracts) or more may occur at the same time.[16] C–AIM Auctions in different complex strategies may be ongoing at any given time, even if the complex strategies have overlapping components.[17] In addition, a C–AIM Auction may be ongoing at the same time as an AIM Auction in any component of the complex strategy.[18] To the extent there is more than one C–AIM Auction in a complex strategy underway at a time, the C–AIM Auctions conclude sequentially based on the exact time each C–AIM Auction commenced, unless terminated early pursuant to proposed Exchange Rule 21.22(d).[19] In the event there are multiple C–AIM Auctions underway that are each terminated early, the System processes the C–AIM Auctions sequentially based on the exact time each C–AIM Auction commenced.[20] If the System receives a simple order that causes an AIM and C–AIM (or multiple AIM and/or C–AIM) Auctions to conclude early, the System first processes AIM Auctions (in price-time priority) and then processes C–AIM Auctions (in price-time priority).[21]

C. C–AIM Auction Process

Upon receipt of an Agency Order that meets the conditions in proposed Exchange Rules 21.22(a) and (b), the System[22] initiates a C–AIM Auction by sending a C–AIM notification message detailing the side, size, price, origin code, Auction ID, and complex strategy of the Agency Order to all Options Members that elect to receive C–AIM Auction notification messages.[23] The Exchange will determine the C–AIM Auction period, which may be no less than 100 milliseconds and no more than one second.[24] An Initiating Member may not modify or cancel an Agency Order or Initiating Order after submitting them to a C–AIM Auction.[25]

Any User other than the Initiating Member, determined by Executing Firm ID (''EFID''), may submit responses to a C–AIM Auction that are properly marked specifying size, side of the market, and the Auction ID for the C–AIM Auction to which the User is submitting the response.[26] The minimum price increment for C–AIM responses is $0.01, and C–AIM responses must be on the opposite side of the market as the Agency Order.[27] C–AIM responses will not be visible to C–AIM Auction participants or disseminated to OPRA.[28] A User may submit multiple C–AIM responses to the Auction at the same or multiple prices, and the System will aggregate all of a User's complex orders on the COB and C–AIM responses for the same EFID at the same price.[29] The System will cap the size of a C–AIM response, or the aggregate size of a User's complex orders on the COB and C–AIM responses for the same EFID at the same price, at the size of the Agency Order (*i.e.,* the System ignores size in excess of the size of the Agency Order when processing the C–AIM Auction).[30] In addition, the C–AIM responses are capped at specified prices that exist at the conclusion of the C–AIM Auction.[31]

D. Conclusion of a C–AIM Auction

A C–AIM Auction will conclude at the earliest to occur of several circumstances, including the end of the C–AIM Auction period, the market close, or when the Exchange halts trading in the complex strategy or in any component of the complex strategy.[32] In addition, a C–AIM Auction will conclude upon receipt by the System of certain unrelated orders.[33] A C–AIM Auction will not conclude early if the System receives an unrelated market or marketable limit complex order (against the SBBO or the best price of a complex order resting in the COB), including a Post Only complex order, on the opposite side of the market during a C–AIM Auction, and the System will execute the order against interest outside the C–AIM Auction or post the complex order to the COB.[34] Any contracts remaining from the unrelated complex order at the time the C–AIM Auction ends may be allocated for execution against the Agency Order pursuant to proposed Exchange Rule 21.22(e).[35]

E. Allocations at the Conclusion of a C–AIM Auction

At the conclusion of a C–AIM Auction, the System executes the Agency Order against the Initiating Order or contra-side complex interest, including complex orders on the COB and C–AIM responses, at the best price(s), to the price at which the balance of the Agency Order can be fully executed (the ''final auction price'').[36] Any execution price(s) must be at or between the SBBO and the best prices of any complex orders resting on each side of the COB at the conclusion of the C–AIM Auction.[37] Executions of a complex Agency Order at the conclusion of a C–AIM Auction are

[16] *See* proposed Exchange Rule 21.22(c)(1)(A). With respect to Agency Orders for which the smallest leg is less than 50 standard option contracts (or 500 mini-option contracts), only one C–AIM Auction may be ongoing at any given time in a complex strategy, and C–AIM Auctions in the same complex strategy may not queue or overlap in any manner. *See id.*

[17] *See* proposed Exchange Rule 21.22(c)(1)(A).

[18] *See id.*

[19] *See* proposed Exchange Rule 21.22(c)(1)(B).

[20] *See id.*

[21] *See id.*

[22] The System is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. *See* EDGX Rule 1.5(cc).

[23] C–AIM Auction messages will not be included in OPRA. *See* proposed Exchange Rule 21.22(c)(2) and Amendment No. 1.

[24] *See* proposed Exchange Rule 21.22(c)(3) and Amendment No. 1.

[25] *See* proposed Exchange Rule 21.22(c)(4).

[26] A C–AIM Auction response may only participate in the C–AIM Auction with the Auction ID specified in the response and may not be designated as Immediate-or-Cancel (''IOC''). C–AIM responses may be designated with the Match Trade Prevention (''MTP'') modifier of MTP Cancel Newest, but no other MTP modifiers. A User may modify or cancel its C–AIM responses during the Auction. *See* proposed Exchange Rules 21.22(c)(5)(F), (G), and (I).

[27] *See* proposed Exchange Rules 21.22(c)(5)(A) and (E).

[28] *See* proposed Exchange Rule 21.22(c)(5)(H).

[29] *See* proposed Exchange Rules 21.22(c)(5)(C).

[30] *See* proposed Exchange Rules 21.22(c)(5)(D).

[31] C–AIM buy (sell) responses are capped at the following prices that exist at the conclusion of the C–AIM Auction: (i) the better of the SBO (SBB) or the offer (bid) of a resting complex order at the top of the COB; or (ii) $0.01 lower (higher) than the better of the SBO (SBB) or the offer (bid) of a resting complex order at the top of the COB if the BBO of any component of the complex strategy or the resting complex order, respectively, is a Priority Customer order. The System executes these C–AIM responses, if possible, at the most aggressive permissible price not outside the SBBO at the conclusion of the C–AIM Auction or the price of the resting complex order. *See* proposed Exchange Rules 21.22(c)(5)(B) and Amendment No. 1.

[32] *See* proposed Exchange Rules 21.22(d)(1)(a), (g), and (h). If the Exchange halts trading in the complex strategy or a component of the complex strategy, the C–AIM Auction concludes without execution. *See* proposed Exchange Rule 21.22(d)(1)(h).

[33] A C–AIM Auction will conclude upon receipt by the System of the following unrelated orders: An unrelated non-Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price better than the stop price; an unrelated Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price equal to or better than the stop price; an unrelated non-Priority Customer order or quote that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be better than the stop price; an unrelated Priority Customer order in any component of the complex strategy that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be equal to or better than the stop price; a simple non-Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be better than the stop price, or a Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be equal to or better than the stop price. *See* proposed Exchange Rules 21.22(d)(1)(b)–(f).

[34] *See* proposed Exchange Rule 21.22(d)(2).

[35] *See id.*

[36] *See* proposed Exchange Rule 21.22(e) and Amendment No. 1.

[37] *See* proposed Exchange Rule 21.22(e).

subject to the complex order priority in Exchange Rule 21.20(c)(3).[38] Allocations at the conclusion of the C–AIM Auction will vary depending on whether the Auction results in price improvement for the Agency Order [39] and, if there is price improvement, whether the Initiating Member has selected single-price submission (with or without a last priority election) [40] or auto-match.[41]

F. Customer-to-Customer Immediate Crosses

In lieu of the C–AIM Auction process described above, an Initiating Member may enter an Agency Order for the account of a Priority Customer paired with a solicited order(s) for the account of a Priority Customer.[42] The System will automatically execute these paired orders without a C–AIM Auction (''Customer-to-Customer C–AIM Immediate Cross''), subject to certain conditions. Customer-to-Customer C–AIM Immediate Crosses are subject to the following conditions: (1) The transaction price must be at or between the SBBO and may not equal either side of the SBBO if the BBO of any component of the complex strategy represents a Priority Customer order on the Simple Book; (2) the transaction price must be at or between the best-priced complex orders in the complex strategy resting on the COB and may not equal the price of a Priority Customer complex order resting on either side of the COB; and (3) the System will not initiate a Customer-to-Customer Complex C–AIM Immediate Cross if the transaction price equals (A) either side of the SBBO and the BBO of any component of the complex strategy represents a Priority Customer order on the Simple Book, or (B) the price of a Priority Customer complex order resting on either side of the COB. Instead, the System cancels the Agency Order and Initiating Order.[43] Thus, Customer-to-Customer C–AIM Crosses will trade at a price that is at least as good as the price at which the orders would have executed had they been submitted separately to the COB.[44] The Exchange believes that Customer-to-Customer C–AIM Immediate Crosses will provide Options Members with a more efficient means of executing their customer complex orders, subject to the Exchange's existing requirements limiting principal transactions.[45]

G. Additional Requirements and Order Exposure Rule

An Options Member may only use a C–AIM Auction where there is a genuine intention to execute a bona fide transaction.[46] A pattern or practice of submitting orders or quotes for the purpose of disrupting or manipulating C–AIM Auctions, including to cause a C–AIM Auction to conclude before the end of the C–AIM Auction period, will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Exchange Rule 3.1.[47] It will also be deemed conduct inconsistent with just and equitable principles of trade and a violation of Exchange Rule 3.1 to engage in a pattern of conduct where the Initiating Member breaks up an Agency Order into separate orders for the purpose of gaining a higher allocation percentage than the Initiating Member would have otherwise received in accordance with the allocation procedures contained in proposed Exchange Rule 21.22(e).[48]

Exchange Rule 22.12 prevents an Options Member from executing an agency order to increase its economic gain from trading against the order without first giving other trading interests on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Options Member was already bidding or offering on the book.[49] However, the Exchange recognizes that it may be possible for an Options Member to establish a relationship with a Priority Customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency order as principal.[50] It would be a violation of Exchange Rule 22.12 for an Options Member to circumvent such rule by providing an opportunity for (a) a Priority Customer affiliated with the Options Member, or (b) a Priority Customer with whom the Options Member has an arrangement that allows the Options Member to realize similar economic benefits from the transaction as the Options Member would achieve by executing agency orders as principal, to regularly execute against agency orders handled by the firm immediately upon their entry as Customer-to-Customer C–AIM Immediate Crosses pursuant to proposed Rule 21.22(f).[51]

The Exchange proposes to amend Exchange Rule 22.12(c) to add a reference to the C–AIM Auction as an exception to the general restriction on Options Members executing as principal orders they represent as agent.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[52] In

[38] *See* proposed Exchange Rule 21.22(e)(5).

[39] If the C–AIM Auction results in no price improvement, the System executes the Agency Order at the final auction price (which equals the stop price) against contra-side interest in the following order: (A) Priority Customer complex orders on the COB (in time priority); (B) the Initiating Order for the greater of (i) one contract or (ii) up to 50% of the Agency Order if there is contra-side complex interest from one other User at the final auction price or 40% of the Agency Order if there is contra-side complex interest from two or more other Users at the final auction price (which percentages are based on the number of contracts remaining after execution against Priority Customer complex orders); (C) all other contra-side complex interest in a pro-rata manner; and (D) the Initiating Order to the extent there are any remaining contracts. *See* proposed Exchange Rule 21.22(e)(1).

[40] If the C–AIM Auction results in price improvement for the Agency Order and the Initiating Member selected a single-price submission, the System executes the Agency Order at each price level better than the stop price against contra-side complex interest in the following order: (A) Priority Customer complex orders on the COB (in time priority); and (B) all other contra-side complex interest in a pro-rata manner. If the final auction price equals the stop price, the System executes any remaining contracts from the Agency Order at that price in the order set forth in proposed Exchange Rule 21.22(e)(1). *See* proposed Exchange Rule 21.22(e)(2). If the Initiating Member elects last priority, then notwithstanding proposed Exchange Rules 21.22(e)(1) and (2), the System only executes the Initiating Order against any remaining Agency Order contracts at the stop price after the Agency Order is allocated to all other contra-side interest (in the order set forth in proposed Exchange Rule 21.22(e)(2)) at all prices equal to or better than the stop price. Last priority information is not available to other market participants and may not be modified after it is submitted. *See* proposed Exchange Rule 21.22(e)(4).

[41] If the C–AIM Auction results in price improvement for the Agency Order and the Initiating Member selected auto-match, at each price level better than the final auction price (or at each price level better than the final auction price up to the limit price if the Initiating Member specified one), the System executes the Agency Order against the Initiating Order for the number of contracts equal to the aggregate size of all other contra-side complex interest and then executes the Agency Order against that contra-side complex interest in the order set forth in proposed Exchange Rule 21.22(e)(2). At the final auction price, the System executes those contracts at that price in the order set forth in proposed Exchange Rule 21.22(e)(1).

[42] *See* proposed Exchange Rule 21.22(f).

[43] *See* proposed Exchange Rule 21.22(f).

[44] *See id.*

[45] *See id.*

[46] *See* proposed Exchange Rule 21.22, Interpretation and Policy .01.

[47] *See* proposed Exchange Rule 21.22, Interpretation and Policy .02.

[48] *See id.*

[49] *See* proposed Exchange Rule 21.22, Interpretation and Policy .03.

[50] *See id.*

[51] *See id.*

[52] 15 U.S.C. 78f(b). 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).

particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[53] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that allowing Options Members to enter complex orders into the C–AIM Auction could provide opportunities for complex orders to receive price improvement. Under the proposal, an Initiating Member that submits an Agency Order to the C–AIM Auction also submits an Initiating Order, representing principal or solicited interest, that stops the entire Agency Order at a price that is at least $0.01 better than the same- and opposite-side SBBO if the BBO for any component of the complex strategy represents a Priority Customer order on the Simple Book, and is at or better than the same- and opposite-side SBBO if each component of the complex strategy represents a non-Priority Customer order or quote on the Simple Book.[54] In addition, the stop price must be at least $0.01 better than the price of any same-side complex order resting in the COB, unless the Agency Order is a Priority Customer order and the resting complex order is a non-Priority Customer Order, in which case the stop price must be at or better than the bid or offer of the resting complex order.[55] An Initiating Member may not modify or cancel an Agency Order or Initiating Order after submitting them to a C–AIM Auction.[56] At the conclusion of the C–AIM Auction, the Agency Order is executed in full at the best price(s) available, taking into consideration the Initiating Order, complex orders in the COB, and C–AIM responses.[57] Thus, a complex order entered into a C–AIM Auction will be guaranteed an execution in full at its stop price and will be given an opportunity for price improvement by being exposed to Users during a C–AIM Auction. The Commission notes that other exchanges have previously adopted similar rules to permit the entry of complex orders into a price improvement mechanism.[58] In addition, with respect to Customer-to-Customer C–AIM Immediate Crosses, the Commission notes that another exchange has adopted a similar rule.[59]

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Sections 6(b)(5) of the Act.[60]

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act[61] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[62] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[63] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Exchange members entering orders into the C–AIM Auction would satisfy the requirements of Rule 11a2–2(T).

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[64] The Exchange represents that the System and the proposed C–AIM Auction receive all orders electronically through remote terminals or computer-to-computer interfaces.[65] The Exchange also represents that orders for covered accounts from Options Members will be transmitted from a remote location directly to the proposed C–AIM mechanism by electronic means. Because no Exchange members may submit orders into the C–AIM Auction from on the floor of the Exchange, the Commission believes that the C–AIM Auction satisfies the off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. The Exchange represents that at no time following the submission to the C–AIM Auction of an order or C–AIM response is an Options Member able to acquire control or influence over the result or timing of the order's or response's execution.[66] According to the Exchange, the execution of an order (including the Agency and the Initiating Order) or a C–AIM response sent to the C–AIM mechanism is determined by what other orders and responses are present and the priority of those orders and

[53] 15 U.S.C. 78f(b)(5).

[54] *See* proposed Exchange Rules 21.22(b)(1) and (3).

[55] *See* proposed Exchange Rule 21.22(b)(2).

[56] *See* proposed Exchange Rule 21.22(c)(4).

[57] *See* proposed Exchange Rule 21.22(e). Any execution price(s) must be at or between the SBBO and the best prices of any complex orders resting on each side of the COB at the conclusion of the C–AIM Auction. *See id.*

[58] *See, e.g.,* BOX Rule 7245.

[59] *See* ISE Options 3, Section 12(b).

[60] 15 U.S.C. 78f(b)(5).

[61] 15 U.S.C. 78k(a)(1).

[62] 17 CFR 240.11a2–2(T).

[63] This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

[64] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[65] *See* Notice, 84 FR at 22188.

[66] *See id.* (also representing, among other things, that: (1) No Options Member, including the Initiating Member, will see a C–AIM response submitted into a C–AIM Auction and therefore will not be able to influence or guide the execution of their Agency Orders, Initiating Orders, or C–AIM responses, as applicable; and (2) the last priority feature will not permit an Options Member to have any control over an order, and the election to last priority is available prior to the submission of the order, will not be broadcast and further, the last priority option may not be modified by the Initiating Member during the C–AIM Auction).

responses.[67] Accordingly, the Commission believes that a member does not participate in the execution of an order or response submitted to the C–AIM mechanism.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the C–AIM mechanism, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[68] The Exchange represents that the C–AIM is designed so that no Options Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanism.[69] Based on the Exchange's representation, the Commission believes that the C–AIM mechanism satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[70] The Exchange represents that Options Members relying on Rule 11a2–2(T) for transactions effected through the C–AIM Auction must comply with this condition of the Rule and that the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.[71]

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–028, and should be submitted on or before August 22, 2019.

VI. Accelerated Approval of 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 believes that Amendment No. 1 provides additional clarity to the rule text and additional analysis of aspects of the proposal, thereby facilitating the Commission's ability to make the findings set forth above to approve the proposal. In addition, the Commission believes that Amendment No. 1 does not raise novel regulatory issues or make significant substantive changes to the original proposal, which was published for notice and comment and which received no comments. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[72] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[73] that the proposed rule change (SR–CboeEDGX–2019–028), as modified by Amendment No. 1, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

Jill M. Peterson,

Assistant Secretary.

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[67] *See id.* The Exchange notes that an Initiating Member may not cancel or modify an Agency Order or Initiating Order after it has been submitted into a C–AIM Auction, but that Options Members may modify or cancel their responses after being submitted to a C–AIM Auction. *See id.* at 22188, n.64. As the Exchange notes, the Commission has stated that the non-participation requirement does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542, 11547 (the ''1978 Release'').

[68] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 71.

[69] *See* Notice, 84 FR at 22188.

[70] In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 74, at 11548 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[71] *See* Notice, 84 FR at 22188.

[72] 15 U.S.C. 78s(b)(2).

[73] 15 U.S.C. 78s(b)(2).

[74] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86492; File No. SR–NYSE–2019–42]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Discontinue the NYSE Alerts Market Data Product Offering

July 26, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 22, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to discontinue the NYSE Alerts market data product offering. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to discontinue the NYSE Alerts market data product offering. In 2004, pursuant to Securities and Exchange Commission approval, the Exchange adopted the NYSE Alerts market data product.[4]

The NYSE Alerts market data product provides, on a real-time basis, the following categories of information for NYSE-listed securities only: MOC Market Imbalances, Delayed Openings/Trading Halts, ITS Pre-Opening Indications/Trading Range Indications, Trading Collar Messages and Circuit Breaker Messages.[5] Each of these categories of information is currently available on one or more of the Exchange's other proprietary market data products, as follows:

- MOC Market Imbalances information is available in the NYSE Order Imbalances feed and the NYSE Integrated Feed;
- Delayed Openings/Trading Halts information is available in the NYSE BBO feed, NYSE Trades feed, NYSE Order Imbalances feed, and the NYSE Integrated Feed;
- ITS Preopening Indications/Trading Range Indications is available in the NYSE BBO feed, NYSE Trades feed, NYSE Order Imbalances feed, and the NYSE Integrated Feed;
- Trading Collar Messages information is available in the NYSE BBO feed, NYSE Trades feed, NYSE Order Imbalances feed, and the NYSE Integrated Feed; and
- Circuit Breaker Messages information is available in the NYSE BBO feed, NYSE Trades feed, NYSE Order Imbalances feed, and the NYSE Integrated Feed.

The Exchange is undergoing a multi-phase transition to the Pillar trading platform that began in April 2018, when the Exchange introduced trading of UTP Securities on the Pillar trading platform.[6] Because the NYSE Alerts product relates to information for Exchange-listed securities, information about UTP Securities was not added to the NYSE Alerts market data product. The Exchange next plans to transition Exchange-listed securities to the Pillar trading platform.[7] In connection with this transition, in December 2018, the Exchange announced that it would permanently discontinue the NYSE Alerts market data product once the Exchange's transition to Pillar begins,[8] which is anticipated to occur on August 5, 2019.[9] The Exchange provided additional notices to alert subscribers of the planned discontinuation of NYSE Alerts.[10] The Exchange now plans to continue offering the NYSE Alerts market data product for any symbols that have not yet transitioned to Pillar. Accordingly, NYSE Alerts will continue to be available for those Exchange-listed securities that have not transitioned to Pillar. The Exchange anticipates that the migration of Exchange-listed securities will be complete by August 22, 2019,[11] at which time the Exchange will fully discontinue the NYSE Alerts product.

There are currently 34 subscribers of NYSE Alerts, all of whom currently subscribe to at least one or more of the Exchange's other market data products. As noted above, each of those other products includes the information that is found in NYSE Alerts. More specifically, of the 34 subscribers, 11 currently subscribe to NYSE Order Imbalances feed; 2 currently subscribe to NYSE Integrated Feed; 3 currently subscribe to NYSE Order Imbalances feed and NYSE Integrated Feed; 6 currently subscribe to NYSE BBO feed and NYSE Order Imbalances feed; 1 currently subscribes to NYSE BBO feed and NYSE Integrated feed; and 11 currently subscribe to NYSE Order Imbalances feed, NYSE Integrated Feed and NYSE BBO feed. No subscriber currently subscribes to NYSE Alerts only. As a result, the discontinuation of NYSE Alerts will not have any impact to current subscribers because each currently subscribes to one or more of the Exchange's other market data products that includes the content that is available on NYSE Alerts.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 50844 (Dec. 13, 2004), 69 FR 76806 (Dec. 22, 2004) (SR–NYSE–2004–53) (Order Granting Approval to Proposed Rule Change and Amendment Nos. 1 and 2 Relating to a Fee for the NYSE Alerts Datafeed); *see also* Securities Exchange Act Release No. 50639 (November 5, 2004), 69 FR 65488 (November 12, 2004) (Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by New York Stock Exchange, Inc. Relating to a Fee for the NYSE Alerts Datafeed).

[5] *Id.*

[6] The Exchange began trading UTP Securities on the Pillar trading platform on April 9, 2018. *See also* Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR–NYSE–2017–36) (Order approving trading rules to support trading of UTP Securities on the Pillar trading platform).

[7] The Exchange has announced that, subject to rule approvals, it will begin transitioning Exchange-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf. See also* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR–NYSE–2019–05) (Order approving rules to support the transition of Exchange-listed securities to Pillar).

[8] *See https://www.nyse.com/trader-update/history#110000115870.*

[9] *See https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Pillar_Tape_A_Migration_Schedule_June_2019.pdf.*

[10] *See https://www.nyse.com/trader-update/history#110000132804. See also https://www.nyse.com/trader-update/history#110000140572.*

[11] *See supra* note 9.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that discontinuing NYSE Alerts at the end of the migration of NYSE-listed securities to the Pillar trading platform would remove impediments to and perfect a free and open market by streamlining the Exchange's market data product offerings to include those for which there has been more demand and would provide vendors and subscribers with a simpler and more standardized suite of market data products. The proposal to discontinue NYSE Alerts would be applicable to all member organizations and does not unfairly discriminate between customers, issuers, brokers or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when brokerdealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[14]

The Exchange believes that the discontinuation of a market data product for which there is little or no demand and that is redundant of other market data products available, as is the case with NYSE Alerts, is a direct example of efficiency because it acknowledges that investors and the public have indicated that they have little or no use for certain information and allows the Exchange to dedicate resources to developing products (including through innovations of existing products and entirely new products) that provide information for which there is more of an expressed need. More specifically, NYSE Alerts was initially introduced to complement NYSE OpenBook, which was introduced in 2001. Over time, as the Exchange introduced additional products and has added the content currently available in NYSE Alerts to additional market data products, the information in NYSE Alerts has become obsolete or redundant. This is demonstrated by the fact that all current subscribers to NYSE Alerts already subscribe to an alternate NYSE market data product that has the same or similar content. In addition, the Exchange provided significant advance notice to market data subscribers of this discontinuation.

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 notes that it operates in a highly competitive market in which other exchanges are free to offer similar products. Additionally, because all current subscribers already subscribe to an alternate NYSE market data product, there has been little or no demand for NYSE Alerts and therefore, the Exchange's proposed discontinuance will not harm competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it plans to begin the transition of Exchange-listed securities to the Pillar trading platform on August 5, 2019, and to stop providing NYSE Alerts for securities as they transition to Pillar. The Exchange would, however, continue to offer the NYSE Alerts market data product for any securities that have not yet transitioned to Pillar, and the Exchange does not propose to fully discontinue the NYSE Alerts product until the migration of Exchange-listed securities to Pillar is complete. Further, the Exchange represents that all the current subscribers of NYSE Alerts also subscribe to an alternate NYSE market data product that includes the same content provided by NYSE Alerts.[19] The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest and designates the proposed rule change operative upon filing.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4), (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7–10–04).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] *Id.*

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] *See supra* note 5 and accompanying text.

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2019–42 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–NYSE–2019–42. 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–NYSE–2019–42 and should be submitted on or before August 22, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16365 Filed 7–31–19; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2019–0031]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, *Email address: OIRA_Submission@omb.eop.gov* .

Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, *Email address: OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2019–0031].

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 3, 2019. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Representative Payee Evaluation Report—20 CFR 404.2065 & 416.665—0960–0069. Sections 205(j) and 1631(a)(2) of the Act state that SSA may authorize payment of Social Security benefits or Supplemental Security Income (SSI) payments to a representative payee on behalf of individuals unable to manage, or direct the management of, those funds themselves. SSA requires appointed representative payees to report once each year on how they used or conserved those funds. When a representative payee fails to adequately report to SSA as required, SSA conducts a face-to-face interview with the payee and completes Form SSA–624–F5, Representative Payee Evaluation Report, to determine the continued suitability of the representative payee to serve as a payee. In addition to interviewing the representative payee, we also interview the recipient, and custodian (if other than the payee), to confirm the information the payee provides, and to ensure the payee is meeting the recipient's current needs. The respondents are individuals or organizations serving as representative payees for individuals receiving Title II benefits or Title XVI payments, and who fail to comply with SSA's statutory annual reporting requirement, and the recipients for whom they act as payee.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–624—Individuals	6,956	1	30	3,478
SSA–624—State and Local Government	40	1	30	20
SSA–624—Businesses	280	1	30	140
Totals	7,276			3,638

[22] 17 CFR 200.30–3(a)(12).

2. Application for Benefits Under the Italy-U.S. International Social Security Agreement—20 CFR 404.1925—0960–0445. As per the November 1, 1978 agreement between the United States and Italian Social Security agencies, residents of Italy filing an application for U.S. Social Security benefits directly with one of the Italian Social Security agencies must complete Form SSA–2528–IT. SSA uses Form SSA–2528–IT to establish age, relationship, citizenship, marriage, death, military service, or to evaluate a family bible or other family record when determining eligibility for U.S. benefits. The Italian Social Security agencies assist applicants in completing Form SSA–2528–IT, and then forward the application to SSA for processing. The respondents are individuals living in Italy who wish to file for U.S. Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2528–IT	300	1	20	100

3. Agency/Employer Government Pension Offset Questionnaire —20 CFR 404.408(a)—0960–0470. When an individual is concurrently receiving Social Security spousal, or surviving spousal, benefits, and a government pension, the individual may have the amount of Social Security benefits reduced by the government pension amount. This is the Government Pension Offset (GPO). SSA uses Form SSA–L4163 to collect accurate pension information from the Federal or State government agency paying the pension for purposes of applying the pension offset provision. SSA uses this form only when: (1) The claimant does not have the information; and (2) the pension-paying agency has not cooperated with the claimant. Respondents are State government agencies, which have information SSA needs to determine if the GPO applies, and the amount of offset.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L4163	2,911	1	3	146

4. Plan to Achieve Self-Support (PASS)—20 CFR 416.110(e), 416.1180–1182, 416.1225–1227—0960–0559. The SSI program encourages recipients to return to work. One of the program objectives is to provide incentives and opportunities that help recipients toward employment. The PASS provision allows individuals to use available income or resources (such as business equipment, education, or specialized training) to enter or re-enter the workforce and become self-supporting. In turn, SSA does not count the income or resources recipients use to fund a PASS when determining an individual's SSI eligibility or payment amount. An SSI recipient who wants to use available income and resources to obtain education or training to become self-supporting completes Form SSA–545. SSA uses the information from the SSA–545 to evaluate the recipient's PASS, and to determine eligibility under the provisions of the SSI program. The respondents are SSI recipients who want to develop a return-to-work plan.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–545	7,000	1	120	14,000

5. Complaint Form for Allegations of Discrimination in Programs or Activities Conducted by the Social Security Administration—0960–0585. SSA uses Form SSA–437 to investigate and formally resolve complaints of discrimination based on disability; race; color; national origin (including limited English language proficiency); sex (including sexual orientation and gender identity); age; religion; or retaliation for having participated in a proceeding under this administrative complaint process in connection with an SSA program or activity. Individuals who believe SSA discriminated against them on any of the above bases may file a written complaint of discrimination. SSA uses the information to: (1) Identify the complaint; (2) identify the alleged discriminatory act; (3) establish the date of the alleged action; (4) establish the identity of any individual(s) with information about the alleged discrimination; and (5) establish other relevant information that would assist in the investigation and resolution of the complaint. Respondents are individuals who believe an SSA program or activity, or SSA employees, contractors or agents, discriminated against them.

Type of Request: Revision on an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–437	255	1	60	255

6. Supplemental Security Income Wage Reporting (Telephone and Mobile)—20 CFR 416.701–416.732—0960–0715. SSA requires SSI recipients to report changes which could affect their eligibility for, and the amount of, their SSI payments, such as changes in income, resources, and living arrangements. SSA's SSI Telephone Wage Reporting (SSITWR) and SSI Mobile Wage Reporting (SSIMWR) enable SSI recipients to meet these requirements via an automated mechanism to report their monthly wages by telephone and mobile application, instead of contacting their local field offices. The SSITWR allows callers to report their wages by speaking their responses through voice recognition technology, or by keying in responses using a telephone key pad. The SSIMWR allows recipients to report their wages through the mobile wage reporting application on their smartphone. SSITWR and SSIMWR systems collect the same information and send it to SSA over secure channels. To ensure the security of the information provided, SSITWR and SSIMWR ask respondents to provide information SSA can compare against our records for authentication purposes. Once the system authenticates the identity of the respondents, they can report their wage data. The respondents are SSI recipients, deemors, or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Training/Instruction *	103,000	1	103,000	35	60,083
SSITWR	26,000	12	312,000	5	26,000
SSIMWR	77,000	12	924,000	3	46,200
Totals	103,000		1,339,000		132,283

* NOTE: The same 103,000 respondents are completing training and a modality of collection, therefore the actual total number of respondents is still 103,000.

7. Technical Updates to Applicability of the Supplemental Security Income (SSI) Reduced Benefit Rate for Individuals Residing in Medical Treatment Facilities—20 CFR 416.708(k)—0960–0758. Section 1611(e)(1)(A) of the Act specifies residents of public institutions are ineligible for SSI. However, Sections 1611(e)(1)(B) and (G) of the Act list certain exceptions to this provision, making it necessary for SSA to collect information about SSI recipients who enter or leave a medical treatment facility or other public or private institution. SSA's regulation 20 CFR 416.708(k) establishes the reporting guidelines that implement this legislative requirement. SSA uses this information collection to determine SSI eligibility or the benefit amount for SSI recipients who enter or leave institutions. SSA personnel collect this information directly from SSI recipients, or from someone reporting on their behalf. An SSI recipient who enters an institution may be unable to report; therefore, a family member sometimes makes this report on behalf of the recipient. When contacting SSA, the recipient, or family member of the recipient, provides the name of the institution, the date of admission, and the expected date of discharge. The respondents are SSI recipients who enter or leave an institution, or individuals reporting on their behalf.

This is a correction notice. SSA published this information collection as an extension on May 22, 2019 at 84 FR 23623. Since we are revising the Privacy Act Statement for this collection, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Technical Updates Statement	34,200	1	7	3,990

8. Waiver of Supplemental Security Income Payment Continuation—20 CFR 416.1400–416.1422—0960–0783. SSI recipients who wish to discontinue their SSI payments while awaiting a determination on their appeal complete Form SSA–263–U2, Waiver of Supplemental Security Income Payment Continuation, to inform SSA of this decision. SSA collects the information to determine whether the SSI recipient meets the provisions of the Act regarding waiver of payment continuation and as proof respondents no longer want their payments to continue. Respondents are recipients of SSI payments who wish to discontinue receipt of payment while awaiting a determination on their appeal.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–263–U2	3,000	1	5	250

Dated: July 26, 2019.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2019–16355 Filed 7–31–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10835]

Notice of Determinations; Culturally Significant Object Imported for Exhibition—Determinations: ''Medieval Permanent Collection Galleries Rotation'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be exhibited in the exhibition ''Medieval Permanent Collection Galleries Rotation,'' 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 exhibit object at The Cleveland Museum of Art, in Cleveland, Ohio, from on or about August 30, 2019, until on or about February 20, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, 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. 2019–16357 Filed 7–31–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10822]

60-Day Notice of Proposed Information Collection: Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, and Limited Passport Holders

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to September 30, 2019.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *wwwRegulations.gov*. You can search for the document by entering ''Docket Number: DOS–2019–0026'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PPTFormsOfficer@state.gov*.
- *Regular Mail:* Send written comments to: PPT Forms Officer, U.S. Department of State, CA/PPT/S/PMO, 44132 Mercure Cir, P.O. Box 1199, Sterling, VA 20166–1199.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, And Limited Passport Holders.
- *OMB Control Number:* 1405–0160.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services (CA/PPT).
- *Form Number:* DS–5504.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 138,000.
- *Estimated Number of Responses:* 138,000.
- *Average Time per Response:* 40 minutes.
- *Total Estimated Burden Time:* 92,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, And Limited Passport Holders (DS–5504) is the form used by current passport holders who need to re-apply for a passport, at no charge. The following categories are permitted to re-apply for a new passport using the DS–5504: (a) The passport holder's name has changed within the first year of the issuance of the passport; (b) the passport holder needs correction

of descriptive information on the data page of the passport; (c) the passport holder wishes to obtain a fully valid passport after obtaining a full-fee passport with a limited validity of two years or less.

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the DS–5504, ''Application for a U.S. Passport: Corrections, Name Change Within 1 Year of Passport Issuance, And Limited Passport Holders.'' Passport applicants can either download the DS–5504 from the internet or obtain the form from an Acceptance Facility/Passport Agency. The form must be completed, signed, and be submitted by mail (or in person at Passport Agencies domestically or embassies/consulates overseas).

Rachel M. Arndt,

Deputy Assistant Secretary for Passport Services.

[FR Doc. 2019–16396 Filed 7–31–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 10841]

In the Matter of the Amendment of the Designation of al-Shabaab (and Other Aliases) as a Foreign Terrorist Organization Pursuant to the Immigration and Nationality Act, as Amended

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A Public Notice entitled ''In the Matter of the Amendment of the Designation of al-Shabaab (and other aliases) as a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act, as amended'' was signed by the Secretary of State on July 9, 2018, and published in the **Federal Register** (*https://www.federalregister.gov/documents/2018/07/25/2018-15917/in-the-matter-of-the-review-of-the-designation-of-al-shabaab-and-other-aliases-as-a-foreign*) on July 25, 2018. However, the wrong version of the document was submitted to the Office of the Federal Register and therefore the wrong notice was published as Public Notice 10471. This Notice contains the correct text below, as approved by the Secretary of State, who authorized and directed publication in the **Federal Register**. This Notice is being published to correct the record.

Janet Freer,

Director, Office of Directives Management, Bureau of Administration, Department of State.

In the Matter of the Amendment of the Designation of al-Shabaab (and other aliases) as a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act, as amended.

Based upon a review of the Administrative Record assembled pursuant to Section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. §1189) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that the following are aliases of al-Shabaab: al-Hijra, Al Hijra, Muslim Youth Center, MYC, Pumwani Muslim Youth, Pumwani Islamist Muslim Youth Center.

Therefore, pursuant to Section 219(b) of the INA, as amended (8 U.S.C. 1189(b)), I hereby amend the designation of al-Shabaab as a foreign terrorist organization to include the following new aliases: al-Hijra, Al Hijra, Muslim Youth Center, MYC, Pumwani Muslim Youth, Pumwani Islamist Muslim Youth Center.

This determination shall be published in the Federal Register.

Dated July 8, 2018.

Michael Pompeo,

Secretary of State.

[FR Doc. 2019–16448 Filed 7–31–19; 8:45 am]

BILLING CODE 4710–10–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36318]

5900 Holdings LLC—Corporate Family Transaction Exemption

On July 16, 2019, 5900 Holdings LLC (Holdings), a noncarrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(3), which exempts from the prior approval requirements of 49 U.S.C. 11323 ''[t]ransactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.'' 49 CFR 1180.2(d)(3).

Holdings states that it is a newly created limited liability company owned by Hainesport Transportation Group, LLC (HTG). HTG is a noncarrier holding company that also owns Hainesport Secondary Railroad, LLC (HSRR), and Hainesport Industrial Railroad, LLC (HIRR).[1] Holdings states that HSRR currently owns three contiguous lots of real property in Hainesport, N.J., which are traversed by two rail lines known as the South Line and the East Line (collectively, the Lines). Holdings states that HSRR leases the East Line to HIRR.[2] According to Holdings, under the proposed transaction, Holdings would acquire HIRR's lease of the East Line and enter a new lease with HSRR for the remainder of the Lines; Holdings would subsequently designate HSRR as the operator of the Lines and remain the non-operating lessee with residual common carrier obligations.

Holdings states that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Holdings states that the purpose of the transaction is to obtain new financing.

The earliest this transaction may be consummated is August 15, 2019 (30 days after the verified notice of exemption was filed). Holdings states that it expects to consummate the transaction on approximately August 16, 2019.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III rail carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must

[1] In *Hainesport Transportation Group, LLC—Corp. Family Transaction Exemption,* FD 36184 (STB served May 24, 2018), the owners of HSRR and HIRR filed a verified notice of exemption under 1180.2(d)(3) to trade their ownership interests in HSRR and HIRR for an identical ownership interest in HTG. The Board determined that, because the owners were ''merely inserting HTG, a noncarrier holding company, in the chain of control between them and the railroads they own,'' the transaction was outside the scope of 11323(a) and did not require the Board's prior approval.

[2] *See Hainesport Indus. R.R.—Lease & Operation Exemption—Hainesport Secondary R.R.,* FD 36185 (STB served July 3, 2018).

be filed no later than August 8, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36318, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423. In addition, a copy of each pleading must be served on Holdings' representative, John D. Heffner, Clark Hill, PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004.

According to Holdings, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: July 29, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

[FR Doc. 2019–16440 Filed 7–31–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Numbers FRA–2009–0096 and FRA–2012–0056]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on July 12, 2019, New Jersey Transit Rail Operations (NJTR), petitioned the Federal Railroad Administration (FRA) for an extension of its waivers of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, *Qualification and Certification of Locomotive Engineers,* and part 242, *Qualification and Certification of Conductors.* FRA assigned the petition Docket Numbers FRA–2009–0096 and FRA–2012–0056.

The relief is requested as part of NJTR's continued participation in FRA's Confidential Close Call Reporting System (C³RS) Program. NJTR implemented C³RS in June 2009 and is a founding member railroad choosing to participate in the Program. NJTR, with the support of its labor union partners, have implemented many corrective actions to improve railroad safety as a result of C³RS. NJTR seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2), and 242.407. The C³RS Program encourages certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C³RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 16, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2019–16379 Filed 7–31–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2002–11896]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on June 5, 2019, Norfolk Southern Railway Company (NS) petitioned the Federal Railroad Administration (FRA) to modify an existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231, *Railroad Safety Appliance Standards.* FRA assigned the petition Docket Number FRA–2002–11896.

Specifically, NS requested that FRA modify the current waiver allowing its Triple Crown Service to operate RoadRailer® trains to increase the permitted train length from 150 units to 165 units per train. The petition contends that the tonnage limitations (5,200 tons maximum, and the further limitation behind lightly loaded RoadRailer® units on various grades) assure draft and buff forces do not exceed 250 kips, regardless of the number of units in the consist. Additionally, NS states the coupling pin and the rest of the unit have a 250-kip design criteria, which makes 165-unit trains safe for current and potential operation.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by

submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing about these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 16, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2019–16380 Filed 7–31–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0082]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated July 22, 2019, the Denver Regional Transportation District Commuter Rail (RTDC) petitioned the Federal Railroad Administration (FRA) seeking approval for amendments to FRA–2017–0082.

Applicant: Regional Transportation District Commuter Rail, Mr. Allen W. Miller, Deputy Assistant Senior Manager, Commuter Rail, 1560 Broadway, Suite 650, Denver, CO 80202.

Regional Transportation District (RTD) is the owner of the line segment and BNSF Railway (BNSF) and the National Railroad Passenger Corporation (Amtrak) are the operators. RTDC seeks to modify the Automatic Block Signal (ABS) and Traffic Control System (TCS) on the BNSF and RTDC line segment between the 41D and 43D derails, switch 29, and the 8S signal, on the East and West Yard Track segments near Denver Union Station (DUS) Interlocking, between milepost (MP) 0.00 and MP 0.49.

BNSF uses this 500-foot line segment between the 41D and 43D derails, switch 29, and the 8S signal primarily for locomotive switching moves and Amtrak operates on this line segment to move in and out of DUS Tracks #4 and #5 for passenger operations.

The current signal system design uses the 41D, East Yard Track, and 43D West Yard Track, switch indication lights to govern traffic in advance of the derails on the yard tracks and in approach to the 8S signal at DUS Interlocking. The 41D and 43D derails and switch 29 are interlocked with the 8S signal at DUS Interlocking. The violation of the 8S signal, toward DUS, is safeguarded by the 49D derail.

The application states that disconnecting the circuitry of the 41D and 43D derail and switch 29 from 8S signal at DUS Interlocking complies with 49 CFR part 236. All existing home signals are retained. The 41D and 43D derails, switch 29, and associated switch indication lights remain powered but are controlled and monitored independently from the DUS Interlocking. The movement of switch 29 is electrically tied to the 41D and 43D derails. Positioning of switch 29 is determined by the position of the corresponding derail, aligning to the derail which is in the non-derailing position and locked. Although the switch and derails are removed from the DUS Interlocking logics, a minimum of two indications from switch 29, one being switch position and the other being the locked indication, are established to provide safe routing through DUS between the platform and beyond the 41D and 43D derails in both directions.

The July 22, 2019, request states that to protect against incursion into the RTDC tracks, the 100 feet of center gauge restraining rail which was to be installed south of the 49D derail, toward DUS, will be replaced, as an additional safety measure, with a minimum of 50 feet of double guard rail. RTDC contends the safety of the operation is maintained by the 8S signal and associated 49D derail, along with the double guard rail, both part of the DUS Interlocking; as well as the independent 41D and 43D derails, switch 29 and associated switch indication lights, providing additional protection of unauthorized yard movements. The reasons for the proposed changes are to improve reliability and safety, expedite train movements, and warrant compliance with 49 CFR part 236 for present train operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U. S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue SE, W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 16, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*. See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Safety Chief Safety Officer.

[FR Doc. 2019–16377 Filed 7–31–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action

On July 29, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authority listed below.

Individual

1. KIM, Su Il, Ho Chi Minh City, Vietnam; DOB 04 Mar 1985; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Passport 108220348 (Korea, North) expires 18 May 2023; alt. Passport 745220480 (Korea, North) expires 02 Jun 2020; Munitions Industry Department Representative in Vietnam (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of Executive Order 13687 of January 2, 2015 ''Imposing Additional Sanctions With Respect To North Korea'' for being an official of the Workers' Party of Korea.

Dated: July 29, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–16401 Filed 7–31–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for U.S. Employment Tax Returns and Related Forms; Forms CT–1, CT–1X, CT–2, SS–8, SS–8 (PR), W–2, W–2 AS, W–2 C, W–2 GU, W–2 VI, W–3, W–3 (PR), W–3 C, W–3 C (PR), W–3 SS, 940, 940 (PR), 940 SCH A, 940 SCH A (PR), 940 SCH R, 941, 941 (PR), 941 SCH B, 941 SCH B (PR), 941 SCH D, 941 SCH R, 941 SS, 941 X, 941 X (PR), 943, 943 (PR), 943 A, 943 A (PR), 943 SCH R, 943 X, 943 X (PR), 944, 944 X, 945, 945 A, 945 X, 2032, 2678, 8027, 8027 T, 8453 EMP, 8879 EMP, 8922, 8952, and 8974

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA). The IRS is soliciting comments on U.S. Employment Tax Returns and related Forms.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at (202) 317–5751, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov* .

SUPPLEMENTARY INFORMATION: Today, over 70 percent of all employment tax returns are prepared using software or with preparer assistance. In this environment, in which many taxpayers' activities are no longer as directly associated with particular forms, estimating burden on a form-by-form basis is not an appropriate measurement of taxpayer burden.

There are 50 employment tax related forms used by 7,000,000 taxpayers. These include Forms CT–1, CT–1X, CT–2, SS–8, SS–8 (PR), W–2, W–2 AS, W–2 C, W–2 GU, W–2 VI, W–3, W–3 (PR), W–3 C, W–3 C (PR), W–3 SS, 940, 940

(PR), 940 SCH A, 940 SCH A (PR), 940 SCH R, 941, 941 (PR), 941 SCH B, 941 SCH B (PR), 941 SCH D, 941 SCH R, 941 SS, 941 X, 941 X (PR), 943, 943 (PR), 943 A, 943 A (PR), 943 SCH R, 943 X, 943 X (PR), 944, 944 X, 945, 945 A, 945 X, 2032, 2678, 8027, 8027 T, 8453 EMP, 8879 EMP, 8922, 8952, and 8974.

Related Internal Revenue Service and The Department of Treasury Guidance:

26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records

Tip Reporting Alternative Commitment (TRAC) Agreement for Use in the Cosmetology and Barber Industry to Employment Tax

Reg–111583–07(TD 9405)(Final)—Employment Tax Adjustments; REG–130074–11—Rules Relating to Additional Medicare Tax

For most of these collections, IRS has in the past obtained separate OMB approvals under unique OMB Control Numbers and separate burden estimates. With this notice, the IRS is announcing significant changes to (1) the manner in which tax forms used by employers will be approved under the PRA and (2) its method of estimating the paperwork burden imposed on all employers.

Tax Compliance Burden

Tax compliance burden is defined as the time and money taxpayers spend to comply with their tax filing responsibilities. Time-related activities include recordkeeping, tax planning, gathering tax materials, learning about the law and what you need to do, and completing and submitting the return. Out-of-pocket costs include expenses such as purchasing tax software, paying a third-party preparer, and printing and postage. Tax compliance burden does not include a taxpayer's tax liability, economic inefficiencies caused by sub-optimal choices related to tax deductions or credits, or psychological costs. The TCBM estimates the aggregate burden imposed on business taxpayers, based upon their tax-related characteristics and activities. IRS therefore will seek OMB approval of all 50 Employment Tax forms as a single ''collection of information.'' The aggregate burden of these tax forms will be accounted for under OMB Control Number 1545–0029, which is currently assigned to Form 941, 941–PR, 941–SS, 941–X, 941–X(PR), Schedule B (Form 941), Schedule B (Form 941–PR), Schedule R (Form 941), 941–SS–V, 941–V, 941–X, 941–X(PR) and its related schedules. OMB Control Number 1545–0029 will be displayed on all employment-tax forms and other related information collections. As a result, employment tax burden-related estimates will be displayed differently in PRA Notices on tax forms and other information collections, and in **Federal Register** notices. This way of displaying burden is presented below under the heading ''Proposed PRA Submission to OMB.'' For more information about tax compliance burden and the TBM, go to the article ''Tax Compliance Burden'' posted on the IRS website at *https://www.irs.gov/pub/irs-soi/d13315.pdf.*

Taxpayer Burden Estimates

The estimates are subject to change as new forms and data become available.

Proposed PRA Submission to OMB

Title: U.S. Employment Tax Returns and related Forms.

OMB Number: 1545–0029.

Form Numbers: Forms CT–1, CT–1X, CT–2, SS–8, SS–8 (PR), W–2, W–2 AS, W–2 C, W–2 GU, W–2 VI, W–3, W–3 (PR), W–3 C, W–3 C (PR), W–3 SS, 940, 940 (PR), 940 SCH A, 940 SCH A (PR), 940 SCH R, 941, 941 (PR), 941 SCH B, 941 SCH B (PR), 941 SCH D, 941 SCH R, 941 SS, 941 X, 941 X (PR), 943, 943 (PR), 943 A, 943 A (PR), 943 SCH R, 943 X, 943 X (PR), 944, 944 X, 945, 945 A, 945 X, 2032, 2678, 8027, 8027 T, 8453 EMP, 8879 EMP, 8922, 8952, and 8974.

Abstract: These forms are used by employers to report their employment tax related activity. The data is used to verify that the items reported on the forms are correct.

Current Actions: The burden estimation methodology for employment tax is being transitioned from the legacy ADL model to the Taxpayer Burden Model. The changes discussed above result in a burden hour estimate of 575,000,000 hours, a decrease in total estimated time burden of 53,519,249 hours. The newly-reported total out-of-pocket costs is $15,030,000,000 and total monetized burden is $25,200,000,000. These changes are solely related to the transition of the burden estimate from the legacy Arthur D. Little Model methodology to the RAAS Taxpayer Burden Model. This is a one-time change.

Type of Review: Revision of currently approved collections.

Estimates Total Time (Hours): 575,000,000.

Estimated Total Out-of-Pocket Costs: $15,030,000,000.

Estimated Total Monetized Burden: $25,200,000,000.

Affected Public: Employers.

Estimated Number of Respondents: 7,000,000.

Total Estimated Time: 575,000,000 hours.

Estimated Time Per Respondent: 82 hours.

Total Estimated Out-of-Pocket Costs: $15,030,000,000.

Estimated Out-of-Pocket Cost Per FY2020 Respondent: $2,147.

Total Estimated Monetized Burden: $25,200,000,000.

Estimated Monetized Burden Per FY2020. Respondent: $3,600.

Note: Amounts below are for FY2020. Reported time and cost burdens are national averages and do not necessarily reflect a ''typical'' case. Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. Detail may not add due to rounding.

FISCAL YEAR 2020 ICB ESTIMATES FOR FORM 94X SERIES AND RELATED FORMS, SCHEDULES, AND REGULATIONS

	ADL 2020 to Taxpayer Burden Model 2020				
	ADL method (legacy) FY 2020	Program change due to adjustment in estimate	Program change due to new legislation	Program change due to agency discretion	Taxpayer burden model FY 2020
Number of Taxpayers	333,600,411	326,600,411	.....	.....	7,000,000
Burden in Hours	628,519,249	(53,519,249)	0	0	575,000,000
Burden in Dollars	.....	$15,030,000,000	0	0	$15,030,000,000
Monetized Total Burden	.....	$25,200,000,000	0	0	$25,200,000,000

Detail may not add due to rounding.
Source RAAS:KDA:TBL 7/10/2019.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB Control Number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 22, 2019.

Laurie Brimmer,

Senior Tax Analyst.

Appendix A

Form	Title/description	OMB number
CT–1	Employer's Annual Railroad Retirement Tax Return	1545–0001
CT–1X	Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund	1545–0001
CT–2	Employee Representative's Quarterly Railroad Tax Return	1545–0002
SS–8	Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.	1545–0004
SS–8 (PR)	Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax (Puerto Rican Version).	1545–0004
W–2	Wage and Tax Statement	1545–0008
W–2 AS	American Samoa Wage and Tax Statement	1545–0008
W–2 C	Corrected Wage and Tax Statement	1545–0008
W–2 GU	Guam Wage and Tax Statement	1545–0008
W–2 VI	U.S. Virgin Islands Wage and Tax Statement	1545–0008
W–3	Transmittal of Wage and Tax Statements	1545–0008
W–3 (PR)	Transmittal of Withholding Statements (Puerto Rican Version)	1545–0008
W–3 C	Transmittal of Corrected Wage and Tax Statements	1545–0008
W–3 C (PR)	Transmittal of Corrected Wage and Tax Statements (Puerto Rican Version)	1545–0008
W–3 SS	Transmittal of Wage and Tax Statements	1545–0008
940	Employer's Annual Federal Unemployment (FUTA) Tax Return	1545–0028
940 (PR)	Employer's Annual Federal Unemployment (FUTA) Tax Return (Puerto Rican Version).	1545–0028
940 SCH A	Multi-State Employer and Credit Reduction Information	1545–0028
940 SCH A (PR)	Multi-State Employer and Credit Reduction Information (Puerto Rican Version)	1545–0028
940 SCH R	Allocation Schedule for Aggregate Form 940 Filers	1545–0028
941	Employer's Quarterly Federal Tax Return	*1545–0029
941 (PR)	Employer's Quarterly Federal Tax Return	*1545–0029
941 SCH B	Report of Tax Liability for Semiweekly Schedule Depositors	*1545–0029
941 SCH B (PR)	Supplemental Record of Federal Tax Liability (Puerto Rican Version)	*1545–0029
941 SCH D	Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations.	*1545–0029
941 SCH R	Reconciliation for Aggregate Form 941 Filers	*1545–0029
941 SS	Employer's QUARTERLY Federal Tax Return (American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the U.S. Virgin Islands).	*1545–0029
941 X	Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund	*1545–0029
941 X (PR)	Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund (Puerto Rico Version).	*1545–0029
943	Employer's Annual Tax Return for Agricultural Employees	1545–0035
943 (PR)	Employer's Annual Tax Return for Agricultural Employees (Puerto Rican Version)	1545–0035
943 A	Agricultural Employer's Record of Federal Tax Liability	1545–0035
943 A (PR)	Agricultural Employer's Record of Federal Tax Liability (Puerto Rican Version)	1545–0035
943 R	Allocation Schedule for Aggregate Form 943 Filers	1545–0035
943 X	Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund.	1545–0035
943 X (PR)	Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund.	1545–0035
944	Employer's ANNUAL Federal Tax Return	1545–2007
944 X	Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund	1545–2007
945	Annual Return of Withheld Federal Income Tax	1545–1430
945 A	Annual Record of Federal Tax Liability	1545–1430
945 X	Adjusted ANNUAL Return of Withheld Federal Income Tax or Claim for Refund	1545–1430
2032	Contract Coverage Under Title II of the Social Security Act	1545–0137
2678	Employer/Payer Appointment of Agent	1545–0748
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	1545–0714
8027 T	Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips.	1545–0714
8453 EMP	Employment Tax Declaration for an IRS e-file Return	1545–0967
8879 EMP	IRS e-file Signature Authorization for Forms 940, 940–PR, 941, 941–PR, 941–SS, 943, 943–PR, 944, and 945.	1545–0967

Form	Title/description	OMB number
8922	Third-Party Sick Pay Recap	*1545–0123
8952	Application for Voluntary Classification Settlement Program (VCSP)	1545–2215
8974	Qualified Small Business Payroll Tax Credit for Increasing Research Activities	1545–0029

*1545–0123 will not be discontinued. It is the Business collection and 8922 will be included in both the Business collection and the Employment Tax collection.

*1545–0029 will not be discontinued it will be the number assigned to all Forms within the employment tax collection.

Appendix B

Guidance title/description	OMB number
26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records	1545–0798
Tip Reporting Alternative Commitment (TRAC) Agreement for Use in the Cosmetology and Barber Industry to Employment Tax	1545–1529
Reg–111583–07(TD 9405)(Final)—Employment Tax Adjustments; REG–130074–11—Rules Relating to Additional Medicare Tax	1545–2097

[FR Doc. 2019–16381 Filed 7–31–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Former Prisoners of War (FPOW) will meet August 14–16, 2019, from 8:00 a.m.–5:15 p.m. EDT at the Department of Veterans Affairs Headquarters located at 810 Vermont Avenue NW, G.V. Sonny Montgomery Conference Room 230, Washington, DC 20420. The meeting sessions are as follows:

Date:	Time:
August 14, 2019	9:00 a.m. to 12:00 p.m. (EST).
August 15, 2019	9:00 a.m. to 5:15 p.m. (EST).
August 16, 2019	8:00 a.m. to 10:00 a.m. (EST).

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38 U.S.C., for Veterans who are FPOWs, and to make recommendations on the needs of such Veterans for compensation, health care, and rehabilitation.

The agenda will include discussions and briefings from Veterans Benefits Administration and Veterans Health Administration officials, as well as briefings on other issues impacting FPOW Veterans.

FPOWs who wish to speak at the public forum are invited to submit a 1–2-page commentary for inclusion in official meeting records. Any member of the public may also submit a 1–2-page commentary for the Committee's review. Any member of the public wishing to attend the meeting or seeking additional information should contact Mr. E. Maquel Marshall, Acting Designated Federal Officer, Advisory Committee on Former Prisoners of War at *Edwaunte.Marshall@va.gov* or via phone at (202) 530–9301. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the screening process. Due to an increase in security protocols, you should allow an additional 30 minutes before the meeting begins.

Dated: July 29, 2019.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–16450 Filed 7–31–19; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Incidental Take During Specified Activities: Cook Inlet, Alaska; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

[Docket No. FWS–R7–ES–2019–0012; FXES111607MRG01–190–FF07CAMM00]

RIN 1018–BD63

Marine Mammals; Incidental Take During Specified Activities: Cook Inlet, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, in response to a request from Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation, finalize regulations authorizing the nonlethal, incidental take by harassment of small numbers of northern sea otters in State and Federal waters (Alaska and the Outer Continental Shelf) within Cook Inlet, Alaska, as well as all adjacent rivers, estuaries, and coastal lands. Take may result from oil and gas exploration, development, production, and transportation activities occurring for a period of 5 years. This rule authorizes take by harassment only; no lethal take is authorized. We will issue Letters of Authorization, upon request, for specific proposed activities in accordance with these regulations. Additionally, the Office of Management and Budget has approved a revision of the existing Information Collection control number 1018–0070, for incidental take of marine mammals in the Beaufort and Chukchi Seas, to include oil and gas activities in Cook Inlet.

DATES: This rule is effective August 1, 2019, and remains effective through August 1, 2024.

ADDRESSES: *Document availability:* You may view this rule, the original and updated application packages, supporting information, final environmental assessment and U.S. Fish and Wildlife Service finding of no significant impact (FONSI), and the list of references cited herein at *http://www.regulations.gov* under Docket No. FWS–R7–ES–2019–0012, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Putnam, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, by email at *fw7_ak_marine_mammals@fws.gov,* or by telephone at 1–800–362–5148. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

For information on Information Collection control number 1018–0070, contact the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); 703–358–2503 (telephone), or *info_coll@fws.gov* (email). Please include ''1018–0070'' in the subject line of your email request.

SUPPLEMENTARY INFORMATION:

Immediate Promulgation

In accordance with 5 U.S.C. 553(d)(3), we find that we have good cause to make this rule effective less than 30 days after publication. Immediate promulgation of the rule will ensure that the applicant will implement mitigation measures and monitoring programs in the geographic region that reduce the risk of any lethal and nonlethal effects to sea otters by their activities.

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361(a)(5)(A)) (MMPA), gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals in response to requests by U.S. citizens engaged in a specified activity in a specified region. The Secretary has delegated authority for implementation of the MMPA to the U.S. Fish and Wildlife Service (Service). According to the MMPA, the Service shall allow this incidental taking for a period of up to 5 years if we make findings that such taking: (1) Will affect only small numbers of individuals of these species or stocks; (2) will have no more than a negligible impact on these species or stocks; (3) will not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence use by Alaska Natives; and (4) we issue an incidental take regulation (ITR) setting forth: (a) The permissible methods of taking, (b) the means of effecting the least practicable adverse impact on the species, their habitat, and the availability of the species for subsistence uses, and (c) the requirements for monitoring and reporting. If final regulations allowing such incidental taking are issued, we may then subsequently issue a letter of authorization (LOA), upon request, to authorize incidental take during the specified activities.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13)). Harassment, as defined by the MMPA for non-military readiness activities, means any act of pursuit, torment, or annoyance that (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA calls this ''Level A harassment''), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA calls this ''Level B harassment'').

The terms ''negligible impact,'' ''small numbers,'' ''unmitigable adverse impact,'' and ''U.S. citizens,'' among others, are defined in title 50 of the Code of Federal Regulations at 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Negligible impact'' is defined as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. ''Small numbers'' is defined as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. However, we do not rely on that definition here, as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements. Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall stock.

''Unmitigable adverse impact'' is defined as an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. The term ''least practicable adverse impact'' is not defined in the MMPA or its enacting regulations. We ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impacts of the

proposed activities, but are not so restrictive as to make conducting the activities unduly burdensome or impossible to undertake and complete.

Implementation of the ITR will require information collection activities. The Office of Management and Budget has approved a revision of the existing Information Collection control number 1018–0070, for incidental take of marine mammals in the Beaufort and Chukchi Seas, to include oil and gas activities in Cook Inlet.

Summary of Request

On May 3, 2018, Hilcorp Alaska, LLC (Hilcorp), Harvest Alaska, LLC (Harvest), and the Alaska Gasline Development Corporation (AGDC), hereinafter referred to as the ''applicant,'' petitioned the Service to promulgate regulations pursuant to section 101(a)(5)(A) of the MMPA for the nonlethal, unintentional taking of small numbers of northern sea otters (*Enhydra lutris kenyoni;* hereafter ''sea otters'' or ''otters,'' unless otherwise indicated) incidental to oil and gas exploration, development, production, and transportation activities in Cook Inlet, Alaska, for a period of 5 years. On June 28, 2018, the applicant submitted an amended request providing additional project details. In March 2019, Hilcorp and Harvest notified the Service that three-dimensional (3D) seismic survey activities originally planned to begin in April 2019 would be delayed until fall 2019. In June 2019, AGDC, Hilcorp, and Harvest also provided an updated application package at the request of the Service. The updated application clarified project details and provided additional information where necessary to respond to questions and concerns raised by comments received during the public review of the proposed ITR. These updates and clarifications were minor and did not significantly change the analysis of effects or the estimates of take, and did not alter the conclusions regarding whether the planned activities would have a negligible impact on the stocks, would affect subsistence use, or would affect more than a small number of animals.

Summary of Changes From the Proposed ITR

In preparing this final regulation for the incidental take of sea otters, we reviewed and considered comments and information from the public on our proposed rule published in the **Federal Register** on March 19, 2019 (84 FR 10224), for which the comment period was extended by notice in the **Federal Register** on April 5, 2019 (84 FR 13603). We also reviewed and considered comments and information from the public for our draft Environmental Assessment (EA). Based on those considerations, and the new information provided by the applicant, we are finalizing these regulations with the following changes from our proposed rule:

- Table 1 and table 3 were updated to reflect the most recent project details available from the applicant.
- The Description of Specified Activities and table 1 were appended to include redevelopment of existing wells at Granite Point.
- Mitigation measures were added or modified in § 18.137(b)(1)(ii), (b)(4)(ii), (b)(7)(ii), (b)(9), (c)(2), (c)(3), (e)(4), and § 18.140(b) of this final rule.
- The total estimated number of Level B takes was adjusted from 1,663 to 1,684 after the analysis was updated to reflect updates in the project plans.
- The duration of activities used in the estimation of take was adjusted to reflect the maximum number of days during which underwater work may generate noise above thresholds for take. The following adjustments were made: Vibratory sheet pile driving was adjusted from 5 to 20 days, Lower Cook Inlet (LCI) pipe driving was revised from 3 to 12 days, Trading Bay (TB) pipe driving was revised from 1.5 to 6 days, vertical seismic profiling (VSP) in LCI was changed from 2 to 8 days, VSP in TB was adjusted from 1 to 4 days, and use of water jets was increased from 10.5 to 21 days.
- The analyses of take tables were updated to remove tugs towing rigs and use of hydraulic grinders at the request of the applicant and after analysis of take using the updated duration for these sources indicated that take was unlikely.
- Field verifications of sound production during two-dimensional (2D) and 3D seismic surveys have been added to the required mitigation measures.
- A discussion of the alternative mitigation measures evaluated but not required has been added.
- Use of a mitigation gun was changed from required mitigation for 2D and 3D seismic surveys to a measure that may be required in LOAs issued under this ITR.
- Table 9 was added to clarify allocation of sea otter take by location of activity relative to the appropriate stock boundary.
- Total estimated Level A take was adjusted from three takes from the southcentral Alaska stock to one take from the southwest Alaska stock and two takes from the southcentral Alaska stock. This change was made to correct an error in the proposed ITR.
- A mitigation measure was added requiring an applicant for an LOA to evaluate alternatives to pile-supported facilities and establishing that the Service may require sound-attenuation devices or alternatives to pile-supported designs.
- The Estimated Incidental Take section was updated to reflect changes to the analysis due to the updated project details and to provide additional clarity in the analysis methods used.
- The evaluation of impacts of the specified activities was modified throughout the document to focus on the total numbers of takes rather than the numbers of individual sea otters taken. This change was needed to ensure the estimates from the analysis were accurate and did not underestimate take.

Description of the Regulation

This regulation does not authorize the specified activities to be conducted by the applicant. Rather, it authorizes the nonlethal incidental, unintentional take of small numbers of sea otters associated with those planned activities based on standards set forth in the MMPA. The ITR includes: Permissible amounts and methods of nonlethal taking; measures to ensure the least practicable adverse impact on sea otters and their habitat; measures to avoid and reduce impacts to subsistence uses; and requirements for monitoring and reporting.

Description of the ITR Geographic Area

The geographic region of the ITR encompasses Cook Inlet, Alaska, south of a line from the Susitna River Delta to Point Possession (approximately 61°15′54″ N, 150°41′07″ W, to 61°02′19″ N, 150°23′48″ W, WGS 1984) and north of a line from Rocky Cove to Coal Cove (at approximately 59°25′56″ N, 153°44′25″ W and 59°23′48″ N, 151°54′28″ W WGS 1984), excluding Ursus Cove, Iniskin Bay, Iliamna Bay, and Tuxedni Bay (see Regulation Promulgation, § 18.131 Specified geographic region where this subpart applies). The ITR area includes all Alaska State waters and Outer Continental Shelf (OCS) Federal waters within this area as well as all adjacent rivers, estuaries, and coastal lands where sea otters may occur, unless explicitly excluded.

The geographical extent of the Cook Inlet ITR region is approximately 1.1 million hectares (ha) (2.7 million acres (ac)). For descriptive purposes, the specified area is organized into two marine areas within Cook Inlet: LCI (south of the Forelands to Homer) and

middle Cook Inlet (MCI; north of the Forelands to the Susitna River and Point Possession). Project sites within these general areas include TB, Granite Point, and the North Cook Inlet unit (NCI) in the MCI, and the Iniskin Peninsula and the OCS waters of LCI.

Description of Specified Activities

The specified activities (also ''project activities'' or ''planned activities'') include work related to oil and gas exploration, development, production, transport, and the decommissioning of existing facilities conducted by the applicant within a 5-year period. Hilcorp and Harvest jointly plan to conduct the following activities: 2D and 3D seismic surveys in LCI; routine operations of, maintenance of, redevelopment of, and production drilling from existing oil and gas facilities in MCI; geophysical and geohazard surveys in both regions; drilling of two to four exploration wells in OCS waters of LCI and one to three wells in MCI; construction of a dock facility in Chinitna Bay; and decommissioning of an existing facility at the Drift River Terminal in MCI. The following support activities will be conducted: Pipe and pile driving using both vibratory and impact hammers; VSP; and pipeline and platform maintenance. AGDC plans to install a natural gas pipeline from the west side of MCI to the east side of LCI and to construct processing and loading facilities on either side. These include a product loading facility (PLF) and temporary and mainline materials offloading facilities (TMOF, MMOF, MOF). Support activities for AGDC will include pile driving, dredging, geophysical surveys, trenching, fill placement, and anchor handling. Hilcorp, Harvest, and AGDC will use vessels and aircraft to support the activities. Detailed descriptions of the planned work are provided in the applicant's updated petition for incidental take regulations for oil and gas activities in Cook Inlet (June 2019), the stakeholder engagement plan (April 2018), and the marine mammal monitoring and mitigation plan (May 2018). These documents can be obtained from the locations described above in **ADDRESSES**. Table 1 summarizes the planned activities.

TABLE 1—SUMMARY OF PLANNED ACTIVITIES INCLUDED IN INCIDENTAL TAKE REGULATION PETITION

Project component name & location	Geographic region	Year(s) planned	Seasonal timing	Total anticipated duration (2019–2024)
Anchor Point 2D seismic survey	LCI, Anchor Point to Kasilof.	2021 or 2022	April–October	30 days (10 days in water seismic).
OCS 3D seismic survey	LCI OCS	2019 or 2020	April–October	45–60 days.
OCS geohazard survey	LCI OCS	2019–2021	April–October	28 days.
OCS exploratory wells	LCI OCS	2020–2022	February–November	40–60 days per well, 2–4 wells per year.
Iniskin Peninsula exploration and development.	LCI, west side	2020–2022	April–October	180 days.
Platform & pipeline maintenance	MCI	2019–2024	April–October	180 days per year.
NCI subsea well geohazard survey	MCI	2020	April–October	7 days.
NCI well abandonment activity	MCI	2020	April–October	90 days.
TB area geohazard survey	MCI	2020	April–October	14 days.
Granite Point development drilling	MCI	2019	June–October	120–150 days.
Drift River terminal decommissioning	LCI, west side	2020–2023	April–October	120 days.
Product loading facility pile driving	MCI	2021–2023	April–October	162 days.
Material offloading facilities dredging	MCI	2021–2022	April–October	360 days.
Material offloading facilities pile driving	MCI	2021–2022	April–October	482 days.
Trenching, pipelay, burial	MCI	2023–2024	April–October	360 days.
Pipelay anchor handling	MCI	2023–2024	April–October	76 days.

LCI = Lower Cook Inlet, MCI = Middle Cook Inlet, NCI = North Cook Inlet, TB = Trading Bay.

Description of Marine Mammals in the Specified Area

The northern sea otter is the only marine mammal under the Service's jurisdiction that normally occupies Cook Inlet, Alaska. Sea otters in Alaska are composed of three stocks. Those in Cook Inlet belong to either the southwest Alaska stock or the southcentral Alaska stock, depending on whether they occur west or east of the center of Cook Inlet, respectively. A third stock occurs in southeast Alaska.

The southwest Alaska stock of the northern sea otter is the southwest distinct population segment (DPS), which was listed as threatened under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531, *et seq.*) on August 9, 2005 (70 FR 46366). On October 8, 2009 (74 FR 51988), the Service finalized designation of 15,164 square kilometers (km^2) (or 5,855 square miles (mi^2)) of critical habitat for the Southwest DPS of sea otters. Critical habitat occurs in nearshore marine waters ranging from the mean high-tide line seaward for a distance of 100 meters (m), or to a water depth of 20 m. Detailed information about the biology and conservation status of the listed DPS can be found at *https://www.fws.gov/alaska/fisheries/mmm/seaotters/otters.htm.* Stock assessment reports for each of the three stocks are available at *https://www.fws.gov/alaska/pages/marine-mammal-management.*

Sea otters may occur anywhere within the specified project area, other than upland areas, but are not usually found north of about 60°23′30″ N. The number of sea otters in Cook Inlet was estimated from an aerial survey conducted by the Service in cooperation with the U.S. Geological Survey (USGS) in May 2017 (Garlich-Miller *et al.* 2018). The sea otter survey was conducted in all areas of Cook Inlet south of approximately 60°16′30″ N within the 40-m (131-feet (ft)) depth contour, including Kachemak Bay in southeastern Cook Inlet and Kamishak Bay in southwestern Cook Inlet. This survey was designed to estimate abundance in Cook Inlet while accounting for the variable densities and observability of sea otters in the region. Total abundance was estimated to be 19,889 sea otters (standard error = 2,988). Within the project area, the highest densities of sea otters were found in the outer Kamishak Bay area, with 3.5 otters per km^2, followed by the eastern shore of Cook Inlet with 1.7 otters per km^2.

Sea otters generally occur in shallow water near the shoreline. They are most commonly observed within the 40-m (131-ft) depth contour (USFWS 2014a, b), although they can be found in areas with deeper water. Depth is generally correlated with distance to shore, and sea otters typically remain within 1 to 2 kilometers (km) or 0.62 to 1.24 miles (mi) of shore (Riedman and Estes 1990). They tend to remain closer to shore during storms, and they venture farther

out during calm seas (Lensink 1962; Kenyon 1969).

Sea otters are non-migratory and generally do not disperse over long distances (Garshelis and Garshelis 1984). They usually remain within a few kilometers of their established feeding grounds (Kenyon 1981). Breeding males remain for all or part of the year in a breeding territory covering up to 1 km (0.62 mi) of coastline. Adult females have home ranges of approximately 8 to 16 km (5 to 10 mi), which may include one or more male territories. Juveniles move greater distances between resting and foraging areas (Lensink 1962; Kenyon 1969; Riedman and Estes 1990; Tinker and Estes 1996).

Although sea otters generally remain local to an area, they may shift home ranges seasonally, and are capable of long-distance travel. Otters in Alaska have shown daily movement distances greater than 3 km (1.9 mi) at speeds up to 5.5 km/hr (3.4 mi per hour) (Garshelis and Garshelis 1984). In eastern Cook Inlet, large numbers of sea otters have been observed riding the incoming tide northward and returning on the outgoing tide, especially in August. They are presumably feeding along the eastern shoreline of Cook Inlet during the slack tides when the seas are calm, and they remain in Kachemak Bay during periods of less favorable weather (Gill *et al.* 2009; BlueCrest 2013). In western Cook Inlet, otters appear to move in and out of Kamishak Bay in response to seasonal changes in the presence of sea ice (Larned 2006).

Potential Effects of the Activities

Effects of Noise

The operations outlined in the Description of Specified Activities and described in the applicant's updated petition have the potential to result in take of sea otters by harassment from noise. Here we characterize ''noise'' as sound released into the environment from human activities that exceeds ambient levels or interferes with normal sound production or reception by sea otters. The terms ''acoustic disturbance'' or ''acoustic harassment'' are disturbances or harassment events resulting from noise exposure. Potential effects of noise exposure are likely to depend on the distance of the otter from the sound source and the level of sound received by the otter. Project components most likely to cause acoustic disturbance are shown in table 2. Temporary disturbance or localized displacement reactions are the most likely to occur. With implementation of the mitigation and monitoring measures described in § 18.137 Mitigation, § 18.138 Monitoring, and § 18.139 Reporting requirements, no lethal take is anticipated, and take by harassment (Level A and Level B) is expected to be minimized to the greatest extent practicable.

TABLE 2—PROJECT COMPONENTS PLANNED BY HILCORP, HARVEST, AND ALASKA GASLINE DEVELOPMENT CORPORATION THAT PRODUCE NOISE CAPABLE OF CAUSING INCIDENTAL TAKE BY HARASSMENT OF NORTHERN SEA OTTERS

Project component name & location	Anticipated noise sources
Anchor Point 2D seismic survey	Marine: 1 source vessel with airgun, 1 node vessel; Onshore/Intertidal: Shot holes, tracked vehicles, helicopters.
OCS 3D seismic survey	1 source vessel with airguns, 1 support vessel, 1 or 2 chase vessels to maintain security around streamers, 1 or 2 mitigation vessels.
OCS geohazard survey	1 vessel with echosounders and/or subbottom profilers.
OCS exploratory wells	1 jack-up rig, drive pipe installation, support vessels, helicopters.
Iniskin Peninsula exploration and development	Construction of causeway, dredging, vessels.
Platform & pipeline maintenance	Vessels, water jets, helicopters, and/or sub-bottom profilers.
NCI subsea well geohazard survey	1 vessel with echosounders and/or subbottom profilers.
NCI well abandonment activity	1 jack-up rig, support vessel, helicopters.
TB area geohazard survey	1 vessel with echosounders and/or subbottom profilers.
TB area exploratory wells	1 jack-up rig, drive pipe installation, support vessels, helicopters.
Drift River terminal decommissioning	Vessels.

OCS = outer continental shelf, NCI = North Cook Inlet, TB = Trading Bay.

Noise Levels

Whether a specific noise source will affect a sea otter depends on several factors, including the distance between the animal and the sound source, the sound intensity, background noise levels, the noise frequency, the noise duration, and whether the noise is pulsed or continuous. The actual noise level perceived by individual sea otters will depend on distance to the source, whether the animal is above or below water, atmospheric and environmental conditions, as well as aspects of the noise emitted.

Noise levels herein are given in decibels referenced to 1 μPa (dB re: 1 μPa) for underwater sound. All dB levels are dB_{RMS} unless otherwise noted; dB_{RMS} refers to the root-mean-squared dB level, the square root of the average of the squared sound pressure level (SPL) typically measured over 1 second. Other important metrics include the sound exposure level (SEL; represented as dB re: 1 μPa^2-s), which represents the total energy contained within a pulse and considers both intensity and duration of exposure, and the peak sound pressure (also referred to as the zero-to-peak sound pressure or 0–p). Peak sound pressure is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the RMS sound pressure. See Richardson *et al.* (1995), Götz *et al.* (2009), Hopp *et al.* (2012), Navy (2014), for descriptions of acoustical terms and measurement units in the context of ecological impact assessment. A summary of the noises produced by the various components of the planned activities is provided in tables 3 and 4.

TABLE 3—SUMMARY OF SOUND SOURCE LEVELS FOR THE PLANNED OIL AND GAS ACTIVITIES BY HILCORP/HARVEST ALASKA AND ALASKA GASLINE DEVELOPMENT CORPORATION (AGDC)

Applicant	Activity	Sound pressure levels (dB re 1 μPa)	Frequency	Reference
Hilcorp/Harvest Alaska, AGDC	General vessel operations	145–175 dB rms at 1 m	10–1,500 Hz	Richardson *et al.* 1995; Blackwell and Greene 2003; Ireland and Bisson 2016.
Hilcorp/Harvest Alaska, AGDC	General aircraft operations	100–124 dB rms at 1 m	<500 Hz	Richardson *et al.* 1995.
Hilcorp/Harvest Alaska	2D seismic survey (1,945 cui airgun).	217 dB peak at 100 m 185 dB SEL at 100 m 197 dB rms at 100 m	<300 Hz	Austin and Warner 2013; 81 FR 47240 (July 20, 2016).
Hilcorp/Harvest Alaska	3D seismic survey (1,945 cui airgun).	217 dB peak at 100 m 185 dB SEL at 100 m 197 dB rms at 100 m	<300 Hz	Austin and Warner 2013; 81 FR 47240 (July 20, 2016).
Hilcorp/Harvest Alaska	Geohazard surveys	210–220 dB rms at 1 m	Echosounders & side scan sonar: >200 kHz. High-resolution sub-bottom profiler: 2–24 kHz. Low-resolution sub-bottom profiler: 1–4 kHz.	Manufacturer specifications.
Hilcorp/Harvest Alaska	Exploratory drilling rig	137 dB rms at 1 m	<200 Hz	Marine Acoustics Inc. 2011.
Hilcorp/Harvest Alaska	Drive pipe installation	190 dB rms at 55 m	<500 Hz	Illingworth & Rodkin 2014.
Hilcorp/Harvest Alaska	Vertical seismic profiling	227 dB rms at 1 m	<500 Hz	Illingworth & Rodkin 2014.
Hilcorp/Harvest Alaska	Sub-bottom profiling	212 dB rms at 1 m	1–24 kHz	Manufacturer specifications.
Hilcorp/Harvest Alaska	Rock laying for Iniskin Peninsula causeway.	136–141 dB rms at 12–19 m	<500 Hz	URS 2007.
Hilcorp/Harvest Alaska	Vibratory sheet pile driving for Iniskin Peninsula causeway.	175 dB peak at 10 m 160 dB SEL at 10 m 160 dB rms at 10 m	<100–2,500 Hz	Illingworth & Rodkin 2007.
Hilcorp/Harvest Alaska	Offshore production platforms	97–111 dB rms at 0.3–19 km	<500 Hz	Blackwell and Greene 2003.
Hilcorp/Harvest Alaska	Water jet	176 dB rms at 1 m	500 Hz–2 kHz	Austin 2017.
Hilcorp/Harvest Alaska	Pingers	192 dB rms at 1 m	4–14 kHz	Manufacturer specifications.
AGDC	Dredging: Including Clamshell dredge, Winching in/out, Dumping into barge, Empty barge at placement site.	107–142.6 dB rms at 10 m	<2.5 kHz, broadband	Dickerson *et al.* 2001; URS 2007.
AGDC	Underwater trenching with backhoe in shallow water.	145 dB @10 m	<2.5 kHz, broadband	Greene *et al.* 2008.
AGDC	Anchor handling	188 dB rms @1 m	<2.5 kHz, broadband	LGL/JASCO/Greeneridge 2014.

SEL = sound exposure level.

TABLE 4—SUMMARY OF SOUND SOURCES OF PILE-DRIVING ACTIVITIES FOR ALASKA GASLINE DEVELOPMENT CORPORATION (AGDC) FROM ILLINGWORTH & RODKIN (2007).

Representative pile type and size	Hammer type	Sound pressure level (dB re 1 μPa)			Project pile type and size
		Peak	RMS	SEL	
24-inch sheet pile	Impact	205	190	180	Sheet pile.
24-inch sheet pile	Vibratory	175	160	160	Sheet pile.
24-inch steel pipe pile	Impact	207	194	178	18- and 24-inch piles.
60-inch steel shell pile	Impact	210	195	185	48- and 60-inch piles.
72-inch steel pipe piles	Vibratory	183	170	170	All size piles.

Sea Otter Hearing

Sound frequencies produced by the applicant's survey and construction activities will fall within the hearing range of sea otters and therefore will be audible to animals. Controlled sound exposure trials on southern sea otters (*E. l. nereis*) indicate that hearing ability spans frequencies between 125 hertz (Hz) and 38 kilohertz (kHz) with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Aerial and underwater audiograms for a captive adult male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sounds than terrestrial mustelids but similar to that of a sea lion (*e.g., Zalophus californianus*). Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane *et al.* 1995; Ghoul and Reichmuth 2012a).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary changes in hearing sensitivity, discomfort, and physical or auditory injury. Species-specific criteria for preventing harmful exposures to sound have not been identified for sea otters. Thresholds have been developed for other marine mammals, above which exposure is likely to cause behavioral disturbance and injuries (Southall *et al.* 2007; Finneran and Jenkins 2012; NMFS 2018a). Because sea otter hearing abilities and sensitivities have not been fully evaluated, we relied on the closest related proxy, California sea lions, to evaluate the potential effects of noise exposure. The California sea lion, an otariid pinniped, has a frequency range of hearing most similar to that of the southern sea otter (Ghoul and Reichmuth 2014) and provides the closest related proxy for which data are available. Sea otters and pinnipeds

share a common mammalian aural physiology (Echteler *et al.* 1994; Solntseva 2007). Both are adapted to amphibious hearing, and both use sound in the same way (primarily for communication rather than feeding).

Exposure Criteria

Noise exposure criteria have been established by the National Marine Fisheries Service (NMFS) for identifying underwater noise levels capable of causing Level A harassment (injury) of certain marine mammals, including otariid pinnipeds (NMFS 2018a). Sea otter-specific criteria have not been determined; however, because of their biological similarities, we assume that noise criteria developed by NMFS for injury for otariid pinnipeds will be a suitable surrogate for sea otter impacts as well. Those criteria are based on estimated levels of sound exposure capable of causing a permanent shift in sensitivity of hearing (*e.g.,* a permanent threshold shift (PTS) (NMFS 2018a)). PTS occurs when noise exposure causes hairs within the inner ear system to die.

NMFS' (2018a) criteria for sound exposure incorporate two metrics of exposure: The peak level of instantaneous exposure likely to cause PTS, and the cumulative sound exposure level during a 24-hour period (SEL_{cum}). They also include weighting adjustments for the sensitivity of different species to varying frequencies. PTS-based injury criteria were developed from theoretical extrapolation of observations of temporary threshold shifts (TTS) detected in lab settings during sound exposure trials. Studies were summarized by Finneran (2015). For otariid pinnipeds, PTS is predicted to occur at 232 dB peak or 203 dB SEL_{cum} for impulsive sound, or 219 dB SEL_{cum} for non-impulsive (continuous) sound.

NMFS' criteria for take by Level A harassment represents the best available information for predicting injury from exposure to underwater sound among pinnipeds, and in the absence of data specific to otters, we assume these criteria also represent appropriate exposure limits for Level A take of sea otters.

NMFS (2018a) criteria do not identify thresholds for avoidance of Level B take. For pinnipeds, NMFS has adopted a 160-dB threshold for Level B take from exposure to impulse noise and a 120-dB threshold for continuous noise (NMFS 1998; HESS 1999; NMFS undated). These thresholds were developed from observations of mysticete (baleen) whales responding to airgun operations (*e.g.,* Malme *et al.* 1983a, b; Richardson *et al.* 1986, 1995) and from equating Level B take with noise levels capable of causing TTS in lab settings.

We have evaluated these thresholds and determined that the Level B threshold of 120 dB for non-impulsive noise is not applicable to sea otters. The 120-dB threshold is based on studies conducted by Malme *et al.* in the 1980s, during which gray whales were exposed to experimental playbacks of industrial noise. Based on the behavioral responses of gray whales to the playback of drillship noise during a study at St. Lawrence Island, Alaska, Malme *et al.* (1988) concluded that ''exposure to levels of 120 dB or more would probably cause avoidance of the area by more than one-half of the gray whales.'' Sea otters do not usually occur at St. Lawrence Island, Alaska, but similar playback studies conducted off the coast of California (Malme 1983a, 1984) included a southern sea otter monitoring component (Riedman 1983, 1984). The 1983 and 1984 studies detected probabilities of avoidance in gray whales comparable to those reported in Malme *et al.* (1988), but there was no evidence of disturbance reactions or avoidance in southern sea otters.

The applicable Level B thresholds may also depend on the levels of background noise present and the frequencies generated. NMFS acknowledges that the 120-dB threshold may not be applicable if background noise levels are high (NMFS undated), which is the case in Cook Inlet, where ambient levels can often exceed 120 dB (Blackwell and Greene 2003).

Thresholds developed for one species may not be appropriate for another due to differences in their frequency sensitivities. Continuous sound sources associated with the planned activities include vibratory pile driving, vessel activities, use of a water jet, dredging, trenching, and anchor handling. These are expected to produce low-frequency broadband noise. For example, vibratory pile driving will generate sound with frequencies that are predominantly lower than 2 kHz, and with the greatest pressure spectral densities at frequencies below 1 kHz (Dahl *et al.* 2015). Sea otters are capable of hearing down to 125 Hz, but have relatively poor hearing sensitivity at frequencies below 2 kHz (Ghoul and Reichmuth 2014). During a project that occurred in Elkhorn Slough, California, sound levels ranging from approximately 135 to 165 dB during vibratory pile driving elicited no clear pattern of disturbance or avoidance among southern sea otters in areas exposed to these levels of underwater sound (ESNERR 2011). In contrast, gray whales are in the group of marine mammals believed to be most sensitive to low-frequency sounds, with an estimated audible frequency range of approximately 10 Hz to 30 kHz (Finneran 2015). Given the different range of frequencies to which sea otters and gray whales are sensitive, the NMFS 120-dB threshold based on gray whale behavior is not useful for predicting sea otter behavioral responses to low-frequency sound.

Although no specific thresholds have been developed for sea otters, several alternative behavioral response thresholds have been developed for pinnipeds. Southall *et al.* (2007, 2019) assessed behavioral response studies, found considerable variability among pinnipeds, and determined that exposures between approximately 90 to 140 dB generally do not appear to induce strong behavioral responses in pinnipeds in water, but behavioral effects, including avoidance, become more likely in the range between 120 to 160 dB, and most marine mammals showed some, albeit variable, responses to sound between 140 to 180 dB. Wood *et al.* (2012) later adapted the approach identified in Southall *et al.* (2007) to develop a probabilistic scale for marine mammal taxa at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response. For many marine mammals, including pinnipeds, these response rates were set at sound pressure levels of 140, 160, and 180 dB respectively.

Thresholds based on TTS have been used as a proxy for Level B harassment (*i.e.,* 70 FR 1871, January 11, 2005; 71 FR 3260, January 20, 2006; and 73 FR 41318, July 18, 2008). Southall *et al.* (2007) derived TTS thresholds for pinnipeds based on 212 dB peak and 171-dB $SEL_{cum.}$ Kastak *et al.* (2005) found exposures resulting in TTS in pinnipeds ranging from 152 to 174 dB (183–206 dB SEL). Kastak *et al.* (2008) demonstrated a persistent TTS, if not a PTS, after 60 seconds of 184 dB SEL. Kastelein *et al.* (2012) found small but statistically significant TTSs at approximately 170 dB SEL (136 dB, 60 min) and 178 dB SEL (148 dB, 15 min). Finneran (2015) summarized these and other studies, and NMFS (2018a) has used the data to develop TTS threshold for otariid pinnipeds of 188 dB SEL_{cum} for impulsive sounds and 199 dB SEL_{cum} for non-impulsive sounds.

Based on the lack of a disturbance response or any other reaction by sea otters to the 1980s playback studies and the absence of a clear pattern of disturbance or avoidance behaviors attributable to underwater sound levels up to about 160 dB resulting from

vibratory pile driving and other sources of similar low-frequency broadband noise, we assume 120 dB is not an appropriate behavioral response threshold for sea otters exposed to continuous underwater noise. We assume, based on the work of NMFS (2018a), Southall *et al.* (2007, 2019), and others described here, that either a 160-dB threshold or a 199-dB SEL_{cum} threshold is likely to be the best predictor of Level B take of sea otters for continuous noise exposure, using southern sea otters and pinnipeds as a proxy, and based on the best available data. When behavioral observations during vibratory pile driving (ESNERR 2011) and results of behavioral response modelling (Wood *et al.* 2012) are considered, the application of a 160-dB rms threshold is most appropriate.

Exposure to impulsive sound levels greater than 160 dB can elicit behavioral changes in marine mammals that might be detrimental to health and long-term survival where it disrupts normal behavioral routines. Thus, using information available for other marine mammals as a surrogate, and taking into consideration the best available information about sea otters, the Service has set the received sound level under water of 160 dB as a threshold for Level B take by disturbance for sea otters for this ITR based on the work of Ghoul and Reichmuth (2012a, b), McShane *et al.* (1995), NOAA (2005), Riedman (1983), Richardson *et al.* (1995), and others. Exposure to unmitigated in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB—for both impulsive and non-impulsive sound sources—will be considered by the Service as Level B take; thresholds for potentially injurious Level A take will be 232 dB peak or 203 dB SEL for impulsive sounds and 219 dB SEL for continuous sounds (table 5).

The area in which underwater noise in the frequency range of sea otter hearing will exceed thresholds, is termed the ''area of ensonification'' or ''zone of ensonification.'' The ensonification zone in which noise levels exceed thresholds for Level A take is often referred to as the Level A harassment zone. The Level B harassment zone likewise includes areas ensonified to thresholds for Level B take of sea otters.

TABLE 5—SUMMARY OF THRESHOLDS FOR PREDICTING LEVEL A AND LEVEL B TAKE OF NORTHERN SEA OTTERS FROM UNDERWATER SOUND EXPOSURE IN THE FREQUENCY RANGE 125

Marine mammals	Injury (Level A) threshold		Disturbance (Level B) threshold
	Impulsive [1]	Non-impulsive [1]	All
Sea otters	232 dB peak; 203 dB SEL_{CUM}	219 dB SEL_{CUM}	160 dB rms.

[1] Based on National Marine Fisheries Service acoustic exposure criteria for take of otariid pinnipeds (NMFS 2018a).
SEL_{CUM} = cumulative sound exposure level.

Noise-Generating Activities

The components of the specified activities that have the greatest likelihood of exposing sea otters to underwater noise capable of causing Level A or Level B take include geophysical surveys, pile driving, drilling activities, and anchor handling associated with pipeline construction. Vessel and aircraft operations also have the ability to expose otters to sound that may cause disturbance. A brief description of potential impacts follows.

Geophysical Surveys—Airgun arrays used in seismic surveys to locate potential hydrocarbon-bearing geologic formations typically produce most noise energy in the 10- to 120-Hertz (Hz) range, with some energy extending to 1,000 Hz (Richardson *et al.* 1995). There is no empirical evidence that exposure to pulses of airgun sound is likely to cause serious injury or death in any marine mammal, even with large arrays of airguns (Southall *et al.* 2007). But high-level noise exposure has been implicated in mass stranding events among whales (*e.g.,* see Cox *et al.* 2006), and with source levels of up to 260 dB, the potential of seismic airgun arrays to acoustically injure marine mammals at close proximity must be considered.

In addition to seismic surveys for hydrocarbon-bearing formations, geophysical surveys are conducted to produce imagery of sea-floor surfaces and substrates on a finer spatial scale. Sounds produced by the instruments used for these surveys vary in terms of frequency bands, source levels, repetition rates, and beam widths. Operating frequencies range from roughly 300 Hz to several hundred kHz with peak-to-peak source levels ranging from 170 to 240 dB (Crocker and Fratantonio 2016).

Pipe/Pile Driving—During the course of pile driving, a portion of the kinetic energy from the hammer is lost to the water column in the form of sound. Levels of underwater sounds produced during pile driving are dependent upon the size and composition of the pile, the substrate into which the pile is driven, bathymetry, physical and chemical characteristics of the surrounding waters, and pile installation method (impact versus vibratory hammer) (Illingworth and Rodkin 2007, 2014; Denes *et al.* 2016).

Both impact and vibratory pile installation produce underwater sounds of frequencies predominantly lower than 2.5 kHz, with the highest intensity of pressure spectral density at or below 1 kHz (Denes *et al.* 2016; Dahl *et al.* 2015; Illingworth and Rodkin 2007). Source levels of underwater sounds produced by impact pile driving tend to be higher than for vibratory pile driving; however, both methods of installation can generate underwater sound levels capable of causing behavioral disturbance or hearing threshold shift in marine mammals, and both methods will be used in Cook Inlet.

Drilling Operations—For drilling operations, two project components have the potential to disturb sea otters: Installing the drive pipe at each well prior to drilling; and VSP operations that may occur at the completion of each well drilling. The types of underwater sounds generated by these activities are discussed in ''Pile Driving'' and ''Geophysical Surveys,'' respectively. Drilling and the associated noise from pumps and generators on the drill rig is not expected to produce underwater noise levels that will affect sea otters (*e.g.,* see Richardson *et al.* 1995; Spence *et al.* 2007; Marine Acoustics, Inc. 2011; Illingworth and Rodkin 2014).

Aircraft Overflights—Richardson *et al.* (1995) presented analyses of recordings of sounds produced by a Bell 212 helicopter. The estimated source levels for two of the flights were 149 and 151 dB re 1 μPa-m, and underwater received levels were 109 dB when the aircraft flew at an altitude of 152 m (500 ft) and

107 dB at a flight altitude of 305 m (1,000 ft). Received sound levels in air at the water surface would be 81 and 75 dB re 20 μPa for flights at 152 and 305 m (500 and 1,000 ft), respectively.

Anchor Handling—The characteristics of sounds produced by vessels are a product of several variables pertaining to the specifications of the vessel, including the number and type of engines, propeller shape and size, and the mechanical condition of these components. Operational status of the vessel, such as towing heavy loads or using bow thrusters, can significantly affect the levels of sounds emitted by the same vessel at different times (Richardson *et al.* 1995). Manipulation of anchors for the laying of the AGDC pipeline will involve vessel operations that are likely to be substantially louder than normal transit. Data from recent exploratory drilling activities in the Chukchi and Beaufort Seas indicate that anchor handling can intermittently produce sounds likely greater than 190 dB; the source level of the anchor-handling vessel was estimated to be 188 dB (LGL/JASCO/Greeneridge 2014). It is not known whether anchor handling will produce similar noise levels in Cook Inlet, but it will occur in areas where sea otters are uncommon and unlikely to be affected.

Airborne Sounds

The NMFS (2018a) guidance neither addresses thresholds for preventing injury or disturbance from airborne noise, nor provides thresholds for avoidance of Level B take. However, a review of literature by Southall *et al.* (2007) suggested thresholds for PTS and TTS for sea lions exposed to non-pulsed airborne noise of 172.5 and 159 dB re $(20\ \mu Pa)^2$-s SEL. Behavioral responses to overflights are addressed in *Responses to Activities.*

Conveyance of underwater noise into the air is of little concern since the effects of pressure release and interference at the water's surface, which scatter and reflect sound, reduce underwater noise transmission into the air. For activities that create both in-air and underwater sounds, such as pile driving, we will estimate take based on parameters for underwater noise transmission. Because sound energy travels more efficiently through water than through air, this estimation will also account for exposures to animals at the surface.

Aircraft are the most significant source of airborne sounds. Proposed flights are to be conducted at an altitude of 305 m (1,000 ft) except during takeoff and landing. At the surface of the water, the received sound level from a helicopter flown at this altitude is roughly 75 dB re 20 μPa (see ''Noise-Generating Activities''), and so threshold shift is extremely unlikely.

Loud screams are used to communicate between pups and mothers at the surface (McShane *et al.* 1995), but sea otters do not appear to communicate vocally under water, and they do not use sound to detect prey. Although masking of these crucial airborne calls is possible, the duration of sound from aircraft will be brief and therefore unlikely to result in separation of females from pups.

Effects on Habitat and Prey

Habitat areas of significance for sea otters exist in the project area. Sea otter critical habitat was designated under the ESA (74 FR 51988, October 8, 2009). In Cook Inlet, critical habitat occurs along the western shoreline south of approximately Redoubt Point. It extends from mean high-tide line out to 100 m (328.1 ft) from shore or to the 20-m (65.6-ft) depth contour. Physical and biological features of critical habitat essential to the conservation of sea otters include the benthic invertebrates (*e.g.,* red sea urchins (*Mesocentrotus franciscanus*), blue mussels (*Mytilus spp.*), butter clams (*Saxidomus giganteus*), etc.) eaten by otters and the shallow rocky areas and kelp (*e.g.,* bull kelp (*Nereocystis luetkeana*) and dragon kelp (*Eualaria fistulosa*)) beds that provide cover from predators. Other important habitat in the applicant's project area includes outer Kamishak Bay between Augustine Island and Iniskin Bay within the 40-m (131-ft) depth contour where high densities of otters have been detected.

The applicant's planned activities include drilling, dredging, trenching, pile driving, and dock construction. These activities would change the physical characteristics of localized areas of habitat. Construction would result in seafloor disturbance. Docks can increase seafloor shading, which affects the amount of light penetration on the seafloor. Water quality may be affected by drilling-related discharges within limits permitted by the State of Alaska.

Sampling efforts at borrow and disposal areas before and after dredging activity have produced mixed results in terms of whether dredging causes significant changes to the productivity and diversity of infaunal benthic and epibenthic invertebrate communities (Fraser *et al.* 2017; Angonesi *et al.* 2006). The areas where dredging activities are proposed include a materials loading facility at Nikiski and along the planned AGDC pipeline route between Nikiski and Beluga; the proposed disposal area is just west of Nikiski. This is beyond the northern limit of sea otter distribution in Cook Inlet, so effects of dredging upon invertebrate communities would not affect availability of prey to sea otters.

In addition to the disturbances outlined above to sea otters or their designated critical habitat, survey and construction activities could affect sea otter habitat in the form of impacts to prey species. The primary prey species for sea otters are sea urchins, abalone, clams, mussels, crabs, and squid (Tinker and Estes 1999). When preferential prey are scarce, otters will also eat kelp, turban snails (*Tegula spp.*), octopuses (*e.g., Octopus spp.*), barnacles (*Balanus spp.*), sea stars (*e.g., Pycnopodia helianthoides),* scallops (*e.g., Patinopecten caurinus),* rock oysters (*Saccostrea spp.*), worms (*e.g., Eudistylia spp.*), and chitons (*e.g., Mopalia spp.*) (Riedman and Estes 1990).

Limited research has been conducted on the effects of noise on invertebrates (Normandeau Associates, Inc. 2012). Christian *et al.* (2003) concluded that there were no obvious effects from seismic signals on crab behavior and no significant effects on the health of adult crabs. Pearson *et al.* (1994) had previously found no effects of seismic signals upon crab larvae for exposures as close as 1 m (3.3 ft) from the array, or for mean sound pressure as high as 231 dB. Pearson *et al.* (1994) did not observe any statistically significant effects on Dungeness crab (*Cancer magister*) larvae shot as close as 1 m from a 231-dB source. Further, Christian *et al.* (2004) did not find any behavioral or significant health impacts to snow crabs (*Chionoecetes opilio*) exposed to seismic noise. The only effect noted was a reduction in the speed of egg development after exposure to noise levels (221 dB at 2 m), far higher than what bottom-dwelling crabs could be exposed to by seismic guns. Invertebrates such as mussels, clams, and crabs do not have auditory systems or swim bladders that could be affected by sound pressure. Squid and other cephalopod species have complex statocysts (Nixon and Young 2003) that resemble the otolith organs of fish that may allow them to detect sounds (Budelmann 1992).

Some species of invertebrates have shown temporary behavioral changes in the presence of increased sound levels. Fewtrell and McCauley (2012) reported increases in alarm behaviors in wild-caught captive reef squid (*Sepioteuthis australis*) exposed to seismic airguns at noise levels between 156–161 dB. Additionally, captive crustaceans have

changed behaviors when exposed to simulated sounds consistent with those emitted during seismic exploration and pile-driving activities (Tidau and Briffa 2016).

In general, there is little knowledge regarding effects of sound in marine invertebrates or how invertebrates are affected by high noise levels (Hawkins and Popper 2012). A review of literature pertaining to effects of seismic surveys on fish and invertebrates (Carroll *et al.* 2016) noted that there is a wide disparity between results obtained in field and laboratory settings. Some of the reviewed studies indicate the potential for noise-induced physiological and behavioral changes in a number of invertebrates. However, changes were observed only when animals were housed in enclosed tanks and many were exposed to prolonged bouts of continuous, pure tones. We would not expect similar results in open marine conditions. Given the short-term duration of sounds produced by each component of the proposed work, it is unlikely that noises generated by survey and construction activities will have any lasting effect on sea otter prey.

Potential Impacts From an Oil Spill or Unpermitted Discharge

We provided discussion of relevant impacts to sea otters from oil spills and unpermitted discharges in our **Federal Register** notice of proposed rulemaking (84 FR 10224, March 19, 2019) and do not repeat that information here. Adverse impacts of exposure to oil is well documented for sea otters (*e.g.,* Kooyman *et al.* 1976; Baker *et al.* 1981; Costa and Kooyman 1982, 1984; Engelhardt 1983; Lipscomb 1996; Bickham 1998; Monson 2000; Albers 2003; Peterson 2003). An oil spill or unpermitted discharge is an illegal act, and ITRs do not authorize take of sea otters caused by illegal or unpermitted activities. Typical spills that may result from the proposed activities are relatively small in scale and are not likely to affect otters. A large spill could affect large numbers of otters, but these events are rare. We do not anticipate effects to sea otters as a result of oil spills from this activity.

Collisions

Vessel collisions with marine mammals can result in death or serious injury. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Mortality associated with boat strike has been identified from recovery of carcasses with lacerations indicative of propeller injuries (*e.g.,* Wild and Ames 1974; Morejohn *et al.* 1975). From 1998 to 2001, boat strike was identified as the cause of death for 5 of 105 southern sea otter mortalities (Kreuder *et al.* 2003). From 2006 through 2010, evidence indicates that 11 southern sea otters were likely struck by boats (USGS and California Department of Fish and Game, unpublished data cited in 77 FR 59211–59220, September 26, 2012). From January 2003 to May 2013, researchers recovered 35 southern sea otters with trauma consistent with impact from a boat hull or propeller. These data suggest a rate of boat-strike mortality in California of 2.6 otters per year, or about 0.1 percent of the population size.

Boat strike has been documented as a cause of death across all three stocks of northern sea otters in Alaska. Since 2002, the Service has undertaken a health and disease study of sea otters in Alaska in which the Service conducts necropsies on sea otter carcasses to determine cause of death, disease incidence, and status of general health parameters. Of 1,433 necropsies conducted during 24 years, boat strike or blunt trauma was identified as a definitive or presumptive cause of death in 64 cases (4 percent) (USFWS unpublished data). It has been determined in most of these cases that, while trauma was the ultimate cause of death, there was a contributing factor, such as disease or biotoxin exposure, which incapacitated the animal and made it more vulnerable to boat strike (USFWS 2014).

In Alaska, the annual rate of documented mortality from boat strike was similar to that reported for California: 2.7 otters per year (USFWS unpublished data). However, compared to otters in California, Alaska otters belong to much larger and more dispersed populations where carcass recovery is lower. Instances of vessel collision are likely to be underreported, and the probability of collision is unknown.

Likelihood of vessel strikes involving sea otters appears to be primarily related to vessel speed. Most collision reports have come from small, fast-moving vessels (NMFS 2003). The severity of injuries to marine mammals during a boat strike also depends on vessel speed, with the probability of death or serious injury increasing as vessel speed increases (Laist *et al.* 2001; Vanderlaan and Taggart 2007). Because sea otters spend a considerable portion of their time at the surface of the water, they are typically visually aware of approaching boats and are able to move away if a vessel is not traveling too quickly.

The probability of the specified activities in Cook Inlet causing a sea otter/vessel collision is very low for three reasons: First, most of the work will occur in lower-density regions of Cook Inlet; second, the project work will involve slow-moving, noisy vessels that sea otters can more easily avoid; and third, the specified activities will constitute only a small fraction of the total level of vessel traffic in the region, which increases the likelihood that otters in the project area are accustomed to avoiding vessels and will successfully avoid collisions with project vessels.

The AGDC pipeline work and work by Hilcorp and Harvest on maintenance of existing facilities will be conducted in MCI, in areas that are outside of the normal range of sea otters. The unusual occurrence of otters in MCI makes vessel collisions extremely unlikely. Hilcorp and Harvest will conduct their 3D seismic work in offshore areas of LCI where otter densities are also low. They will conduct 2D seismic work along the eastern shoreline of LCI where densities are higher, but vessel speeds during the specified activities will be slow. Hilcorp/Harvest's seismic vessels would travel at approximately 4 knots (kn) or 7.4 km per hour (km/hr) while towing seismic survey gear and a maximum of 4.5 kn (8.3 km/hr) while conducting geophysical surveys. Vessel speed during rig towing will generally be less than 5 kn. AGDC's pipeline construction operations will proceed at similar slow speeds. Anchor handling will occur at about 3 kn. For comparison, freighters in Cook Inlet travel at 20 to 24 kn (Eley 2006), and small recreational vessels may travel at 40 kn.

The applicant's support vessels and vessels in transit will travel at faster speeds; for example, Hilcorp/Harvest's maintenance activities will require the use of dive vessels, typically ranging up to 21 m (70 ft) in length and capable of approximately 7 kn (13 km/hr). The risk of collision is thus reduced, but not eliminated, by the predominance of slow-moving vessel work in areas of low density.

Commercial and recreational vessels are much more common in both space and time than are geophysical survey activities, drilling support operations, and pipeline work. Based on U.S. Coast Guard records and other local sources of information compiled by Eley (2006), 704 large vessels, other than fuel barges in domestic trade, called at Cook Inlet ports from January 1, 2005, through July 15, 2006. Almost two-thirds (65 percent)

of the calls were made by container vessels, cargo, or ferries. Twenty-nine percent (29 percent) of the vessel traffic was gas or liquid tankships calling primarily at Nikiski. Bulk carriers and general cargo ships represented 6 percent. Tugs and fishing and passenger vessels combined represented 2 percent of the Cook Inlet vessel traffic. Tugs made approximately 150 fuel barge transits a year, assisted in docking and undocking ships in Nikiski and Anchorage, and moved miscellaneous deck and gravel barges in and out of the Port of Anchorage. Although small vessels are less common than larger ships, they are the most likely source of collision due to faster speeds and their presence in shallow water where sea otters are common. In 2005, there were 570 commercial fishing vessels registered in the Cook Inlet salmon/groundfish fleet. Of these, 86 percent were 31–40 ft in length. Vessels in this size class typically travel at up to 30 kn while in transit. The high level of ship traffic in Cook Inlet allows many sea otters in Cook Inlet to habituate to vessels. This will reduce risk of collision for the project activities when vessels are in transit.

Although the likelihood of a project vessel striking a sea otter is low, we intend to require mitigation measures to reduce the risk of ship strike in all LOAs. We anticipate that vessel collisions involving a seismic-data-acquisition vessel towing gear or vessels conducting geophysical operations are unlikely given the rarity of documented collisions, the low densities of otters in most of the project areas, the frequent vessel traffic to which otters have become accustomed, and the slow vessel speeds. Vessels in transit and support vessels travelling at greater rates of speed are more likely to cause collisions.

Mitigation measures for reducing the probability of ship strike include speed reductions during periods of low visibility, required separation distances from observed otters, avoidance of nearshore travel, and use of navigation channels, when practicable. We believe these measures will further reduce the risk of collision. Given the required mitigation measures, the relatively slow speed of most of the project vessels, the presence of marine mammal observers, and the short duration of many of the activities, we believe that the possibility of ship strike is discountable. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Characterizing Take

In the previous section, we discussed the components of the project activities that have the potential to affect sea otters. Here we describe and categorize the physiological and behavioral effects that can be expected based on documented responses to human activities observed during sea otter studies. We also discuss how these behaviors are characterized under the MMPA.

An individual sea otter's reaction to a human activity will depend on its prior exposure to the activity, its need to be in the particular area, its physiological status, or other intrinsic factors. The location, timing, frequency, intensity, and duration of the encounter are among the external factors that will also influence the animal's response.

Relatively minor reactions such as increased vigilance or a short-term change in direction of travel are not likely to disrupt biologically important behavioral patterns and are not considered take by harassment. These types of responses typify the most likely reactions of the majority of sea otters that will be exposed to the applicant's activities.

Reactions capable of causing injury are characterized as Level A harassment events. Examples include separation of mothers from young or repeatedly flushing sea otters from a haulout. Exposure to noise capable of causing PTS is also considered take by Level A harassment.

Intermediate reactions that disrupt biologically significant behaviors are considered Level B harassment under the MMPA. The Service has identified the following sea otter behaviors as indicating possible Level B take:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spyhopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spyhopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors along the shoreline;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft so that the raft disperses;
- Sudden diving of an entire raft;
- Flushing animals off a haulout.

This list is not meant to encompass all possible behaviors; other situations may also indicate Level B take. It is also important to note that, depending on the duration and severity of the above-described behaviors, such responses could constitute take by Level A harassment, *e.g.,* repeatedly flushing sea otters from a haulout versus a single flushing event.

Direct and Indirect Effects

The reactions of wildlife to disturbance can range from short-term behavioral changes to long-term impacts that affect survival and reproduction. Most sea otters will respond to human disturbance with nonlethal reactions that are similar to antipredator responses (Frid and Dill 2002). Sea otters are susceptible to predation, particularly from killer whales and eagles, and have a well-developed antipredator response to perceived threats. Sea otters will swim away, dive, or hide among rocks or kelp, and will sometimes spyhop (vertically raise its head out of the water, presumably to look around) or splash when threatened. Limbaugh (1961) reported that sea otters were apparently undisturbed by the presence of a harbor seal (*Phoca vitulina*), but they were quite concerned with the appearance of a California sea lion. They demonstrated their fear by actively looking above and beneath the water when a sea lion was swimming nearby.

Although an increase in vigilance or a flight response is nonlethal, a tradeoff occurs between risk avoidance and energy conservation (Frid and Dill 2002). For example, southern sea otters in areas with heavy recreational boat traffic demonstrated changes in behavioral time budgeting showing decreased time resting and changes in haulout patterns and distribution (Benham 2006; Maldini *et al.* 2012). In an example described by Pavez *et al.* (2015), South American sea lions (*Otaria byronia*) visited by tourists exhibited an increase in the state of alertness and a decrease in maternal attendance and resting time on land, thereby potentially reducing population size. In another example, killer whales (*Orcinus orca*) that lost feeding opportunities due to boat traffic faced a substantial (18 percent) estimated decrease in energy intake (Williams *et al.* 2006). Such disturbance effects can have population-level consequences. Increased disturbance rates have been associated with a decline in abundance of bottlenose dolphins (*Tursiops* sp.) (Bejder *et al.* 2006; Lusseau *et al.* 2006).

These examples illustrate direct effects on survival and reproductive success, but disturbances can also have indirect effects. When disturbed by

noise, animals may respond behaviorally (*e.g.,* escape response), as well as physiologically (*e.g.,* increased heart rate, hormonal response) (Harms *et al.* 1997; Tempel and Gutierrez 2003). In the absence of an apparent behavioral response, an animal exposed to noise disturbance may still experience stress and direct energy away from fitness-enhancing activities such as feeding and mating. The energy expense and physiological effects could ultimately lead to reduced survival and reproduction (Gill and Sutherland 2000; Frid and Dill 2002). Changes in behavior from anthropogenic disturbance can also include latent agonistic interactions between individuals (Barton *et al.* 1998). Chronic stress can lead to weakened reflexes, lowered learning responses (Welch and Welch 1970; van Polanen Petel *et al.* 2006), compromised immune function, decreased body weight, and abnormal thyroid function (Selye 1979).

The type and extent of response may be influenced by intensity of the disturbance (Cevasco *et al.* 2001), the extent of previous exposure to humans (Holcomb *et al.* 2009), the type of disturbance (Andersen *et al.* 2012), and the age and/or sex of the individuals (Shaughnessy *et al.* 2008; Holcomb *et al.* 2009). Despite the importance of understanding the effects of disturbance, few controlled experiments or field observations have been conducted on sea otters to address this topic.

Responses to Activities

The available studies of sea otter behavior suggest that sea otters may be more resistant to the effects of sound disturbance and other human activities than some other marine mammals. For example, at Soberanes Point, California, Riedman (1983) examined changes in the behavior, density, and distribution of southern sea otters that were exposed to recorded noises associated with oil and gas activity. The underwater sound sources were played at a level of 110 dB and a frequency range of 50 to 20,000 Hz and included production platform activity, drillship, helicopter, and semi-submersible sounds. Riedman (1983) also observed the sea otters during seismic airgun shots fired at decreasing distances from the nearshore environment (50, 20, 8, 3.8, 3, 1, and 0.5 nautical miles) at a firing rate of 4 shots per minute and a maximum air volume of 4,070 cubic inches (in^3). Riedman (1983) observed no changes in the presence, density, or behavior of sea otters as a result of underwater sounds from recordings or airguns, even at the closest distance of 0.5 nautical miles (<1 km or 0.6 mi). However, otters did display slight reactions to airborne engine noise. Riedman (1983, 1984) also monitored the behavior of sea otters along the California coast while they were exposed to a single 100-in^3 airgun and a 4,089-in^3 airgun array. Sea otters did not respond noticeably to the single airgun, and no disturbance reactions were evident when the airgun array was as close as 0.9 km (0.6 mi).

Sea otters spend from 30 to 80 percent of their time each day at the surface of the water resting and grooming (Riedman 1983, 1984; Bodkin *et al.* 2004; Wolt *et al.* 2012). While at the surface, turbulence from wind and waves attenuate noise more quickly than in deeper water, reducing potential noise exposure (Greene and Richardson 1988; Richardson *et al.* 1995). Additionally, turbulence at the water's surface limits the transference of sound from water to air. A sea otter with its head above water will be exposed to only a small fraction of the sound energy travelling through the water beneath it. Thus, the amount of total time spent at the surface may help limit sea otters' exposure during noise-generating operations.

Sea otters do not rely on sound to orient themselves, locate prey, or communicate underwater. Sea otters use sound for communication in air (especially mothers and pups; McShane *et al.* 1995) and may avoid predators by monitoring underwater sound. Davis *et al.* (1987) documented sea otters retreating from simulated killer whale vocalizations. Otters are not known to vocalize underwater and do not echolocate; therefore, masking of communications by anthropogenic sound is less of a concern than for other marine mammals.

Sea otters generally show a high degree of tolerance to noise. In another study using prerecorded sounds, Davis *et al.* (1988) exposed both northern sea otters in Simpson Bay, Alaska, and southern sea otters in Morro Bay, California, to a variety of airborne and underwater sounds, including a warble tone, sea otter pup calls, killer whale calls, airhorns, and an underwater noise harassment system designed to drive marine mammals away from crude oil spills. The sounds were projected at a variety of frequencies, decibel levels, and intervals. The authors noted that certain noises could cause a startle response and result in dispersal. However, the disturbance effects were limited in range (no responses were observed for otters approximately 100–200 m (328–656 ft) from the source of the stimuli), and habituation to the stimuli was generally very quick (within hours or, at most, 3 to 4 days).

Southern sea otters in an area with frequent railroad noise appeared to be relatively undisturbed by pile-driving activities, many showing no response and generally reacting more strongly to passing vessels than to the sounds of pile-driving equipment (ESNERR 2011; ESA 2016). Additionally, many of the otters who displayed a reaction behavior during pile driving did so while their heads were above the surface of the water, suggesting that airborne noise was as important as, and possibly more important than underwater noise in prompting the animals' reactions. When sea otters have displayed behavioral reactions in response to noise, these responses were often short-lived; the otters resumed normal activities soon after a new sound was introduced (Davis *et al.* 1987, 1988).

Stimuli from shoreline construction activities, aircraft, and vessel traffic, including noise, are likely to cause some level of disturbance. Populations of sea otters in Alaska have been known to avoid areas with heavy boat traffic but return to those same areas during seasons with less traffic (Garshelis and Garshelis 1984). Sea otters in Alaska have shown signs of disturbance (escape behaviors) in response to the presence and approach of survey vessels, including: otters diving and/or actively swimming away from a boat; hauled-out otters entering the water; and groups of otters disbanding and swimming in multiple different directions (Udevitz *et al.* 1995).

In Cook Inlet, otters were observed riding the tides past a new offshore drilling platform while drilling was being conducted. Otters drifting on a trajectory that would have taken them within 500 m (0.3 mi) of the rig tended to swim to change their angle of drift to avoid a close approach, although noise levels from the work were near the ambient level of underwater noise (BlueCrest 2013).

Sea otter behavior is suggestive of a dynamic response to disturbance, influenced by the intensity and duration of the source. Otters initially abandon areas when disturbed and return when the disturbance ceases. Groups of sea otters in two locations in California showed markedly different responses to kayakers approaching to within specific distances, suggesting a different level of tolerance between the groups (Gunvalson 2011). Benham (2006) found evidence that the otters exposed to high levels of recreational activity may have become more tolerant than individuals in less-disturbed areas.

Some individual otters will habituate to the presence of project vessels, noise, and activity. Sea otters often seem quite tolerant of boats or humans nearby (*e.g.,* Calkins 1979). Sea otters off the California coast showed only mild interest in boats passing within hundreds of meters and appeared to have habituated to boat traffic (Riedman 1983; Curland 1997). Boat traffic, commercial and recreational, is common in Cook Inlet. However, there are seasonal (*i.e.,* temporal) and spatial components to vessel traffic. Both recreational and commercial vessel traffic in Kachemak Bay is much higher than in western Cook Inlet, and all traffic is much higher in summer than in other months. Some sea otters in the area of activity are likely to have already become habituated to vessel traffic and noise caused by vessels, whereas for others, the specified activities will be a novel experience and will elicit a more intense response.

Some degree of disturbance is also possible from unmitigated aircraft activities. Individual sea otters in Cook Inlet will show a range of responses to noise from low-flying aircraft. Some may abandon the flightpath area and return when the disturbance has ceased. Based on the observed movement patterns of wild sea otters (*i.e.,* Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990; Tinker and Estes 1996; and others), we expect that some individuals, independent juveniles, for example, will respond to the project activities by dispersing to areas of suitable habitat nearby, while others, especially breeding-age adult males, will not be displaced by overflights. Mitigation measures will stipulate a minimum of 305 m (1,000 ft) flight altitude to minimize harassment of otters.

Given the observed responses of sea otters to sources of disturbance, it is likely that some degree of take by harassment will occur due to underwater noise stimuli associated with the specified activities. Some otters will likely show startle responses, change direction of travel, disperse from the area, or dive. Sea otters reacting to project activities may expend energy and divert time and attention from biologically important behaviors, such as feeding. Some effects may be undetectable in observations of behavior, especially the physiological effects of chronic and cumulative noise exposure. Air and vessel traffic, commercial and recreational, is routine in Cook Inlet. Construction activities are common. Some sea otters in the area of activity may become habituated to the project noise or may already be habituated to noise due to previous and ongoing exposure to frequent air traffic and other activities in the area and will have little, if any, reaction to project activities.

Mitigation and Monitoring

When the Service issues an ITR, we specify means for effecting the least practicable adverse impact on sea otters and their habitat, paying particular attention to habitat areas of significance, and on the availability of sea otters for taking for subsistence uses by coastal-dwelling Alaska Natives. These measures are stipulated in § 18.137 Mitigation.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner in which, and the degree to which, the successful implementation of the measures are expected to reduce impacts to sea otters, stocks, and their habitat, as well as subsistence uses. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood the measures will be effective, and the likelihood the measures will be implemented. We also considered the practicability of the measures for applicant implementation (*e.g.,* cost, impact on operations).

To reduce the potential for disturbance from noise associated with the activities, the following mitigation measures are required:

- Development of marine mammal monitoring and mitigation plans;
- Establishment of an exclusion zone (EZ) and safety zone (SZ) during noise-generating work;
- Visual mitigation monitoring by designated protected species observers (PSOs);
- Site clearance before startup;
- Shutdown procedures;
- Ramp-up procedures; and
- Vessel strike avoidance measures.

This ITR establishes the process for evaluating specific activities in specific project areas and determining the appropriate mitigation measures to be included in an LOA. A marine mammal mitigation and monitoring plan (4MP) is required for all LOAs. The 4MP identifies the specific avoidance and minimization measures an applicant will take to reduce effects to otters. It describes the project in detail, assesses the effects, identifies effective means to avoid effects, and describes specific methods for limiting effects when they cannot be avoided.

During ''noise-generating work'' (work that creates underwater sound louder than 160 dB and within the frequency hearing range of sea otters), an applicant will establish and monitor an EZ. The EZ is defined as the area surrounding a sound source in which all operations must be shut down in the event a sea otter enters or is about to enter this zone based on distances to Level A thresholds. Any otter detected within this zone will be exposed to sound levels likely to cause take by Level A harassment. The SZ is an area larger than the EZ and is defined as the area in which otters may experience noise above the Level B exposure threshold. Sea otters observed inside the SZ are likely to be disturbed by underwater noise, and each otter within the SZ will be counted as one Level B take. In the event a sea otter is in or about to enter the zone, operations will be powered down, when practicable, to minimize take. Radii of each SZ and EZ will be specified in each LOA issued under this ITR. The methodology for calculation of the radii will be described in each LOA and is identified in § 18.137 Mitigation. Sound source levels will be monitored and evaluated in the field prior to conducting 2D and 3D seismic surveys. This on-site sound source verification (SSV) testing will be used to determine the size of the SZ and EZ for these activities. A minimum 10-m (33-ft) shutdown zone will be observed for all in-water construction and heavy machinery.

PSOs will be stationed on the source vessel or at a suitable vantage point with maximum view of the SZ and EZ. The PSOs will determine that the EZ is clear of sea otters prior to the start of daily activities or if activities have been stopped for longer than a 30-minute period. The PSOs will ensure that no sea otters are observed in the EZ for a period of 30 minutes prior to work commencing.

For the 2D survey, PSOs will be stationed on the source vessel during all seismic operations and geohazard surveys when the sub-bottom profilers are used. Because of the proximity to land, PSOs may also be stationed on land to augment the viewing area. For the 3D survey, PSOs will be stationed on at least two of the project vessels: The source vessel and the chase vessel. For the vertical seismic profiling, PSOs will be stationed on the drilling rig. For geohazard surveys, PSOs will be stationed on the survey vessel. The viewing area may be augmented by placing PSOs on a vessel specifically for mitigation purposes or using an unmanned aircraft system (drone). If drones will be used in areas with sea

otters, mitigation measures will be required to ensure drone use does not disturb otters. These measures may include maintaining a minimum altitude and horizontal distance no less than 100 m away from otters, conducting continuous visual monitoring by PSOs, and ceasing activities in response to sea otter behaviors indicating any reaction to drones.

A power-down procedure will be in place during seismic work. It will provide the option of reducing the number of airguns in use, which reduces the EZ or SZ radius. Alternatively, a shutdown procedure may be necessary, during which all airgun activity is suspended immediately. During a power-down, a single airgun (''mitigation gun'') may be operated, maintaining a sound source with a much-reduced EZ. If a sea otter is detected outside of either the SZ or EZ but is likely to enter that zone, the airguns may be powered down before the animal is within the radius, as an alternative to a complete shutdown. Likewise, if a sea otter is already within the SZ when first detected, the airguns may be powered down if this is a reasonable alternative to an immediate shutdown. If a sea otter is already within the EZ when first detected, the airguns will be shut down immediately. All power-down events will be at the discretion of the operator in cooperation with the PSOs. The applicant has determined that it is not practicable to power down in response to all sea otters within the SZ, and that to do so would incapacitate the 2D and 3D seismic operations. Because power-down events will be discretionary, all otters within the SZ will be assumed to experience Level B take regardless of whether a power-down is conducted. Although there is no calculated reduction of take estimated for this mitigation measure due to uncertainty in its application, it is expected that some unquantified benefits to sea otters will be realized whenever the operator powers down to reduce or avoid sea otter noise exposures.

A shutdown will occur when all underwater sound generation that is louder than 160 dB and within the frequency hearing range of sea otters is suspended. The sound source will be shut down completely if a sea otter approaches the EZ or appears to be in distress due to the noise-generating work. The shutdown procedure will be accomplished as soon as practicable upon the determination that a sea otter is either in or about to enter the EZ, and generally within several seconds. Following a shutdown, noise-generating work will not resume until the sea otter has cleared the EZ. Any shutdown due to a sea otter sighting within the EZ must be followed by a 30-minute all-clear period and then a standard, full ramp-up. Any shutdown for other reasons resulting in the cessation of the sound source for a period greater than 30 minutes must also be followed by full ramp-up procedures.

A ''ramp-up'' procedure will be in place to gradually increase sound volume at a specified rate. Ramp-up is used at the start of airgun operations, including after a power-down, shutdown, or any period greater than 10 minutes in duration without airgun operations. The rate of ramp-up will be no more than 6 dB per 5-minute period. Ramp-up will begin with the smallest gun in the array that is being used for all airgun array configurations. The ramp-up procedure for pipe/pile driving involves initially starting with soft strikes or a reduced level of energy. If the complete EZ has not been visible for at least 30 minutes prior to the start of operations, operation of a mitigation gun may be required during the interruption of seismic survey operations prior to commencing ramp-up procedures. It will not be permissible to ramp up the full array from a complete shutdown in thick fog or at other times when the outer part of the Level A EZ is not visible. Ramp-up of the airguns will not be initiated if a sea otter is sighted within the EZ at any time.

A speed or course alteration is appropriate if a sea otter is detected outside the EZ and, based on its position and relative motion, is likely to enter the EZ, and a vessel's speed and/or direct course may, when practical and safe, be changed. This technique can be used in coordination with a power-down procedure. The sea otter activities and movements relative to the seismic and support vessels will be closely monitored to ensure that the sea otter does not approach within the EZ. If the sea otter appears likely to enter the EZ, further mitigative actions will be taken, *i.e.,* further course alterations, power-down, or shutdown of the airguns.

This ITR establishes the stakeholder engagement process that the applicant is required to undertake in order to obtain an LOA for incidental take of sea otters. This process is an ongoing collaborative process between the applicant, the Service, and subsistence users of sea otters. Stakeholder engagement efforts for the specified activities have been ongoing since mid-2018 and have indicated that a plan of cooperation (POC) is necessary for the Hilcorp and Harvest 3D seismic work. The POC must include a schedule for meeting with the affected communities, both prior to and while conducting the activities, a plan for resolving any conflicts, suggested means for resolving conflict, and process for notifying the communities of any changes in the operations.

The measures described here and required in § 18.137 through § 18.140, Mitigation, Monitoring, Reporting Requirements, and Measures to Reduce Impacts to Subsistence Users, are those determined to achieve the least practicable adverse impact to northern sea otters and their availability for subsistence use. These mitigation measures were evaluated against a suite of possible alternatives to determine whether they would effect the least practicable adverse impact on the species, their habitat, and the availability of the species for subsistence uses.

Alternative mitigation measures were evaluated but ultimately rejected as either not feasible, not practicable, not likely to be implemented effectively, or no more likely to be successful in reducing the impacts of the applicant's project. We considered requiring work to be paused or stopped to prevent exposure of northern sea otters to levels of noise exceeding a 160-dB Level B take threshold. The distances to the 160-dB sound isopleths for several of the specified activities are greater than 1 km (0.6 mi). Avoiding all northern sea otters within these distances would require work to shut down or power down for prolonged and repeated periods, which the applicant has determined would incapacitate the project. Therefore, this is not a practicable mitigation measure.

The Service considered alternative mitigation measures based on observing and interpreting northern sea otter behaviors for preventing Level B harassment. Presently, mitigation protocols use sound exposure to predict behavioral responses rather than observing behavior directly. While direct observation of injury or the disruption of a behavioral pattern is the definitive criteria for identifying take once it has occurred, at present there is insufficient data to develop observation-based criteria for preventing harassment. Thus, monitoring of behavioral responses is useful for identifying take after it occurs, but not for preventing or mitigating it. As such, effectiveness of monitoring protocols based on behavior cannot be ascertained. Therefore, behavior-based mitigation was not a feasible alternative.

We considered requiring the use of alternative technologies such as marine vibroseis to reduce or eliminate the

need for seismic airguns. Hilcorp and Harvest have requested takes of marine mammals incidental to the seismic survey operations described in the petition, which identified airgun arrays as the preferred data acquisition tool. It would be inappropriate for the Service to require the applicant to change the specified activity unless it was necessary to make the findings established for issuance of incidental take under the MMPA or necessary for achieving the least practicable adverse impact to the marine mammal stock. Currently, no alternative technology scaled for industrial use is reliable enough to meet the environmental challenges of operating in Cook Inlet. Many prototypes are currently in development and may ultimately become important for achieving the least practicable level of effect on marine mammals, but none of these technologies are currently practicable for use on a large scale in Cook Inlet.

The option of designating seasonal exclusion areas within the specified geographic area was considered. However, no activities are planned in areas of Cook Inlet known to provide important habitat. Kachemak Bay, Kamishak Bay, and the designated critical habitat along the western shoreline of LCI and MCI are known areas of important habitat, but have not been identified as the target location of any planned activity in this rule. There is some information that suggests that the east coast of Cook Inlet along the Kenai Peninsula may be used seasonally by sea otters in late summer (BlueCrest 2013). Restrictions on seismic survey operations in this area during this time period might reduce the probability of disturbance of sea otters. However, there is currently insufficient information to support a seasonal restriction in eastern Cook Inlet. Little is known about the extent or duration of the use of the area by sea otters or what life-history functions the area supports. The benefit such a designation might offer is entirely unknown and, until additional information is available, remains speculative.

Compensatory mitigation was considered. Some environmental laws allow compensatory mitigation, such as habitat restoration projects, to be used by the applicant to offset effects of the project activities that cannot otherwise be avoided. The Service is issuing an authorization for incidental take of sea otters under the MMPA. The MMPA requires that impacts be reduced to the least practicable level, but does not require offsets. The Service must consider the practicability of implementation of measures to reduce impacts, as well as proven or likely effectiveness of those measures. The impacts to sea otters and their habitat in Cook Inlet will be primarily acoustic and temporary in nature. We are not currently aware of literature demonstrating the effectiveness of habitat restoration for mitigating the effects of underwater noise. Additionally, we are not aware of any practicable habitat improvement projects in Cook Inlet that would have demonstrable benefits for the affected stocks.

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that the Service must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Service's implementing regulations at § 18.27(d)(vii) stipulate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting. Effective reporting is critical to compliance as well as ensuring that the most value is obtained from the required monitoring. The applicant will employ PSOs to conduct visual project monitoring. SSV monitoring will be conducted to document sound levels produced by the work. During 2D and 3D seismic surveys, Hilcorp and Harvest have agreed to conduct aerial overflights for avoidance of other marine mammal species, which will improve monitoring of sea otters. Additional monitoring and reporting requirements are at § 18.138 Monitoring and § 18.139 Reporting requirements.

Alternative monitoring measures were considered, but they were not incorporated in this rule. Passive acoustic monitoring is appropriate for some species of marine mammals but is not indicated for sea otters, which are not known to vocalize extensively underwater. Visual monitoring during all times of day and night was rejected because limited visibility during periods of darkness would prevent the detection of animals. Thermal monitoring or monitoring of sea otters with unmanned aircraft systems (drones) has not yet been fully tested and evaluated for use in Cook Inlet, but may prove useful in the future. Requiring visual observation and PSO monitoring of 100 percent of all spatial areas within the 160-dB ensonification area was also considered, but for 2D and 3D seismic surveys in particular, this was not expected to be achievable. We instead accounted for all sea otter exposures to 160 dB or greater in our estimation of take, and we did not reduce this number to attempt to account for some proportion of the total that might be avoided when detected by PSO monitoring.

Estimated Incidental Take

This section provides the number of incidental takes estimated to occur because of the planned activities. The number of takes were analyzed to make the required small numbers and negligible impact determinations.

Estimating Exposure Rates

The Service anticipates that incidental take of sea otters may occur during the project activities in Cook Inlet. Noise, aircraft, vessels, and human activities could temporarily interrupt feeding, resting, and movement patterns. Elevated underwater noise levels from seismic surveys may cause short-term, nonlethal, but biologically significant changes in behavior that the Service considers harassment. Pile-driving and other construction activities along the shoreline may have similar effects and could cause behavioral disturbance leading to take. Harassment (Level A or B) is the only type of take expected to result from these activities; no lethal take is expected.

The number of animals affected will be determined by the distribution of animals and their location in proximity to the project work. Although we cannot predict the outcome of each encounter, it is possible to consider the most likely reactions, given observed responses of sea otters to various stimuli.

Sound exposure criteria provide the best available proxy for estimation of exposure to harassment. The behavioral response of sea otters to shoreline construction and vessel activities is related to the distance between the activity and the animals. Underwater sound is generated in tandem with other airborne visual, olfactory, or auditory signals from the specified activities, and travels much farther. Therefore, estimating exposure to underwater sound can be used to estimate the take from project activities.

No separate exposure evaluation was done for activities that do not generate underwater sound. Nearly all of the planned activities that may disturb sea otters will occur simultaneously with in-water activities that do generate sound. For example, operation of heavy equipment along the shoreline will facilitate underwater pile driving. The otters affected by the equipment operations are the same as those affected by the pile driving. Sound exposure and behavioral disturbances are accumulated over a 24-hour period, resulting in estimation of one exposure from all in-water sources rather than one each from equipment operations

and pile-driving noise. Aircraft support activities will be conducted without a corresponding underwater sound component, but no take is expected from this source of disturbance; see ''Airborne Sounds.''

To estimate the exposure of sea otters to take, we first calculated the number of otters in Cook Inlet that occur within the project area. The number of otters was calculated from density multiplied by project area. Density was estimated according to region in Cook Inlet.

Density data for Kamishak and the East side of Cook Inlet along the shore of the Kenai Peninsula was derived from aerial surveys conducted in May 2017 (Garlich-Miller *et al.* 2018). Surveys were not conducted for central Cook Inlet in 2017, and the 2017 surveys for western Cook Inlet north of Kamishak did not yield useful results. Therefore, the density for those regions was derived from the 2002 surveys conducted by Bodkin *et al.* (2003) and corrected for population growth proportional to the growth rate of Cook Inlet as a whole, as determined from comparison of the 2002 and 2017 surveys. Density values (in otters per km^2) were 1.7 in East Cook Inlet (excluding Kachemak Bay and the outer Coast of Kenai Peninsula south and east of Seldovia), 3.53 in Kamishak Bay, and 0.026 in West and Central Cook Inlet. There are no density data for sea otters in the MCI region north of approximately 60°14′ N (the latitude of Clam Gulch), and otters are uncommon north of about 60°24′ N. Therefore, densities north of Clam Gulch were conservatively assumed to equal the 2002 mid-Cook Inlet survey region density of 0.01 per km^2 from Bodkin *et al.* (2003).

The geographic area of activity covers approximately 11,084 km^2 (4,280 mi^2) in Cook Inlet. Of this area, 1,572 km^2 (607 mi^2) is in East Cook Inlet, 725 km^2 (280 mi^2) in Kamishak Bay, 4,341 km^2 (1,676 mi^2) in West and Central Cook Inlet, and 4,445 km^2 (1,716 mi^2) in Cook Inlet north of the normal range of sea otters. The total number of otters within the project area was calculated to be 5,389 otters $((1{,}572 \times 1.7) + (725 \times 3.53) + (4{,}341 \times 0.026) + (4{,}445 \times 0.01) \approx 5{,}389)$.

Not all otters in the project area will be exposed to noise levels capable of causing take from project activities. Many activities associated with oil and gas exploration, development, production, and transportation may result in underwater sounds that do not meet Levels A and B acoustic harassment criteria. The acoustic characteristics of the different project activities are described in table 3. Only those specific activities with the likelihood of meeting the acoustic exposure criteria and occurring in the normal range of sea otters were evaluated for estimation of potential Levels A and B harassment. Specifically, Hilcorp and Harvest's activities include 2D and 3D seismic surveys, vibratory driving of sheet piles at the Iniskin Peninsula causeway in Chinitna Bay, sub-bottom profilers used in high- and low-resolution geohazard surveys, drive-pipe installation, vertical seismic profiling, plug-and-abandon activities, and use of water jets during routine maintenance. AGDC's activities include pile driving and anchor handling.

The number of exposures to underwater sound levels capable of causing take by Level A harassment from specific project elements was estimated using the thresholds recommended by NMFS (2018a,b) for otariid pinnipeds (232 dB peak and 203 dB SEL_{cum}). For Level B harassment we used a 160-dB threshold. We multiplied the estimated area of ensonification (km^2), by the density of sea otters in that area (number (#) of otters per km^2) to estimate the number of otters in the ensonified area. This value was then multiplied by the maximum duration of the activity (# of days) over the course of the 5-year regulatory period to get the total number of exposures to sound above the thresholds for take.

Predicting Behavioral Response Rates

Although we cannot predict the outcome of each encounter between a sea otter and the equipment and vessels used for the planned activities, it is possible to consider the most likely reactions. Sea otters do not appear highly reactive to underwater sounds, but the presence of vessels may elicit stronger behavioral responses (see *Responses to Activities*). Whether an individual animal responds behaviorally to the presence of vessels and equipment is dependent upon several variables, including the activity of the animal prior to stimulus, whether the animal is habituated to similar disturbances, whether the animal is in a state of heightened awareness due to recent disturbances or the presence of predators, group size, the presence of pups, and the temperament of the individual animals. We assumed all animals exposed to underwater sound levels that meet the acoustic exposure criteria shown in table 5 would experience Level A or Level B take.

Calculating Take

The total take of sea otters from these oil and gas activities in Cook Inlet was estimated by calculating the number of otters in the ensonified area during the full duration (the maximum number of days) of each project activity. After publication of the proposed ITR in the **Federal Register**, the applicant provided updates and minor modifications to their project plans. Changes included an increase in the 3D seismic survey line length from 74 km (46 mi) to 127 km (79 mi), an adjustment to account for the proportion of line length actively surveyed with the airgun array each day, use of a boomer rather than chirper sub-bottom profiler, and changes to the total duration (number of days) of pile driving and vertical seismic profiling in TB and LCI. The changes are reflected in the analysis presented here. Details of the project activities and calculations of take are included in the applicant's updated petition (June 2019) available at *www.regulations.gov* under docket number FWS–R7–ES–2019–0012. Methods used for calculating take did not change, but the resulting estimates have been updated. The total take increased from 1,666 to 1,687.

Distances to Thresholds

To calculate the ensonified area, we first estimated the distances that underwater sound will travel before attenuating to levels below thresholds for take by Level A and Level B harassment. The distances to the Level A thresholds were calculated using the NMFS Acoustical Guidance Spreadsheets (NMFS 2018b) using thresholds for otariid pinnipeds as a proxy for sea otters. Distances to the 160-dB Level B threshold were calculated using a practical spreading transmission loss model (15 LogR). The only exceptions to the use of the practical spreading model were made when data was available from a site-specific sound source verification of substantially similar equipment used and powered in a similar manner to that proposed by the applicant.

Model estimates incorporated operational and environmental parameters for each activity. For example, sound levels at the source are shown in table 3, and characteristics of the sound produced are shown in table 6. Weighting factor adjustments were used for SEL (sound exposure level) calculations based on NMFS Technical Guidance (2018b). Operational parameters were estimated from the updated description of activities.

The distances to the modelled Level A and Level B thresholds are shown in table 7. Each estimate represents the radial distance away from the sound source within which a sea otter exposed to the sound of the activity is expected

to experience take by Level A or Level B harassment.

TABLE 6—ASSUMPTIONS USED IN CALCULATING DISTANCES TO LEVEL A AND LEVEL B THRESHOLDS

Activity	Type of source	Source level [1]	WFA [2]	Source velocity	Pulse duration	Repetition rate	Duration per day
2D/3D seismic	Mobile impulsive	217 @100 m (185 dB_{SEL} @100 m).	1 kHz	2.05 m/s	N/A	every 6 s	3D: 10 hrs/day. 2D: 2 hrs/day.
Sub bottom profiler	Mobile impulsive	212 @1 m	4 kHz	2.05 m/s	0.02 s	every 0.30 s	N/A.
Impact pile driving	Stationary impulsive	≤195 @10 m	2 kHz	N/A	N/A	1,560 strikes/hr	≤5.5 hrs/day.
Pipe driving	Stationary impulsive	≤195 @55 m	2 kHz	N/A	0.02 s	≤1,560 strikes/hr	≤4.8 hrs/day.
Vertical seismic profiling.	Stationary impulsive	227 @1 m	1 kHz	N/A	0.02 s	every 6 s	4 hrs/day.
Impact sheet piling	Stationary impulsive	190 @10 m	2 kHz	N/A	0.02 s	1,560 strikes/hr	3 hrs/day.
Vibratory sheet piling	Stationary non-impulsive.	160 @10 m	2.5 kHz	N/A	N/A	N/A	≤4.8.
Water jet	Stationary non-impulsive.	176 @1 m	2 kHz	N/A	N/A	N/A	0.5 hrs/day.
Anchor handling	Mobile non-impulsive	179 @1 m	1.5 kHz	1.54 m/s	N/A	N/A	3 hrs/day.

[1] Source level is given in dBrms, unless otherwise indicated, as measured at the given distance from the source in meters.
WFA = Weighting Factor Adjustment, SEL = sound exposure level.

TABLE 7—CALCULATED DISTANCE IN METERS (m) TO LEVEL A AND LEVEL B THRESHOLDS

Activity	Level A—NMFS otariid			Level B
	Impulsive		Non-impulsive	Both
	232 dB peak	203 dB SEL	219 dB SEL	160 dB rms
2D/3D seismic	10	1.32	N/A	7,330
Sub-bottom profiler	0.05	1	N/A	2,929
Pipe driving, Chinitna Bay	0.19	39.48	N/A	1,630
VSP	0.46	284.84	N/A	2,470
Vibratory sheet pile driving	N/A	N/A	0.46	10
Water jet	N/A	N/A	0.54	11.66
18- and 24-inch pipe, impact	0.22	50.53	N/A	1,874.85
48- and 60-inch pipe, impact	0.34	147.99	N/A	2,154.43
all sizes pipe, vibratory	N/A	N/A	3.30	46.42
Sheet pile, impact	0.16	68.69	NA	1,000
Sheet pile, vibratory	N/A	N/A	0.71	10
Anchor handling	N/A	N/A	0.00	0.00

SEL = sound exposure level.

Area and Duration

The area of ensonification is the area in which an animal exposed to underwater sound is expected to experience take from Level A or Level B harassment based on the distance to the Level A and Level B thresholds. The area of a circle ($A = \pi r^2$) where r is the distance to the Level A or Level B threshold was used to calculate the area of ensonification for impulsive stationary sources (pipe driving, vertical seismic profiling), non-impulsive stationary sources (water jets, vibratory pile driving). For impulsive mobile sources (2D/3D seismic, sub-bottom profiler), the radial area was then multiplied by the distance of the line to be surveyed each day to get the total area of ensonification. Otters spend most of their time at the water's surface or below their last surface location, so a circle with the sound source at its center is a reasonable representation of the ensonified area. For shoreline activities, the area of the circle is divided by two to remove the area that lies above the shoreline. The daily area of ensonification was then multiplied by the duration of the activity in number of days and the density of otters in the applicable region of Cook Inlet to estimate the number of otters that might be taken. In total, 1,687 instances of take are expected. The total Level A take of sea otters in Cook Inlet over the 5-year course of this ITR is anticipated to be 3. The total number of takes from each project activity is presented in table 8.

For some projects, like the 3D seismic survey, the design of the project is well developed; therefore, the duration is well defined. However, for other projects, the duration is not well developed, such as activities around the LCI well sites. In each case, the calculations are based on the applicant's best forecast of activities in the 5-year ITR period. The assumptions regarding duration of these activities are presented in the applicant's updated petition (June 2019). The durations used for each activity are provided in table 8. For Level B take, we assumed one take per otter per day regardless of duration of work within a day. The resulting estimate of the total number of Level B takes expected from planned oil and gas activities in Cook Inlet from 2019 through the date 5 years from the effective date of the final rule is 1,684.

The proposed ITR included calculation of the numbers of individual otters taken. Those estimates have been removed from this ITR because the methodology used to calculate take of individuals led to substantial uncertainty in the accuracy of the estimates. We here rely instead on the number of takes to determine the likely effects to the stock. The total number of takes is expected to be higher than the number of otters taken because, for example, a resident otter may be taken on each day of noise-generating activity.

TABLE 8—ESTIMATE OF TOTAL TAKE FOR EACH ACTIVITY

Applicant	Activity	Density (#/km²)	Duration (days)	Level A			Level B
				Impulsive		Non-impulsive	
				232 pk	203 SEL	219 SEL	160 rms
Hilcorp/Harvest Alaska	2D seismic	1.705	10.000	1.023	0.135		749.859
	3D seismic	0.026	60	1.155	0.152		846.896
	Vibratory sheet pile driving	0.026	20			0.000	0.000
	Sub-bottom profiler-LCI	0.026	28	0.001	0.014		46.291
	Sub-bottom profiler-NCI	0.010	7	0.000	0.001		4.740
	Sub-bottom profiler-TB	0.010	14	0.000	0.003		9.479
	Sub-bottom profiler-MCI	0.010	3	0.000	0.000		2.031
	Pipe driving-LCI	0.026	12	0.000	0.002		2.604
	Pipe driving-TB	0.010	6	0.000	0.000		0.501
	VSP-LCI	0.026	8	0.000	0.040		3.987
	VSP-TB	0.010	4	0.000	0.008		0.767
AGDC	Product Loading Facility	0.010					
	48-inch impact		56	0.000	0.019		4.083
	60-inch impact	0.010	106	0.000	0.036		7.728
	Temporary MOF	0.010					
	18- and 24-inch vibratory		301			0.000	0.010
	18- and 24-inch impact	0.010	7	0.000	0.000		0.510
	48-inch impact	0.010	7	0.000	0.002		0.510
	60-inch vibratory	0.010	11			0.000	0.000
	sheet vibratory	0.010	66			0.000	0.000
	Mainline MOF	0.010					
	sheet vibratory		7			0.000	0.000
	sheet impact	0.010	7	0.000	0.001		0.110
	Anchor handling	0.010	76			0.000	0.000
Total				2.18	0.42	0.00	1,683.108

SEL = sound exposure level, LCI = Lower Cook Inlet, MCI = Middle Cook Inlet, NCI = North Cook Inlet, TB = Trading Bay, MOF = material offloading facility, VSP = vertical seismic profiling.

The number of takes from each stock was estimated by categorizing each activity by its location relative to sea otter stock boundaries. Some activities will occur within both the southcentral Alaska and southwest Alaska stock boundaries. For these, take was assigned in proportion to the area of the activity within each stock region. Table 9 shows the activities in relation to the sea otter stock boundaries as they were assigned for this analysis. The total number of takes of sea otters from the southwest Alaska stock is 418. The take number from the southcentral Alaska stock is 1,269.

The total number of takes by Level A harassment is estimated to be 2.6. When the total take from each activity (table 8) is multiplied by the proportion of that activity occurring within each stock boundary (table 9), the sum of take is 0.6 and 2 within the southwest Alaska and southcentral Alaska stocks, respectively. Because the number of takes from the southwest Alaska stock is 0.6, and take cannot occur unless it affects an animal, we rounded the number of takes from the southwest Alaska stock from 0.6 to 1. The total take is summarized in table 10.

TABLE 9—PERCENT OF EACH ACTIVITY OCCURRING WITHIN EACH STOCK BOUNDARY

Applicant	Activity	Southwest Alaska stock (%)	Southcentral Alaska stock (%)
Hilcorp & Harvest Alaska	2D seismic		100
	3D seismic	44	56
	Vibratory sheet pile driving	100	
	Sub-bottom profiler—LCI	44	56
	Sub-bottom profiler—NCI	100	
	Sub-bottom profiler—TB	100	
	Sub-bottom profiler—MCI	100	
	Pipe driving—LCI	50	50
	Pipe driving—TB	100	
	VSP—LCI	50	50
	VSP—TB	100	
	Hydraulic grinder	100	
	Water jet	100	
AGDC	*Product Loading Facility*		
	48-inch impact		100
	60-inch impact		100
	Temporary MOF:		
	18-inch vibratory		100
	24-inch impact		100
	48-inch impact		100
	60-inch vibratory		100

TABLE 9—PERCENT OF EACH ACTIVITY OCCURRING WITHIN EACH STOCK BOUNDARY—Continued

Applicant	Activity	Southwest Alaska stock (%)	Southcentral Alaska stock (%)
	sheet vibratory		100
	Mainline MOF:		
	sheet vibratory		100
	sheet impact		100
	Anchor handling	50	50

LCI = Lower Cook Inlet, MCI = Middle Cook Inlet, NCI = North Cook Inlet, TB = Trading Bay, MOF = material offloading facility.

TABLE 10—SUMMARY OF ESTIMATES OF SEA OTTER TAKE BY LEVEL A AND LEVEL B HARASSMENT AND STOCK

Type	Unit of take	Southwest Alaska stock	Southcentral Alaska stock	Sum
Level A	Number of takes	1	2	3
Level B	Number of takes	417	1,267	1,684
Total	Number of takes	418	1,269	1,687

Annual Estimates of Take

The estimates of exposures by activity and location discussed in the previous section are not representative of the estimated exposures per year (*i.e.,* annual takes). It is difficult to characterize each year accurately because many of the activities are progressive (*i.e.,* they depend on results and/or completion of the previous activity). This results in much uncertainty in the timing, duration, and complete scope of work. Each year, each applicant will submit an application for an LOA with the specific details of the planned work for that year and estimated take numbers. Table 11 summarizes the activities according to a scenario presented in the applicant's updated petition (June 2019). This scenario combines the most realistic progression by Hilcorp and Harvest with an optimistic scenario for AGDC. In the first season, Hilcorp and Harvest plan to conduct 3D seismic surveys. In the second season, in LCI they plan to conduct activities for one well; in MCI, they plan to conduct plugging and abandonment activities in the NCI and two wells in the TB area. In the third season, activities include drilling two wells in LCI. The final well in LCI is planned for the fourth season.

The timing of AGDC's activities will depend on final authorizations and funding and may begin in 2020 rather than 2019. Season 1 will be the first year of project work regardless of year, followed by season 2 during the second year, etc. Work will generally occur from April through October. Material offloading facilities will be constructed in the first and second season, and a product loading facility will be installed during seasons 2, 3, and 4. Installation of the gas pipeline is planned for seasons 3 and 4 as well.

The number of sea otters takes by year was then estimated by allocating the total expected take by proportion of each project component occurring in each year. For example, the 2D seismic surveys are planned for year 3, so all takes during 2D seismic surveys were assigned to year 3. The resulting estimates of total Level B take by year are shown in table 12.

TABLE 11—NOISE-GENERATING ACTIVITIES BY YEAR. ACTIVITIES ARE THOSE WITH SOURCE LEVELS ABOVE 160 dB rms WITHIN FREQUENCIES HEARD BY SEA OTTERS

Year	Applicant	Activity	Area
2019: Season 1	Hilcorp/Harvest	3D seismic	LCI
		NCI geohazard surveys	LCI
		Pipeline maintenance (geohazard, water jet)	MCI
2020: Season 2	Hilcorp/Harvest	2D seismic	LCI
		Drilling activities (geohazard, pipe driving, VSP) at 1 well	LCI
		Drilling activities (geohazard, pipe driving, VSP) at 2 wells in TB	MCI
		Plug and abandon activities (geohazard) at 1 well in the NCI	MCI
		Pipeline maintenance (geohazard, water jet)	MCI
	AGDC	Sheet pile driving at TMOF	MCI
2021: Season 3	Hilcorp/Harvest	Drilling activities (geohazard, pipe driving, VSP) at 2 wells	LCI
		Sheet pile driving in Chinitna Bay	LCI
	AGDC	Pipeline maintenance (geohazard, water jet)	MCI
		Sheet pile driving at MMOF	MCI
		Sheet pile driving at MMOF	MCI
2022: Season 4	Hilcorp/Harvest	Drilling activities (tugs, geohazard, pipe driving, VSP) at 1 well	LCI
	AGDC	Pipeline maintenance (geohazard, water jet)	MCI
		Impact pile driving at PLF: 80 48-inch piles, 63 60-inch piles	LCI
		Anchor handling for pipeline installation	MCI
2023–2024: Season 5	Hilcorp/Harvest	Pipeline maintenance (geohazard, water jet)	MCI
	AGDC	Impact pile driving at PLF: 40 48-inch piles, 80 60-inch piles	LCI
		Impact pile driving at PLF: 10 48-inch piles, 48 60-inch piles	LCI

TABLE 11—NOISE-GENERATING ACTIVITIES BY YEAR. ACTIVITIES ARE THOSE WITH SOURCE LEVELS ABOVE 160 dB rms WITHIN FREQUENCIES HEARD BY SEA OTTERS—Continued

Year	Applicant	Activity	Area
		Anchor handling for pipeline installation	MCI

LCI = Lower Cook Inlet, MCI = Middle Cook Inlet, NCI = North Cook Inlet, TB = Trading Bay, PLF = product loading facility, TMOF = temporary material offloading facility, MMOF = mainline material offloading facility, VSP = vertical seismic profiling.

TABLE 12—ESTIMATES OF TOTAL NUMBER OF TAKES BY LEVEL B HARASSMENT BY YEAR (OR PROJECT SEASON)

Take	Year (Project season)				
	2019 (Season 1)	2020 (Season 2)	2021 (Season 3)	2022 (Season 4)	2023 (Season 5)
Takes by year (season)	877	800	2	3	2
% takes by year (season)	52%	48%	0%	0%	0%

Critical Assumptions

In order to conduct this analysis and estimate the potential amount of take, several critical assumptions were made. Here we discuss these assumptions, the potential sources of bias or error inherent in them, and their effects on the analysis. Take by harassment is equated herein with exposure to noise meeting or exceeding the specified criteria. We assume all otters exposed to these noise levels will exhibit behavioral responses that indicate harassment or disturbance. There are likely to be a proportion of animals that respond in ways that indicate some level of disturbance but do not experience significant biological consequences. A correction factor was not applied. This may result in overestimation in take calculations from exposure to underwater noise, while our separate assumption that sea otters exposed to noise in the air but not in the water do not independently experience harassment may result in underestimation of take. The net effect is unknown.

Our estimates do not account for variable responses by age and sex. Females with dependent pups and with pups that have recently weaned are physiologically the most sensitive (Thometz *et al.* 2014) and most likely to experience take from disturbance. There is not enough information on composition of the Cook Inlet sea otter population in the applicant's project area to incorporate individual variability based on age and sex or to predict its influence on take estimates. We therefore assume the response rates are uniform throughout the population. The degree of over- or under-estimation of take is unknown.

The estimates of behavioral response presented here do not account for the individual movements of animals away from the project area due to avoidance or habituation. Our assessment of density does not change. There is not enough information about the movement of sea otters in response to specific disturbances to refine these assumptions. While otters do have restricted movements and smaller home ranges than other marine mammals and, therefore, are likely to be exposed to sound during multiple days of work, it is unlikely that all otters will continue to respond in the same manner. Otters may remain in the area, depart from the area and return after activities are complete, or habituate to the disturbance and no longer experience take. However, we have no data to adjust for the likelihood of departure or habituation. In general, this situation is likely to result in overestimation of the number of takes. However, we also considered whether it would underestimate the impact of take because the same animal may be taken multiple times. For most animals, the effects of each repeated disturbance will be a short-term change in behavior which will have no lasting effect on the animal's survival or reproductive capacity. For a few animals, there may be more severe consequences. The net effect of this assumption is overestimation of take.

We do not account for an otter's time at the water's surface where sound attenuates faster than in deeper water. The average dive time of a northern sea otter is only 85 to 149 seconds (Bodkin *et al.* 2004; Wolt *et al.* 2012). Wolt *et al.* (2012) found Prince William Sound sea otters average 8.6 dives per feeding bout, and when multiplied by the average dive time (149 sec), the average total time a sea otter spends underwater during a feeding bout is about 21 minutes. Bodkin *et al.* (2007) found the overall average activity budget (proportion of 24-hour day) spent foraging and diving was 0.48 (11.4 hours per day), and 0.52 nondiving time (12.5 hours per day). Gelatt *et al.* (2002) found that the percent time foraging ranged from 21 percent for females with very young (less than 3 weeks of age) dependent pups to 52 percent for females with old (greater than or equal to 10 weeks of age) pups. Therefore, although exposure to underwater sound during a single dive is limited, accumulation of exposure over time is expected. Our assessment may cause some overestimation in this regard.

We also assume that the mitigation measures presented will be effective for avoiding some level of take. However, additional information is needed to quantify the effectiveness of mitigation. The monitoring and reporting in this ITR will help fill this information need in the future, but for this suite of planned activities, no adjustments were made to estimate the number of takes that will be avoided by applying effective mitigation measures. This scenario leads to overestimation in calculation of take.

The current project description represents the applicant's best expectation of how, where, and when work will proceed. We expect that the current project description is an accurate depiction of the work that will be conducted. Details provided in future applications for LOAs under this regulation must provide accurate project details, which may include minor changes from those described here. Minor changes to the details of the specified activities, such as a change of the specific vessels or a change in the start date of a specific activity, are not expected to significantly change the overall estimates of take or the conclusions reached in our analysis. In all cases, the most accurate information

about the project and the specific estimation parameters will be used, along with methods that are consistent with those described here, to calculate the effects of the activities and to ensure that the effects remain concordant with the determinations of this rulemaking. Larger project changes that result in significantly different effects on sea otters would be outside of the scope of this ITR.

Potential Impacts on Sea Otter Stocks

The estimated number of takes by Level B harassment is 1,684 instances of take due to behavioral responses or TTS associated with noise exposure. Among otters from the southwest Alaska stock, 417 Level B takes are expected; and among the southcentral Alaska stock, 1,267 takes from Level B harassment are expected. The estimated number of takes by Level A harassment is one from the southwest Alaska stock and two instances of take from the southcentral Alaska stock due to PTS associated with noise exposure. Combined, the expected number of Level A and Level B takes is 418 takes from the southwest Alaska stock and 1,269 takes from the southcentral Alaska stock.

These levels represent a small proportion relative to the most recent stock abundance estimates for sea otters. The estimated 418 takes is 0.9 percent of the best available estimate of the current population size of 45,064 animals in the southwest Alaska stock (USFWS 2014a) (418 ÷ 45,064 = 0.009). The estimate of 1,269 takes is about 6.9 percent of the 18,297 animals in the southcentral Alaska stock (USFWS 2014b) 1,269 ÷ 18,297 = 0.069). For these analyses, we are emphasizing the total number of takes rather than the number of animals taken. At this time, there are insufficient data regarding the daily movement patterns of individual sea otters in Cook Inlet to support an estimate of the number of animals taken. Evaluation based on total take in this situation is certain to be an overestimate of the actual impact, but it avoids relying on an estimate of number of animals taken that is precise, but possibly incorrect.

Sea otters exposed to sound produced by the project are likely to respond with temporary behavioral modification or displacement. Project activities could temporarily interrupt the feeding, resting, and movement of sea otters. Because activities will occur during a limited amount of time and in a localized region, the impacts associated with the project are likewise temporary and localized. The anticipated effects are primarily short-term behavioral reactions and displacement of sea otters near active operations.

Animals that encounter the specified activities may exert more energy than they would otherwise due to temporary cessation of feeding, increased vigilance, and retreat from the project area. We expect that affected sea otters would tolerate this exertion without measurable effects on health or reproduction. Most of the anticipated takes would be due to short-term Level B harassment in the form of TTS, startling reactions, or temporary displacement. Three instances of Level A take are expected to occur due to PTS. The effects of PTS in sea otters are unknown.

With the adoption of the measures proposed in the applicant's 4MP and required by this ITR, the amount and likelihood of Level A and Level B take will be reduced. The number of otters affected will be small relative to the stocks, and the overall effect on the stocks is expected to be negligible.

Potential Impacts on Subsistence Uses

The planned oil and gas activities will occur near marine subsistence harvest areas used by Alaska Natives from the villages of Ninilchik, Salamatof, Tyonek, Nanwalek, Seldovia, and Port Graham. Between 2013 and 2018, approximately 491 sea otters were harvested for subsistence use from Cook Inlet, averaging 98 per year. The large majority were taken in Kachemak Bay. Harvest occurs year-round, but peaks in April and May, with about 40 percent of the total taken at that time. February and March are also high harvest periods, with about 10 percent of the total annual harvest occurring in each of those months. The project area will avoid Kachemak Bay and therefore avoid significant overlap with subsistence harvest areas. The applicant's activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Vessels, aircraft, and project noise may displace otters, resulting in changes to availability of otters for subsistence use during the project period. Otters may be more vigilant during periods of disturbance, which could affect hunting success rates. The applicant will coordinate with Alaska Native villages and Tribal organizations to identify and avoid potential conflicts. If any conflicts are identified, the applicant will develop a POC specifying the particular steps that will be taken to address any effects the project might have on subsistence harvest. A POC will be prepared for 3D surveys planned by Hilcorp and Harvest.

Findings

Small Numbers

For small numbers analyses, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of ''small'' to the agency's discretion. The statutory definition is provided at 16 U.S.C. 1362; however, the Service no longer relies upon or applies this regulatory definition. The Court of Appeals for the Ninth Circuit (*Center for Biological Diversity* v. *Salazar*, 695 F.3d 893, 902–907 [9th Cir. 2012]) has determined that the regulatory definition conflates ''small numbers'' with ''negligible impact,'' whereas the MMPA establishes these as separate standards.

Our small numbers analysis evaluates whether the number of marine mammals anticipated to be taken is small relative or proportional to the size of the overall population. A more precise formulation of ''small numbers'' is not possible because the concept is not capable of being expressed in absolute numerical limits. The Court of Appeals for the Ninth Circuit has expressly approved this type of analytical approach (*Center for Biological Diversity* v. *Salazar,* 695 F.3d at 905–907).

To evaluate whether the specified oil and gas activities in Cook Inlet would affect small numbers, we calculated the number of instances of take that are predicted to result from the specified activities. We then used the number of takes as a conservative estimate of the number of animals taken to determine whether more than a small number would be taken when compared with the size of the stock. We found that the proposed project may result in approximately 1,687 takes, of which, 418 takes will be from the southwest Alaska stock and 1,269 takes will be from the southcentral Alaska stock. Based on most recent stock assessments (USFWS 2014a, b), the number of takes would equal about 1 percent of the southwest Alaska stock and 6.9 percent of the southcentral Alaska stock.

Evaluation based on total take rather than numbers of animals taken, is certain to be an overestimate of the actual impact because some otters are likely to be taken multiple times during the work. We determined it was appropriate to consider total take for these analyses as the best available data regarding the daily movement patterns of sea otters because there was not sufficient information to support an accurate estimate of the number of individual animals affected by the specific project activities. The available

information suggests that only a portion of the estimate of take will be realized. Based on these numbers, we find that the applicant's activities will take, by harassment, only a small number of animals relative to the population sizes of the affected stocks.

Negligible Impact

We find that any incidental take by harassment resulting from the proposed project cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otter through effects on annual rates of recruitment or survival and would, therefore, have no more than a negligible impact on the species or stocks. In making this finding, we considered the best available scientific information, including: The biological and behavioral characteristics of the species, the most recent information on species distribution and abundance within the area of the specified activities, the potential sources of disturbance caused by the project, and the potential responses of animals to this disturbance. In addition, we reviewed material supplied by the applicant, other operators in Alaska, our files and datasets, published reference materials, and species experts.

Sea otters are likely to respond to specified activities with temporary behavioral modification or displacement. These reactions are unlikely to have consequences for the health, reproduction, or survival of most affected animals. Most animals will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected animals are expected to resume normal behaviors soon after exposure, with no lasting consequences. Some animals may exhibit more severe responses typical of Level B harassment, such as fleeing, ceasing feeding, or flushing from a haulout. These responses could have significant biological impacts for affected individuals. Three otters may experience Level A take from PTS. The effects to these individuals are unknown, but lasting effects to survival and reproduction are possible. Thus, although the specified activities may result in approximately 418 takes from the southwest Alaska stock and 1,269 takes from the southcentral Alaska stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the species or stocks. The focus on total take, rather than number of animals taken, for these analyses provides an overestimate of the effects on stocks.

Our finding of negligible impact applies to incidental take associated with the specified activities as mitigated by the avoidance and minimization measures identified in the applicant's 4MP. Minimum flight altitudes will help operators avoid take from exposure to aircraft noise. Protected species observers and procedures implemented by PSOs will limit Level A take during seismic work and pile driving. Collision-avoidance measures, including speed reductions when otters are present, will ensure that boat strikes are unlikely. These mitigation measures are designed to minimize interactions with and impacts to sea otters and, together with the monitoring and reporting procedures, are required for the validity of our finding and are a necessary component of the ITR. For these reasons, we find that the specified activities will have a negligible impact on sea otters.

Impact on Subsistence

We find that the anticipated harassment caused by the applicant's activities will not have an unmitigable adverse impact on the availability of sea otters for taking for subsistence uses. In making this finding, we considered the timing and location of the specified activities and the timing and location of subsistence harvest activities in the area of the proposed project. We considered the comments received during the public comment period. We also considered the applicant's consultation with subsistence communities, proposed measures for avoiding impacts to subsistence harvest, and commitment to development of a POC for project components that could have any adverse impact on subsistence harvest. We based our finding on: (1) Initial results of community outreach conducted by the applicant and the Service; (2) the results of aerial surveys indicating the availability of sea otters in Cook Inlet; (3) locations of hunting areas; and (4) the limited potential for overlap of hunting areas and proposed projects. The Service's confirms that through the coordination process identified in the ITR, no take of sea otters will be authorized that will result in an unmitigable adverse impact on the availability of sea otters for subsistence harvest sufficient to meet the needs of coastal dwelling Alaskan Natives.

Least Practicable Adverse Impacts

We find that the mitigation measures required by this ITR will effect the least practicable adverse impacts from any incidental take likely to occur in association with the specified activities. In making this finding, we considered the biological characteristics of sea otters, the nature of the specified activities, the potential effects of the activities on sea otters, the documented impacts of similar activities on sea otters, and alternative mitigation measures.

Monitoring and Reporting

The purposes of the monitoring requirements are: To document and provide data for assessing the effects of specified activities on sea otters; to ensure that take is consistent with that anticipated in the small numbers, negligible impact, and subsistence use analyses; and to detect any unanticipated effects on the species. Monitoring plans include steps to document when and how sea otters are encountered, and their numbers and behaviors during these encounters. This information allows the Service to measure encounter rates and trends and to estimate numbers of animals potentially affected. To the extent possible, monitors will record group size, age, sex, reaction, duration of interaction, and closest approach to the project activity.

Monitoring activities will be summarized and reported in a formal report each year. The applicant must submit an annual monitoring and reporting plan at least 90 days prior to the initiation of the activity, and the applicant must submit a final monitoring report to us no later than 90 days after the expiration of the LOA. We base each year's monitoring objective on the previous year's monitoring results. We require an approved plan for monitoring and reporting the effects of oil and gas industry activities on sea otters prior to issuance of an LOA. We require approval of the monitoring results for continued operation under the LOA.

We find that this regulation will establish monitoring and reporting requirements to evaluate the potential impacts of planned activities and to ensure that the effects of the activities remain consistent with the rest of the findings.

Summary of and Response to Comments and Recommendations

During the public comment period, we requested written comments from the public on the proposed ITR as well as the draft EA. The comment period on the proposed ITR opened on March 19, 2019 (84 FR 10224), and, in response to requests from the public, was extended on April 5, 2019 (84 FR 13603). The comment period closed on April 19,

2019. We received 20 submissions; these included comments on the proposed rule and the draft EA as well as a number of publications and other documents submitted in support of those comments.

The Service received comments from the Marine Mammal Commission, industry organizations, environmental organizations, local government entities, Tribal organizations, and the public. We reviewed all comments received for substantive issues, new information, and recommendations regarding the proposed ITR and the draft EA. The comments are aggregated by subject matter, summarized and addressed below, and changes have been incorporated into the final rule as appropriate. A summary of the changes to this final ITR from the proposed ITR is found in the preamble section entitled, Summary of Changes from the Proposed Rule.

General Comments

Comment 1: Several commenters opposed the promulgation of the ITR based on a general opposition to oil and gas industry activities.

Response 1: Language within section 101(a)(5)(A) of the MMPA requires the Service to allow the incidental taking of small numbers of marine mammals provided the Service has made certain determinations regarding the specified activity. Once we make the required determinations, we must promulgate the ITR. It is not our role in this process to approve or deny the specified activities. Our mandate is to identify and assess the potential impact of those activities on marine mammals, and if our analysis concludes that such impacts are consistent with the required determinations, we must promulgate an ITR.

Comment 2: Allowing any level of harassment is a threat to the species.

Response 2: We disagree. Based on our analysis we found that the effects of the specified activities will have no more than a negligible impact upon a small number of northern sea otters in Cook Inlet.

Comment 3: There is insufficient information on how sound affects sea otters to determine the risks to the species; more research should be done.

Response 3: While we acknowledge that additional research is needed to refine the evaluation of the effects of sound exposure on sea otters, we disagree with the comment that available information limits the Service's ability to conduct the required analysis and make the required determinations, which are based on the best scientific information that is available.

Comment 4: The project actions will harm beluga whales.

Response 4: The effects to marine mammals other than sea otters are outside of the scope of this rule and the authority of the Service. The NMFS has jurisdiction over issuance of incidental take of beluga whales and other cetacean and pinniped species in Cook Inlet.

Comment 5: Seismic surveys can harm fish and invertebrates, thereby impeding prey availability and foraging for sea otters.

Response 5: The Service evaluated effects of the proposed seismic surveys on sea otter prey availability to determine whether these effects would lead to incidental take of otters. See Potential Effects of the Activities, *Effects on Habitat and Prey.* As discussed in this final rule, the expected effects of the planned seismic surveys on sea otter prey will not result in lasting consequences for prey availability or additional take of sea otters.

Project Description

Comment 6: The description of activities considered for the ITR is ambiguous. The Service should address these ambiguities and ensure that the ITR is very specific about what the applicant can and cannot do to make sure the LOA process is not open-ended.

Response 6: We disagree. Consistent with numerous previous ITRs, this ITR provides an overall ''umbrella'' set of requirements which, when followed, allow the incidental take of small numbers of sea otters during certain oil and gas industry activities. The requirements ensure that there is no more than a negligible impact on these species, the activities will have the least practicable adverse impacts, and that there will not be unmitigable impacts on the availability of these species for subsistence use. The Service believes we have used the appropriate level of detail necessary to evaluate the effects of the specified activities within the 5-year period of the ITR consistent with requirements of the MMPA.

Comment 7: Several commenters pointed out inconsistencies between the project descriptions and the description of activities in the proposed ITR.

Response 7: We verified the project descriptions with the applicant and revised the project descriptions as needed in this final rule.

MMPA Requirements

Comment 8: The public comment period should be extended; although it was extended from 15 to 30 days, it was still too short.

Response 8: The Service determined that a 30-day comment period would be sufficient for this rulemaking.

Comment 9: The Service should evaluate the harm and harassment of the proposed action on units smaller than stocks.

Response 9: The Service believes that our evaluation of the proposed activities at the stock level is consistent with section 101(a)(5) of the MMPA, which uses the term ''species or stock.'' We do not believe an evaluation at a larger or smaller scale is appropriate.

Comment 10: Several commenters expressed concern that industry activities and incidental take authorization could have an adverse impact on Alaska Native subsistence use of sea otters. It was suggested that the Service should ensure that all applicants submit, as part of their LOA requests, a site-specific stakeholder engagement plan or POC that includes a summary of input received, a schedule for ongoing community engagement, and measures that would be implemented to mitigate any potential conflicts with subsistence hunting.

Response 10: This ITR requires an LOA applicant to coordinate with Alaska Native villages and Tribal organizations to identify and avoid potential conflicts. If any conflicts are identified, the applicant must develop a POC specifying the particular steps that will be taken to address any effects the project might have on subsistence harvest. Appropriate mitigation measures will be developed if conflicts are identified. The applicant must conduct stakeholder engagement and make this information available to the Service. Revisions have been made to §§ 18.134(b)(3) and 18.140(b) to incorporate these suggestions and provide additional detail and clarity regarding the required components of the stakeholder engagement plan and POC.

Comment 11: Neither the applicant nor the Service consulted with federally recognized tribes or tribal organizations on this proposed activity.

Response 11: We conducted outreach to all the tribal organizations in the Cook Inlet region by email and postal letters. We received one response requesting further consultation on this project from the Native Village of Chickaloon. No other groups expressed interest. When the Chickaloon Village Traditional Council (CVTC) and the Service were not able to schedule a time and place suitable to both parties to conduct the consultation, the CVTC chose to provide written comments to

the Service expressing their views on the ITR. See *Comment 1* for our response.

Comment 12: The Service conflates small numbers and negligible impact standards required by the MMPA.

Response 12: We disagree. As we explain in the preamble of this ITR, we do not rely upon the definition of ''small numbers'' found in 50 CFR 18.27 as it conflates ''small numbers'' with ''negligible impacts.'' We recognize ''small numbers'' and ''negligible impacts'' as two separate and distinct requirements under the MMPA. The Service maintains that the proposed oil and gas activities in Cook Inlet will affect a small number of animals and will have a negligible effect on the stocks, based on separate and discrete analyses for each of these criteria.

Comment 13: The conclusions in the proposed ITR that the activities will have a negligible impact and take only small numbers are insufficiently supported.

Response 13: We disagree. The Service analysis of the specified activities for this ITR used the best available information and encapsulated all of the applicant's known and anticipated activities that will occur in the Cook Inlet ITR Region during the 5-year period of this ITR.

Comment 14: Cumulative impacts of multiple take authorizations in Cook Inlet must be considered.

Response 14: In our negligible impacts assessment, we considered the effects of a suite of human activities on sea otters in Cook Inlet, including impacts from noise, vessel activities, human encounters, oil spills, cumulative effects of existing and future development, production, and exploration activities, and the likelihood of impacts from these activities. We incorporated these impacts into the baseline condition of the affected stocks to determine whether the issuance of take would have more than a negligible effect.

Estimation of Take

Comment 15: The analysis does not adequately address effects of noise on mothers with pups.

Response 15: While we acknowledge that mothers with pups are likely to be among the most sensitive individuals to harassment, we believe our analysis adequately addresses potential impacts to all life stages as discussed in the preamble.

Comment 16: The estimates of numbers of takes and sea otters taken do not correctly allocate the proportion of takes between the southcentral and southwest Alaska stock resulting in underestimation of take from the ESA-listed southwest Alaska stock. Methods used to allocate take between stocks are insufficiently supported. The assignment of the Level A take to the southcentral Alaska stock is arbitrary.

Response 16: We disagree. Take is calculated according to the location, duration, and intensity of the specific component of the work, and the density of sea otters exposed to work in that project area. Estimates of the number of takes was based on the proportion of each activity occurring within each stock boundary. For clarity, we have added a table showing what proportion of each activity is expected to occur within each stock boundary.

In response to this comment, we reevaluated whether the allocation of Level A take was assigned to the appropriate stock. We determined that the appropriate procedures were used to estimate Level A take according to location and characteristics of the activity within each stock boundary. However, we acknowledge that is it more appropriate in this case to consider the total number of takes rather than the number of animals taken. This change resulted in revision of the Level A take estimate from three takes of one animal in the southcentral Alaska stock, to two instances of take from the southwest Alaska stock and one instance of take from the southcentral Alaska stock. Although we determined in this final regulation that it was more appropriate to use total takes rather than takes of animals, the proposed regulation, which presented both methods for considering take, was not arbitrary.

Comment 17: Take is underestimated, and methods of take calculation are not adequately disclosed.

Response 17: Take was calculated based on the best information available at the time of the analysis and was done in a manner that any necessary assumptions or estimates in input parameters would result in overestimation of take rather than underestimation. We have added additional text and an additional table to Estimated Incidental Take to help describe how these take estimates were calculated.

Comment 18: The Service proposed that a very small number of sea otters could be taken by Level B harassment relative to the estimated number of sea otter takes. The number of individuals estimated to be taken during the course of the regulations is unrealistic based on the types of activities being conducted and the location and duration of those activities. Mobile activities, such as seismic and geohazard surveys, would be conducted over a large area and an extended period of time, resulting in the exposure of more individuals than would be exposed for stationary sources, such as pile driving.

Response 18: We employed a model for estimating the number of animals taken based on the estimated number of takes. This model was based on the available information at the time of the analysis. We recognize that a more sophisticated model can be developed but, at this time, there are insufficient data regarding the behaviors and movement patterns of individual sea otters in Cook Inlet, and so we cannot be confident that a more sophisticated model would accurately translate the total number of takes into a more accurate estimate of the number of animals taken. Therefore, rather than attempting to recalculate the number of animals taken using a more sophisticated model that may be no more accurate, we instead emphasize the importance of the total number of takes in this final rule. We have evaluated whether the MMPA determinations can be made based on the total number of takes rather than solely on the number of animals taken in order to ensure that our assessments do not underestimate the possible impacts to the stocks. This approach has been used in previous analyses of incidental take of marine mammals, both explicitly and implicitly, when a suitable estimate of numbers of individuals could not be derived from available information (*e.g.,* 81 FR 52276, August 5, 2016; 81 FR 40902, June 23, 2016). Using total take to evaluate the effects of the specified activities on sea otters in Cook Inlet is likely to be an overestimate of the actual impact, but it avoids relying on an estimate of number of animals taken that is precise, but possibly incorrect.

Comment 19: The proposed pile-driving activities will harm and harass sea otters beyond the minimal estimates provided by the Service.

Response 19: We have determined that in the proposed ITR, we underestimated the duration of pile-driving activities, but in cooperation with the applicant, we have incorporated more accurate estimates of the time needed to complete these activities to ensure the effects are not underestimated. Further, the effects of specific pile driving activities will be evaluated in individual LOAs to ensure accurate project details are incorporated.

Comment 20: The Service incorrectly concludes that harassing the same nine threatened sea otters 410 times will be inconsequential.

Response 20: The comment misinterprets our analysis in three ways. As discussed in the response to *Comment 18,* the estimate of number of animals taken was based on a model derived from the total number of takes. However, for this suite of projects, the number of takes is a more accurate assessment of the total impact of the activity, and our assessment has been revised to reflect this. Secondly, for most animals, the effects of disturbance will be short-term changes in behavior, which will have no lasting effect on the animal's survival or reproductive capacity. While there may be more severe consequences for a few animals, our evaluation supports a determination that there will be no significant consequences on the stocks to which these animals belong, not that the effects to individual animals are inconsequential. Finally, there is an implied omission of assessment of repeated exposures. We addressed this issue in the text of the preamble in Potential Effects of the Activities and Characterizing Take.

Comment 21: Airborne noise: The Service conflates exposures from underwater sound sources with disturbing activities that do not generate underwater sound. The proposed rule discounts the impacts of noise in the air. The Service's conclusion that all take from aerial surveys will be mitigated is arbitrary, and instead it must analyze the potential for take from all sources of air traffic associated with the activities.

Response 21: We disagree. We evaluated the full suite of project activities to determine which are likely to cause sea otters to react in ways that indicate take by Level A and Level B harassment. Take from airborne noise was considered. We assessed the likelihood, frequency, and severity of Level A and Level B take from airborne noise. Further discussion of this issue can be found in the section on Airborne Sounds in Effects of Noise.

Comment 22: The Service relies on avoidance to reduce sea otter take; however, this is arbitrary and capricious because displacement still amounts to harassment and even harm if it impedes a sea otter from foraging or resting in its preferred habitat.

Response 22: The commenter has misinterpreted how take associated with displacement is characterized and estimated in this rule. Displacement indeed does constitute take if, as the commenter notes, it impedes a sea otter from foraging or resting in preferred habitat and, as we note, the resulting effort to forage or rest in suboptimal habitat results in a biologically significant affect to the animal. Not all displacement will cause take. Otters displaced to other areas of suitable habitat and otters that are displaced, but do not experience a biologically significant interruption in feeding or resting are not considered taken. The analysis of take includes all animals exposed to the specified activities that are expected to respond with behaviors that indicate a Level A or Level B take has occurred, including displacement leading to biologically significant interruption in feeding and resting. We used the best available evidence based on the biological characteristics and behaviors of sea otters, or a suitable proxy, and the characteristics of the planned activities to identify appropriate thresholds of exposure that are likely to result in take. We have identified and used the same thresholds for northern and southern sea otters in previous analyses (*e.g.,* 83 FR 18077, April 25, 2018; 82 FR 6627, January 19, 2017, 83 FR 18330, April 26, 2018). Where information was lacking, we used conservative assumptions to ensure take, including that associated with displacement, was not underestimated. In sum, take from displacement was incorporated in this analysis, and the characterization of take associated with such displacement was neither arbitrary nor capricious.

Comment 23: Seismic surveys will likely affect marine mammals in a much larger area than anticipated by the application.

Response 23. We disagree. While the proposed survey may be detectable to sea otters beyond the thresholds for take that we identified here, to constitute take by harassment, the effects of exposure must rise beyond detectability to cause a biologically significant disruption of behavior. Many animals will have non-significant responses, including short term increases in vigilance, momentary startle responses, or short-term changes in body orientation or direction of travel. To distinguish between non-significant responses and those indicating take, the Service has used an exposure threshold of 160 dB for underwater noise. See the comments regarding use of a 120-dB threshold versus a 160 dB threshold (*Comment 33*) for more discussion on the suitability of this threshold.

Comment 24: The upper end of the frequency of hearing for sea otters should be 38 kHz rather than 32 kHz.

Response 24: We agree. This correction was made in the ITR.

Comment 25: Two commenters pointed out that the proposed ITR evaluated vessel noise from tugs towing rigs but did not evaluate noise from transiting vessels and suggested that, if general vessel use is discounted as a source of potential harassment, use of the tug should be as well.

Response 25: Tugs towing a rig are using high-powered engines and are often working in teams, resulting in higher levels of underwater noise than is typical of most vessel traffic. Tugs will be towing rigs to areas in Cook Inlet where these activities are unusual. Otters in these areas may show a greater level of vigilance or avoidance of these activities than for most vessel traffic due to the novelty of the activity in that area. We do not typically consider vessel traffic to have the potential to result in take, but the applicant had initially requested authorization of take that may occur during tug towing. The Service evaluated the expected number of takes associated with tug towing and found this activity would likely result in less than one take. Accordingly, the applicant has since removed this request from its application and the Service has removed tug towing from the activities included in the final rule.

Comment 26: Anchor handling, pipe cutting, and grinding do not emit sound levels sufficiently high to cause Level A or B harassment and should not be included in the analyses.

Response 26: For activities with source levels nearing take thresholds, the possibility of take was analyzed at the request of the applicant and included in the overall take estimate in the proposed rule. Results of our analyses indicated that take associated with these activities is negligible. The applicants have since requested withdrawal of grinding and pipe cutting from consideration but have maintained inclusion of anchor handling. These changes are reflected in this rule.

Comment 27: Several commenters expressed that a 160-dB re 1 μPa threshold is inadequate as it addresses only acoustic harassment and does not account for takes resulting from behavioral changes, particularly for continuous, non-impulsive sound sources.

The Marine Mammal Commission recommended that, until such time that the 120- and 160-dB re 1 μPa thresholds are updated, the Service use a 120- rather than 160-dB re 1 μPa threshold to estimate the extents of the Level B harassment zones and numbers of sea otter takes when non-impulsive, continuous sources are proposed for use. The Commission further recommended that, if the Service did not use a 120-dB threshold, then a 141-dB Level B harassment threshold should be used for non-impulsive, continuous sources based on monitoring data from

the Elkhorn Slough National Estuarine Research Reserve (ESNERR) (2011).

Response 27: The highest spectral densities for noises generated by vibratory pile driving lie within a range of frequencies at which sea otters have poor hearing ability. In contrast, gray whales, on which the 120-dB threshold is based, are highly sensitive to sounds within this frequency range. We do not dispute that sea otters may hear and may react to sounds produced by vibratory pile driving. However, we maintain that it is unlikely that sea otters' reactions will be equivalent to those of gray whales in terms of the sound levels that elicit reactions equivalent to take by harassment. Thus, it is not appropriate to apply the 120-dB threshold to sea otters.

The Service disagrees with the Commission's conclusions regarding ESNERR (2011). After considering the Commission's comments and reviewing the monitoring data (ESNERR 2011 and ESNERR unpublished data 2018), we reaffirm our statement that ''project-related monitoring of sea otter behavior in areas exposed to underwater sound levels ranging from approximately 135–165 dB during vibratory pile driving (ESNERR 2011) showed no clear pattern of disturbance or avoidance in relation to these levels of underwater sound exposure.''

As such, we maintain that use of a 160-dB threshold for both impulsive and non-impulsive sounds is consistent with the best available information.

Comment 28: The tables summarizing source levels, repetition rates, pulse durations, weighting factor adjustments, and other assumptions for survey instruments were incorrect or inappropriate.

Response 28: Discrepancies or errors of the source levels and other parameters for sound sources have been corrected in this rule.

Comment 29: The Commission recommended that chirps have temporal and spectral characteristics suggesting that a lower, more precautionary Level B harassment threshold of 120 dB would be more appropriate than the 160-dB threshold. The Commission further recommended that, until the behavior thresholds are updated, the Service requires applicants to use the 120- rather than 160-dB threshold for intermittent, non-impulsive sources (such as chirps).

Response 29: The Service considers sub-bottom profilers, including chirps, to be impulsive sources. Continuous sounds are characterized by having a sound pressure level that consistently stays above ambient levels and negligible fluctuations (NIOSH 1998; ANSI 2005). Intermittent sounds, with cyclical periods of lower or no sound level, can further be classified as either impulsive or non-impulsive. Impulsive sounds are brief (less than 1 second) and transient, with rapid rise time to a high peak pressure followed by a rapid decay (ANSI 1986; NIOSH 1998). Non-impulsive sounds have more gradual rise times and gradual decays. Sounds from sub-bottom profilers more closely resemble impulsive sounds, as opposed to non-impulsive or continuous sounds, and the Service treats them as such.

Regardless of how sounds emitted by chirps are classified, the references cited by the Commission in support of use of a 120dB threshold are overwhelmingly based on cetaceans in the high-frequency and mid-frequency functional hearing groups (harbor porpoise, killer whale, beaked whale, sperm whale, *Lagenorhynchus* and *Stenella* dolphins). These animals have significantly greater sensitivity to and utilization of high frequency sounds, therefore the results of those studies are not applicable to sea otters.

Comment 30: The Commission strongly suggested that the Service consult with NMFS regarding the appropriateness of the various thresholds. The Commissions also recommended that the Service take a more active role in the development, review, and implementation of any and all acoustic and behavior thresholds for marine mammal species under its jurisdiction and consult with NMFS on whether, when, and how NMFS' current thresholds should be implemented.

Response 30: The Service responded to the Commission's previous letters and advice consistent with our repeated response here. The Service continues to evaluate impacts resulting from anthropogenic sound on marine mammals under our jurisdiction using the best available information. We are aware of and supportive of the efforts by NMFS and its Science Centers to develop their Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing Acoustic Guidelines for those species under NMFS' jurisdiction. Although the Service provided informal comments on an early version of these guidelines, we did not provide additional comments because the guidance is specific to management of species under the jurisdiction of the Department of Commerce. The Service will continue to work with our partners, including the U.S. Geological Survey and NMFS, to obtain the best scientific information concerning potential effects of anthropogenic sound on marine mammal species under our jurisdiction.

Mitigation and Monitoring Comments

Comment 31: Several commenters indicated the need for additional Protected Species Observers to monitor Level A and B harassment zones.

Response 31: The issuance of an LOA for the specific activities under this ITR is contingent upon an applicant developing and implementing a detailed monitoring plan to ensure that the effects of the activities on marine mammals are documented and reported. If the monitoring plan is incomplete, inadequate, or not implemented, the LOA will not be issued, or if issued, may be rescinded.

Effective monitoring is a necessary component of this rule. An applicant for an LOA must submit, as part of the application, a detailed marine mammal monitoring and mitigation plan. It must include a sufficient number of PSOs to conduct visual project monitoring of 100 percent of a project's EZs during all daytime periods of underwater noise-generating work. Sea otters in the SZ must be documented and reported. These monitoring methods, included in this rule, were evaluated and found to be sufficient for detecting responses to project activities. We considered alternative monitoring methods and added a discussion of mitigation measures considered but not required in the section on the Mitigation and Monitoring.

Comment 32: The Service should clarify that ramp up procedures for vibratory pile driving differ from those for impact pile driving.

Response 32: Clarifying text has been added to § 18.137(b)(4)(ii).

Comment 33: Mitigation requiring shut downs to be accomplished within several seconds does not adequately consider worker health and safety, and equipment safety and integrity. The Service should consider modifying this language from ''within several seconds'' to ''as soon as is practicable considering worker safety and equipment integrity''.

Response 33: The suggested text has been added to § 18.137(b)(7)(ii).

Comment 34: Mitigation measures apply to ''in-water work along the shoreline'' however, this term is not defined. The Service should replace the phrase ''in-water work along the shoreline'' with ''work occurring in intertidal areas.''

Response 34: The suggested clarifying change was made to § 18.137(c)(2).

Comment 35: Hilcorp and Harvest's 4MP states that they plan to perform a sound source verification (SSV) for the 3D seismic survey in LCI and will work with the Service to determine if an SSV is needed for other activities occurring

in the project area. However, the Service did not include a requirement in the proposed rule for any applicant to conduct an SSV for any seismic or other activities. The Commission recommended that the Service require the applicant to conduct SSVs at the beginning of noise-generating activities for any sound sources for which in-situ measurements have not been made for similar activities in Cook Inlet and use those measurements to verify and adjust, if necessary, the extents of the Level A and B harassment zones.

Response 35: The omission of the SSV requirement for the 3D seismic survey in Cook Inlet is noted and has been corrected in this rule. We will work with the applicant to determine whether additional SSVs for other planned activities are appropriate and necessary.

Comment 36: The Service has proposed to use power-down procedures during seismic survey activities as an alternative to implementing a full shutdown when an animal is detected within or approaching the Level A harassment zone, which would necessitate a ramp-up of the full array. Power-downs also may be used at the operator's discretion to reduce the likelihood of a Level B harassment take. In a mitigation and monitoring workshop for seismic surveys, industry representatives indicated that power-downs may ultimately increase sound input to the marine environment due to the need to subsequently re-shoot the trackline to prevent gaps in data acquisition (unpublished workshop report cited in 82 FR 26255, June 6, 2017). For that reason and because a power down may not actually be useful, NMFS has prohibited the use of power-downs in its issuance of incidental harassment authorizations for taking of marine mammals associated with geophysical surveys in the Atlantic Ocean (83 FR 63350, December 7, 2018), which the Commission supported. The Commission therefore recommends that the Service prohibit using power-down procedures as a mitigation measure for seismic surveys in Cook Inlet.

Response 36: The Service agrees that, generally, it is best to minimize survey gaps and re-shoots. We disagree with the Commission's assertion that a voluntary power-down to avoid Level B take is not potentially useful.

In the instance of avoiding Level A take, mitigation is not voluntary. Either a power-down or a shutdown would interrupt survey activity to a degree that will create a survey gap requiring re-shoot. Regardless of which of the two options is applied, a duration of longer than 10 minutes would require a ramp-up to restore the array to full power.

Survey gaps are undesirable to operators as they result in a loss of data continuity and there are significant costs associated with reshoots. The Service thinks it unlikely that an operator would choose to employ voluntary shutdowns either frequently or frivolously. In an encounter with an unusually large group of animals, a voluntary power-down may prevent exposure of a larger number of animals than would be exposed during infill shooting at a later time with typical encounter rates or group sizes. While we would encourage observers and operators to use voluntary power-downs as infrequently as is practicable, we feel that prohibition of this mitigation measure may ultimately result in an increase in exposure of marine mammals to noise.

Comment 37: The Service also would allow the use of a 10-in^3 mitigation gun to avoid requiring operators to ramp up after the full array has not been in use (*e.g.,* during a line turn, low-visibility conditions, or other short-term interruption of seismic survey activities). In its issuance of incidental harassment authorizations for taking of marine mammals associated with geophysical surveys in the Atlantic Ocean, NMFS required that the acoustic source be deactivated when not acquiring or preparing to acquire data, except as necessary for testing, and that unnecessary use of the acoustic source be avoided (83 FR 63351, December 7, 2018). The Commission supports that requirement for the reasons previously stated and recommends that the Service prohibit the use of a mitigation gun to avoid implementing ramp-up procedures.

Response 37: The Commission has mischaracterized the Service's proposed use of a mitigation gun; specifically, the proposed ITR did not suggest that ramp-up procedures may be avoided by use of a mitigation gun. Rather, we proposed use of a mitigation gun to reduce the probability of the presence of undetected animals within the SZ prior to initiation of ramp-up procedures during periods of poor visibility.

While it is true that IHAs recently issued by NMFS for seismic surveys in the Atlantic prohibited airgun use during line turns and other short-term interruptions of survey activities, the use of Passive Acoustic Monitoring (PAM) was authorized as an avenue to clear the SZ of marine mammals and initiate ramp-up procedures during times when the SZ would not be visible (*e.g.,* at nighttime or during periods of rain or fog). The Service does not believe PAM to be an effective monitoring and mitigation tool for Hilcorp and Harvest's proposed survey because (1) the high levels of ambient noise in Cook Inlet interfere with detections of underwater vocalizations; and (2) sea otters are not known to make underwater vocalizations. The Service contends that, within Cook Inlet, the use of a mitigation gun during line-change turns remains among the best practices to reduce the probability of animals being present within the SZ immediately prior to and during ramp-up procedures.

Comment 38: The Service has proposed that operators notify the Service or the Alaska Sea Life Center within 48 hours of an injured, dead, or distressed sea otter being observed, irrespective of whether an injury or death was associated with the specified activities (§§ 18.136(b) and 18.139(f) of the proposed rule). Any injury or death of a sea otter associated with the specified activities should be reported immediately to the Service or the Alaska Sea Life Center. And, in the past, the Service has specified that notification of injured or dead otters not associated with project activities occur within 24 hours to allow for a more timely response by trained personnel as warranted. As such, the Commission recommends that the Service require the operators to notify the Service or the Alaska Sea Life Center as follows: (1) Immediately if a sea otter is injured or killed during any of the project activities; and (2) within 24 hours of observing an injured, dead, or distressed sea otter that the observer determined is not associated with project activities.

Response 38: The applicant has committed to notifying the Alaska Sea Life Center and the Service as recommended.

Comment 39: The Service should employ time or area restrictions to mitigate acoustic impacts rather than relying on lookouts aboard vessels because many disruptions to marine mammal behavior will be difficult to detect or avoid through lookouts.

Response 39: We disagree. There is no information currently available about daily or seasonal movement patterns of otters in Cook Inlet on which to base effective timing restrictions. Ship-based PSOs are limited in their ability to monitor sea otter behaviors, but this remains the most effective way to ensure the project activities will have the least practicable adverse impact on sea otters in Cook Inlet.

Comment 40: The Service cannot, as it has here, rely on a plan to make a plan to mitigate the impacts of the specified activities on sea otters. It also may not

rubberstamp the mitigation measures proposed by the applicant, but it must consider the practicality of other measures.

Response 40: The mitigation measures that have been developed for the project are developed based on the industry standards for seismic surveys, geotechnical work, pile driving, and other oil and gas work. The mitigation measures presented in the section on Mitigation and Monitoring and in this rule under § 18.137 Mitigation include the mitigation measures required by regulation and the full suite of marine mammal monitoring and mitigation measures for activities proposed by Hilcorp and Harvest, and are incorporated here by reference (Fairweather Science LLC 2018). The AGDC will be expected to implement similar measures and meet similar standards for monitoring. Although site-specific 4MP will be required for an applicant to obtain an LOA under this rule, the expectations for the content of these plans are well established and constitute substantially more than ''a plan to make a plan.''

Additionally we have added language to the section on Mitigation and Monitoring, and have summarized our assessment under Findings, *Least Practicable Adverse Impacts.* That language describes alternative mitigation measures that were considered and demonstrates why we determined that the selected mitigation will achieve the least practicable adverse impact of the proposed actions on sea otters. We have worked with Hilcorp, Harvest, and AGDC to incorporate these measures into their project plans as much as possible to ensure that these measures are practicable and will be implemented as intended. The mitigation measures required by this rule are therefore reflected in the application documents.

Comment 41: The Service should consider requiring alternative technologies to seismic surveys.

Response 41: We considered whether alternative technologies should be required. We added language to the section on Mitigation and Monitoring describing our evaluation.

Comment 42: The Service should require lowest practicable source levels for seismic surveys and in-situ sound source verification for accurate EZs.

Response 42: Hilcorp and Harvest have determined that the minimum source level necessary to provide the target data will be between 1,760 in^3 and 2,400 in^3. The anticipated seismic source is a 14-airgun array with a total volume of 1,945 in^3. We evaluated the possible effects on sea otters of the use of a 2,400 ci^3 array. We have included a requirement to use equipment that generates the lowest practicable source levels during seismic surveys. Onsite SSV testing will be conducted prior to 2D and (3D) seismic surveys. Mitigation measures (D) and (E) have been added to paragraph (b)(1)(ii) of § 18.137 Mitigation.

Comment 43: The Service should prescribe compensatory mitigation, such as habitat restoration, for the adverse impacts of the permitted activity on marine mammals and their habitat that cannot be prevented or mitigated by modifying the activity.

Response 43: Compensatory mitigation is not required under the MMPA. Mitigation measures must be specified that achieve the least practicable adverse impact of the action on sea otters in Cook Inlet. No effective or practicable compensatory mitigation efforts have been identified for sea otters in this area. We added this information to the discussion of mitigation measures considered but not required under the section on Mitigation and Monitoring.

Comment 44: Because sea otters may be sensitive to seismic surveys at the 160 dB threshold, or Level B take; the EZ should be extended and comprehensively monitored.

Response 44: The EZ is the area where work that generates noise above Level A thresholds in the frequency range audible to sea otters must shut down or power down when sea otters are present. The EZ is comprehensively monitored. Work may not begin when 100 percent of the EZ is not visible or until after a 30-minute observation period has confirmed no otters are present in the EZ. Shutting down or powering down sound sources in response to the presence of sea otters in the 160-dB zone (the SZ) would reduce take. However, the applicant has determined that shutting down or powering down sound sources in response to any sea otter in the 160-dB SZ would not be practicable for conducting the planned activities.

Comment 45: Projects should be shut down during periods of limited visibility.

Response 45: The applicant has indicated that it is not practicable to shut down during periods of low visibility and still complete the work. We recognize that this will limit the effectiveness of visual monitoring by PSOs and have accounted for this in our estimation of take.

Comment 46: Bubble curtains or other noise-reduction technologies should be explored for use in the proposed project, as well as non-pile-driven foundation types (*e.g.,* gravity-based, or suction caissons).

Response 46: The Service has determined that sound-attenuation devices and alternatives to pile-supported construction may be effective means for achieving the least practicable adverse impact of the specified activities. We have added evaluation of these tools on a project-by-project basis to the required mitigation measures of this rule. Each LOA will specify whether these tools will be required and what type will be used.

Comment 47: Vessel speed should be limited to 10 knots or less.

Response 47: Lowering vessel speed can reduce the risk of serious injury and mortality of marine mammals caused by ship strikes and can reduce ocean noise that can mask marine mammal communications. Requirements for vessels to reduce speed in the vicinity of sea otters or when visibility is limited are included in § 18.137, paragraphs (d)(3) and (d)(5).

National Environmental Policy Act (NEPA)

Comment 48: The draft EA is inadequate, and the Service must prepare a full environmental impact statement, and the draft EA fails to meet the requirements of NEPA.

Response 48: Section 1501.4(b) of NEPA, found at 40 CFR Chapter V, notes that, in determining whether to prepare an environmental impact statement (EIS), a Federal agency may prepare an EA and, based on the EA document, make a determination whether to prepare an EIS. The Department of the Interior's policy and procedures for compliance with NEPA (69 FR 10866, March 8, 2004) further affirms that the purpose of an EA is to allow the responsible official to determine whether to prepare an EIS or a FONSI. The Service analyzed the proposed activity, *i.e.,* issuance of implementing regulations, in accordance with the criteria of NEPA, and made a determination that it does not constitute a major Federal action significantly affecting the quality of the human environment. It should be noted that the Service does not authorize the actual oil and gas industry activities, as those activities are authorized by other State and Federal agencies. The Service merely authorizes the incidental take of sea otters resulting from those activities. We note that this ITR provides the Service with a means of interacting with the applicant through the mitigation, monitoring, and reporting requirements for individual projects to ensure that the impacts to sea otters are minimized. The ITR will authorize the nonlethal,

incidental take of only small numbers of sea otters, will have only a negligible impact on the species or stocks, and will not cause an unmitigable adverse impact on the availability of the species for subsistence use. As a result, we determined the regulations will not significantly affect the quality of the human environment and, therefore, a FONSI is appropriate. Accordingly, an EIS is not required under NEPA.

Comment 49: The EA is overly narrow in scope, fails to evaluate alternatives, and does not adequately evaluate the potential impacts of the action on the physical and biological environment.

Response 49: The Service believes the commenters misunderstand the requirements set forth in NEPA and the MMPA. The proposed action set forth in the EA is not activities proposed by Hilcorp, Harvest, and AGDC, but the issuance of incidental take authorization of sea otters. The Service believes we are in full compliance with both NEPA and the MMPA. We refer to our response to Comment 48 for an explanation of NEPA requirements and we refer to the Background section of the preamble of this rule for an explanation of MMPA requirements.

In addition to the proposed action, we analyzed the ''no action'' alternative. The Service believes the no action alternative is valid and is in compliance with relevant court rulings (see, for example, *Center for Biological Diversity* v. *Kempthorne,* 588 F.3d 701, 9th Cir. 2009). The action being considered is the issuance of the ITR. Therefore, the ''no action'' alternative would be not to issue an ITR. However, Section 101(a)(5)(A) of the MMPA specifies that the Secretary of the Interior (Secretary), through the Director of the Service, *shall* [emphasis added] allow the incidental, but not intentional, taking of small numbers of marine mammals in response to requests by U.S. citizens engaged in a specified activity (other than commercial fishing) in a specified geographic region if the Secretary finds that the total of such taking will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. Therefore, if a citizen petitions the Service to promulgate regulations, we are required to initiate the process and make the appropriate findings. If there is no request for an ITR, there would be no need for any analysis, including alternatives.

Comment 50: The Service's cumulative impacts analysis is deficient. The indirect and cumulative impacts of greenhouse gas pollution from operations and downstream consumption of fossil fuels must be analyzed, and effects of ocean warming and acidification must be considered.

Response 50: The Service has considered the effects of climate change in our assessment of cumulative impacts. We considered the best available information regarding potential impacts of climate change and analyzed all relevant direct, indirect, and cumulative effects on sea otters, and their habitat, potentially caused by the specified activities in the Cook Inlet region during the 5-year period of this ITR. The level of analysis the commenters suggest is beyond the scope appropriate for this ITR. We do consider broader questions about climate change and how it may cause additive stress on sea otter populations over the long term generally in the EA. The Service finds that, while greenhouse gas emissions are clearly contributing to climate change, the comprehensive authority to regulate those emissions is not found in the statutes that govern the management of marine mammals. The challenge posed by climate change and its ultimate solution is much broader than the scope and scale of this ITR and EA.

ESA

Comment 51: The Service must comply with the Endangered Species Act.

Response 51: As required by section 7 of the ESA the Service has completed an intra-Service consultation under the ESA for the listed stock of sea otters and their critical habitat prior to promulgating this ITR.

Oil Spill Risks and Effects

Comment 52: The project activities present an unacceptable risk of oil spills especially considering Hilcorp's aging infrastructure and poor record of safety and environmental compliance.

Response 52: We acknowledge that an oil spill is a possible outcome of the specified activities in Cook Inlet, and for this reason we have discussed potential spills and their impacts to sea otters (see Potential Impacts from an Oil Spill or Unpermitted Discharge). It is beyond the authority of the Service and the MMPA to regulate potential accidental discharge into the environment. Waste product discharge into the environment is regulated under other laws and permits, such as provisions of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and the Oil Pollution Act (33 U.S.C. 2701 *et seq.*), among others. However, we have considered the likelihood of spills resulting from the activities in Cook Inlet, and have determined that there is a low probability of a major spill. Small spills are more likely, but we have determined that, should they occur, they will likely affect only a small number of sea otters, will have a negligible impact on these stocks, and will not have an unmitigable adverse impact on their availability for subsistence uses.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared an EA in accordance with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that issuance of an ITR for the nonlethal, incidental, unintentional take by harassment of small numbers of sea otters in Alaska during activities conducted by Hilcorp, Harvest, and AGDC in 2019 to 2024 is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the NEPA. A copy of the EA and the Service's FONSI can be obtained from the locations described in **ADDRESSES**.

Endangered Species Act (ESA)

Under the ESA, all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. The southwest DPS of sea otters is listed as threatened under the ESA at 50 CFR 17.11(h) (70 FR 46366, August 9, 2005). The planned activities will occur within designated critical habitat found at 50 CFR 17.95(a). Prior to issuance of this final ITR, we completed an intra-Service consultation under section 7 of the ESA on our proposed issuance of an ITR. The evaluations and findings that resulted from this consultation are available on the Service's website and at *https://www.regulations.gov.*

Regulatory Planning and Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules for a determination of significance. OMB has designated this rule as not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility

and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

OIRA bases its determination of significance upon the following four criteria: (a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government; (b) Whether the rule will create inconsistencies with other Federal agencies' actions; (c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients; (d) Whether the rule raises novel legal or policy issues.

Expenses will be related to, but not necessarily limited to: The development of applications for LOAs; monitoring, recordkeeping, and reporting activities conducted during oil and gas operations; development of activity- and species-specific marine mammal monitoring and mitigation plans; and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Realistically, costs of compliance with this rule are minimal in comparison to those related to actual oil and gas exploration, development, production, and transport operations. The actual costs to develop the petition for promulgation of regulations and LOA requests probably do not exceed $200,000 per year, short of the ''major rule'' threshold that would require preparation of a regulatory impact analysis. As is presently the case, profits will accrue to the applicant; royalties and taxes will accrue to the Government; and the rule will have little or no impact on decisions by the applicant to relinquish tracts and write off bonus payments.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

We have determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Hilcorp, Harvest, AGDC, and their contractors conducting exploration, development, production, and transportation of oil and gas in Cook Inlet, Alaska, are the only entities subject to this ITR. Therefore, neither a Regulatory Flexibility Analysis nor a Small Entity Compliance Guide is required.

Takings Implications

This rule does not have takings implications under Executive Order 12630 because it authorizes the nonlethal, incidental, but not intentional, take of sea otters by oil and gas industry companies and, thereby, exempts these companies from civil and criminal liability as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132. The MMPA gives the Service the authority and responsibility to protect sea otters.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. This rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Government-to-Government Relationship With Native American Tribal Governments

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native tribes and corporations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by the following policies and directives: (1) The Native American Policy of the Service (January 20, 2016); (2) the Alaska Native Relations Policy (currently in draft form); (3) Executive Order 13175 (January 9, 2000); (4) Department of the Interior Secretarial Orders 3206 (June 5, 1997), 3225 (January 19, 2001), 3317 (December 1, 2011), and 3342 (October 21, 2016); (5) the Alaska Government-to-Government Policy (a departmental memorandum issued January 18, 2001); and (6) the Department of the Interior's policies on consultation with Alaska Native tribes and organizations.

We have evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and corporations. Through the ITR process identified in the MMPA, the applicant has presented a communication process, culminating in a POC if needed, with the Native organizations and communities most likely to be affected by their work. The applicant has engaged these groups in informational communications. We invited continued discussion about the proposed ITR.

We received a request for Government-to-Government consultation on this ITR from the Chickaloon Village Traditional Council (CVTC). When the CVTC and the Service were not able to schedule a time and place suitable to both parties to conduct the consultation, the CVTC chose to provide written comments to the Service expressing their views on the ITR. We have responded to their comments under Summary of and Response to Comments and Recommendations and will continue to engage with CVTC to determine whether further consultation is desired.

Civil Justice Reform

The Departmental Solicitor's Office has determined that this regulation does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This rule includes a revision to an existing information collection. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The OMB previously reviewed and approved the information collection requirements associated with incidental take of marine mammals in the Beaufort and Chukchi Seas and assigned OMB Control Number 1018–0070 (expires July 31, 2020).

The revised requirements reporting and/or recordkeeping requirements identified below were approved by OMB:

(1) Remove references to 50 CFR 18 subpart I (expired); and

(2) Add references to 50 CFR 18 subpart K.

Title of Collection: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR 18, Subparts J and K.

OMB Control Number: 1018–0070.

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Oil and gas industry representatives, including applicants for ITRs and LOAs, operations managers, and environmental compliance personnel.

Total Estimated Number of Annual Respondents: 84.

Total Estimated Number of Annual Responses: 356.

Estimated Completion Time per Response: Varies from 1.5 hours to 150 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,800.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: $200,000.

You may send comments on any aspect of this information collection to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: JAO/1N, Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–BD63/0070 in the subject line of your comments

Energy Effects

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule provides exceptions from the taking prohibitions of the MMPA for entities engaged in the exploration of oil and gas in Cook Inlet, Alaska. By providing certainty regarding compliance with the MMPA, this rule will have a positive effect on the oil and gas industry and its activities. Although the rule requires an applicant to take a number of actions, these actions have been undertaken as part of oil and gas industry operations for many years as part of similar past regulations in Alaska. Therefore, this rule is not expected to significantly affect energy supplies, distribution, or use and does not constitute a significant energy action. No Statement of Energy Effects is required.

References

For a list of the references cited in this rule, see Docket No. FWS–R7–ES–2019–0012, available at *https://www.regulations.gov.*

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons set forth in the preamble, the Service amends part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

■ 1. The authority citation of 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Add subpart K to read as follows:

Subpart K—Nonlethal Taking of Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska

Sec.
18.130 Specified activities covered by this subpart.
18.131 Specified geographic region where this subpart applies.
18.132 Dates this subpart is in effect.
18.133 Authorized take allowed under a Letter of Authorization (LOA).
18.134 Procedure to obtain a Letter of Authorization (LOA).
18.135 How the Service will evaluate a request for a Letter of Authorization (LOA).
18.136 Prohibited take under a Letter of Authorization (LOA).
18.137 Mitigation.
18.138 Monitoring.
18.139 Reporting requirements.
18.140 Measures to reduce impacts to subsistence users.
18.141 Information collection requirements.

Subpart K—Nonlethal Taking of Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska

§ 18.130 Specified activities covered by this subpart.

Regulations in this subpart apply to the nonlethal incidental, but not intentional, take, as defined in 50 CFR 18.3 and under the Marine Mammal Protection Act (16 U.S.C. 1362), of small numbers of northern sea otters (*Enhydra lutris kenyoni;* hereafter ''otter,'' ''otters,'' or ''sea otters'') by Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation while engaged in activities associated with or in support of oil and gas exploration, development, production, and transportation in Cook Inlet, Alaska.

§ 18.131 Specified geographic region where this subpart applies.

(a) The specified geographic region is Cook Inlet, Alaska, south of a line from the Susitna River Delta to Point Possession (approximately 61°15′54″ N, 150°41′07″ W, to 61°02′19″ N, 150°23′48″ W, WGS 1984) and north of a line from Rocky Cove to Coal Cove (approximately 59°25′56″ N, 153°44′25″ W and 59°23′48″ N, 151°54′28″ W, WGS 1984), excluding Ursus Cove, Iniskin Bay, Iliamna Bay, and Tuxedni Bay.

(b) The geographic area of this incidental take regulation (ITR) includes all Alaska State waters and Outer Continental Shelf Federal waters within this area as well as all adjacent rivers, estuaries, and coastal lands where sea otters may occur, except for those areas explicitly excluded in paragraph (a) of this section.

(c) Map of the Cook Inlet ITR region follows:

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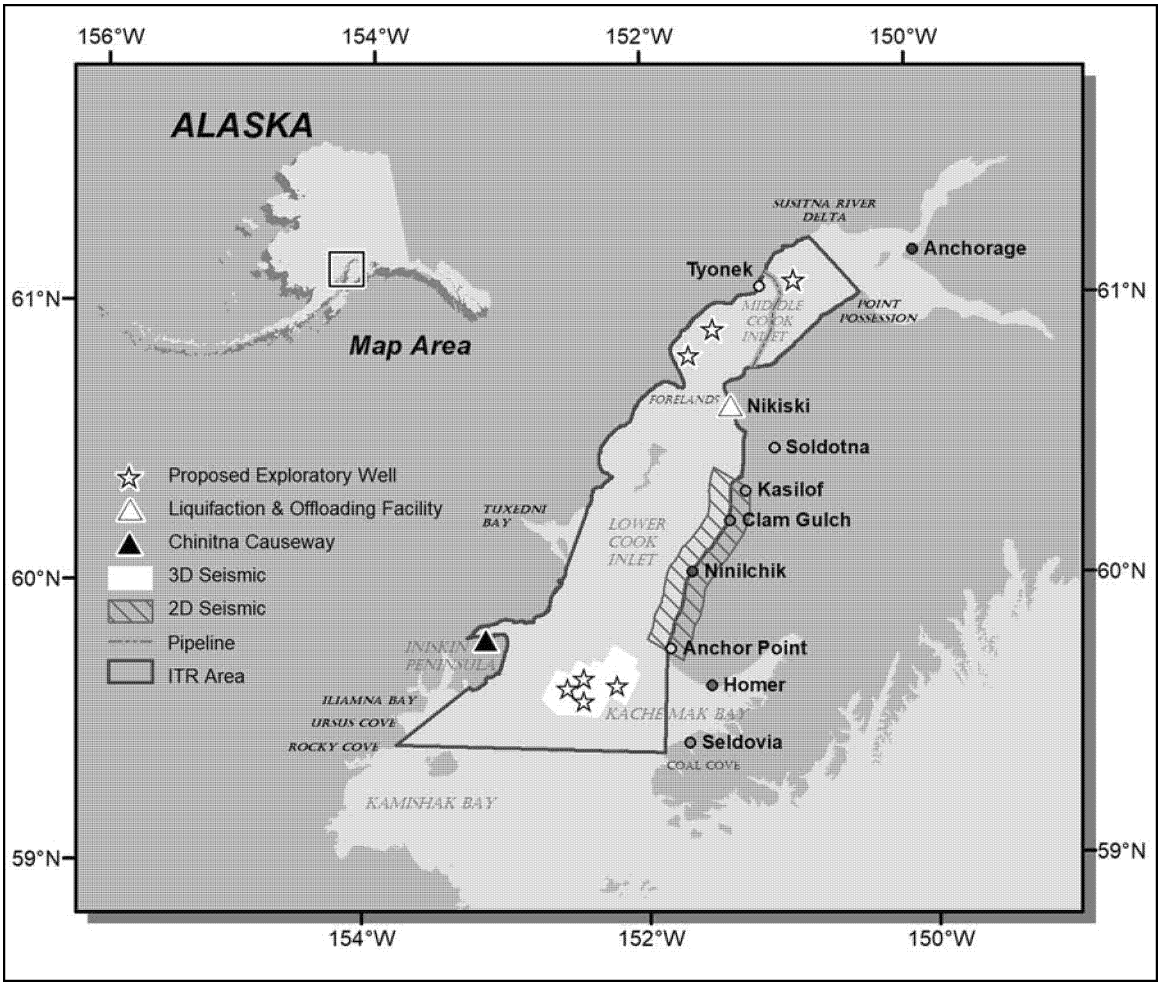

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§ 18.132 Dates this subpart is in effect.

Regulations in this subpart are effective from August 1, 2019, to August 1, 2024.

§ 18.133 Authorized take allowed under a Letter of Authorization (LOA).

(a) To incidentally take marine mammals pursuant to the regulations in this subpart,, Hilcorp Alaska, LLC, Harvest Alaska, LLC, or the Alaska Gasline Development Corporation (hereafter ''the applicant'') must apply for and obtain an LOA in accordance with §§ 18.27(f) and 18.134. The applicant is a U.S. citizen as defined in § 18.27(c).

(b) An LOA allows for the nonlethal, incidental, but not intentional take by harassment of sea otters during activities specified in § 18.130 within the Cook Inlet ITR region described in § 18.131.

(c) Each LOA will set forth:

(1) Permissible methods of incidental take;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(d) Issuance of the LOA(s) must be based on a determination that the level of take will be consistent with the findings made for the total allowable take under these regulations in this subpart.

§ 18.134 Procedure to obtain a Letter of Authorization (LOA).

(a) The applicant must submit the request for authorization to the U.S. Fish and Wildlife Service (Service) Alaska Region Marine Mammals Management Office (MMM), MS 341, 1011 East Tudor Road, Anchorage, Alaska, 99503, at least 90 days prior to the start of the proposed activity.

(b) The request for an LOA must comply with the requirements set forth in §§ 18.137 through 18.139 and must include the following information:

(1) A plan of operations that describes in detail the proposed activity (type of project, methods, and types and numbers of equipment and personnel, etc.), the dates and duration of the activity, and the specific locations of and areas affected by the activity. Changes to the proposed project without prior authorization may invalidate an LOA.

(2) A site-specific marine mammal monitoring and mitigation plan to monitor and mitigate the effects of the activity on sea otters.

(3) An assessment of potential effects of the proposed activity on subsistence hunting of sea otters.

(i) The applicant must communicate with potentially affected subsistence communities along the Cook Inlet coast and appropriate subsistence user organizations to discuss the location, timing, and methods of proposed activities and identify any potential conflicts with subsistence hunting activities.

(ii) The applicant must specifically inquire of relevant communities and organizations if the proposed activity will interfere with the availability of sea otters for the subsistence use of those groups.

(iii) The applicant must include documentation of consultations with potentially affected user groups.

Documentation must include a list of persons contacted, a summary of input received, any concerns identified by community members and hunter organizations, and the applicant's responses to identified concerns.

(iv) If any concerns regarding effects of the activity on sea otter subsistence harvest are identified, the applicant will provide to the Service a Plan of Cooperation (POC) with specific steps for addressing those concerns, including a schedule for ongoing community engagement and suggested measures that will be implemented to mitigate any potential conflicts with subsistence hunting.

§ 18.135 How the Service will evaluate a request for a Letter of Authorization (LOA).

(a) The Service will evaluate each request for an LOA to determine if the proposed activity is consistent with the analysis and findings made for these regulations. Depending on the results of the evaluation, we may grant the authorization, add further conditions, or deny the authorization.

(b) Once issued, the Service may withdraw or suspend an LOA if the project activity is modified in a way that undermines the results of the previous evaluation, if the conditions of the regulations in this subpart are not being substantially complied with, or if the taking allowed is or may be having more than a negligible impact on the affected stock of sea otters or an unmitigable adverse impact on the availability of sea otters for subsistence uses.

(c) The Service will make decisions concerning withdrawals of an LOA, either on an individual or class basis, only after notice and opportunity for public comment in accordance with § 18.27(f)(5). The requirement for notice and public comment will not apply should we determine that an emergency exists that poses a significant risk to the well-being of the species or stocks of sea otters.

§ 18.136 Prohibited take under a Letter of Authorization (LOA).

(a) Except as otherwise provided in this subpart, prohibited taking is described in § 18.11 as well as: Intentional take, lethal incidental take of sea otters, and any take that fails to comply with this subpart or with the terms and conditions of an LOA.

(b) If project activities cause unauthorized take, the applicant must take the following actions:

(1) Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety) and report the details of the incident to the Service MMM within 48 hours; and

(2) Suspend further activities until the Service has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the applicant that it may resume project activities.

§ 18.137 Mitigation.

(a) *Mitigation measures for all LOAs.* The applicant, including all personnel operating under the applicant's authority (or ''operators,'' including contractors, subcontractors, and representatives) must undertake the following activities to avoid and minimize take of sea otters by harassment.

(1) Implement policies and procedures to avoid interactions with and minimize to the greatest extent practicable adverse impacts on sea otters, their habitat, and the availability of these marine mammals for subsistence uses.

(2) Develop avoidance and minimization policies and procedures, in cooperation with the Service, that include temporal or spatial activity restrictions to be used in response to the presence of sea otters engaged in a biologically significant activity (*e.g.,* resting, feeding, hauling out, mating, or nursing).

(3) Cooperate with the Service's MMM Office and other designated Federal, State, and local agencies to monitor and mitigate the impacts of oil and gas industry activities on sea otters.

(4) Allow Service personnel or the Service's designated representative to board project vessels or visit project work sites for the purpose of monitoring impacts to sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so.

(5) Designate trained and qualified protected species observers (PSOs) to monitor for the presence of sea otters, initiate mitigation measures, and monitor, record, and report the effects of the activities on sea otters. The applicant is responsible for providing training to PSOs to carry out mitigation and monitoring.

(6) Have an approved mitigation and monitoring plan on file with the Service MMM and onsite that includes the following information:

(i) The type of activity and where and when the activity will occur (*i.e.,* a summary of the plan of operation);

(ii) Personnel training policies, procedures, and materials;

(iii) Site-specific sea otter interaction risk evaluation and mitigation measures;

(iv) Sea otter avoidance and encounter procedures; and

(v) Sea otter observation and reporting procedures.

(7) Contact affected subsistence communities and hunter organizations to identify any potential conflicts that may be caused by the proposed activities and provide the Service documentation of communications as described in § 18.134.

(b) *Mitigation measures for in-water noise-generating work.* The applicant must carry out the following measures:

(1) *Mitigation zones.* Establish mitigation zones for project activities that generate underwater sound levels ≥160 decibels (dB) between 125 hertz (Hz) and 38 kilohertz (kHz) (hereafter ''noise-generating work'').

(i) All dB levels are referenced to 1 μPa for underwater sound. All dB levels herein are dB_{RMS} unless otherwise noted; dB_{RMS} refers to the root-mean-squared dB level, the square root of the average of the squared sound pressure level, typically measured over 1 second.

(ii) Mitigation zones must include all in-water areas where work-related sound received by sea otters will match the levels and frequencies in paragraph (b)(1) of this section. Mitigation zones will be designated as follows:

(A) An Exclusion Zone (EZ) will be established throughout all areas where sea otters may be exposed to sound levels capable of causing Level A take as shown in the table in paragraph (b)(1)(iii) of this section.

(B) The Safety Zone (SZ) is an area larger than the EZ and will include all areas within which sea otters may be exposed to noise levels that will likely result in Level B take as shown in the table in paragraph (b)(1)(iii) of this section.

(C) Both the EZ and SZ will be centered on the sound source. The method of estimation and minimum radius of each zone will be specified in any LOA issued under § 18.135 and will be based on onsite sound source verification (SSV), if available, or the best available science.

(D) Onsite SSV testing will be conducted prior to two-dimensional (2D) and three-dimensional (3D) seismic surveys.

(E) Seismic surveys (2D and 3D) must be conducted using equipment that generates the lowest practicable levels of underwater sound within the range of frequencies audible to sea otters.

(iii) Summary of acoustic exposure thresholds for take of sea otters from underwater sound in the frequency range 125 Hz–38 kHz:

TABLE 1 TO § 18.137(b)(1)(iii)

Marine mammals	Injury (Level A) threshold [1]		Disturbance (Level B) threshold
	Impulsive	Non-impulsive	All
Sea otters	232 dB peak; 203 dB SEL_{CUM}	219 dB SEL_{CUM}	160 dB_{RMS}.

[1] Based on acoustic criteria for otariid pinnipeds from the National Marine Fisheries Service. Sound source types are separated into impulsive (*e.g.,* seismic, pipe driving, sub-bottom profiler) and non-impulsive (drilling, water jet) and require estimation of the distance to the peak received sound pressure level (peak) and 24-hr cumulative sound exposure level (SEL_{CUM}).

(2) *Monitoring.* Designate trained and qualified PSOs or ''observers'' to monitor for the presence of sea otters in mitigation zones, initiate mitigation measures, and record and report the effects of project work on otters for all noise-generating work.

(3) *Mitigation measures for sea otters in mitigation zones.* The following actions will be taken in response to otters in mitigation zones:

(i) Sea otters that are under no visible distress within the SZ must be monitored continuously. Power down, shut down, or maneuver away from the sea otter if practicable to reduce sound received by the animal. Maintain 100-m (301-ft) separation distance whenever possible. Exposures in this zone are counted as one Level B take per animal per day.

(ii) When sea otters are observed within or approaching the EZ, noise-generating work as defined in paragraph (b)(1) of this section must be immediately shut down or powered down to reduce the size of the zone sufficiently to exclude the animal from the zone. Vessel speed or course may be altered to achieve the same task. Exposures in this zone are counted as one Level A take per animal per day.

(iii) When sea otters are observed in visible distress (for example, vocalizing, repeatedly spy-hopping, or fleeing), noise-generating work as defined in paragraph (b)(1) of this section must be immediately shut down or powered down to reduce the size of the zone sufficiently to exclude the animal from the zone.

(iv) Following a shutdown, the noise-generating activity will not resume until the sea otter has cleared the EZ. The animal will be considered to have cleared the EZ if it is visually observed to have left the EZ or has not been seen within the EZ for 30 minutes or longer.

(4) *Ramp-up procedures.* Prior to noise-generating work, a ''ramp-up'' procedure must be used to increase the levels of underwater sound from noise-generating work at a gradual rate.

(i) *Seismic surveys:* A ramp-up will be used at the initial start of airgun operations and prior to restarting after any period greater than 10 minutes without airgun operations, including a power-down or shutdown event (described in paragraphs (b)(6) and (7) of this section). During geophysical work, the number and total volume of airguns will be increased incrementally until the full volume is achieved. The rate of ramp-up will be no more than 6 dB per 5-minute period. Ramp-up will begin with the smallest gun in the array that is being used for all airgun array configurations. During the ramp-up, the applicable mitigation zones (based on type of airgun and sound levels produced) must be maintained. It will not be permissible to ramp up the full array from a complete shutdown in thick fog or at other times when the outer part of the EZ is not visible. Ramp-up of the airguns will not be initiated if a sea otter is sighted within the EZ at any time.

(ii) *Pile/pipe driving:* A ramp-up of the hammering will precede each day's pipe/pile driving activities or if pipe/pile driving has ceased for more than 1 hour. The EZ will be determined clear of sea otters 30 minutes prior to a ramp-up to ensure no sea otters are within or entering the EZ. Initial hammering starts will not begin during periods of poor visibility (*e.g.,* night, fog, wind) when the entire EZ is not visible. The ramp-up procedure for impact hammers involves initially starting with three soft strikes at 40 percent energy, followed by a 1-minute waiting period followed by two subsequent three-strike sets. For vibratory hammers, initial noise generation will be limited to 15 seconds at a reduced energy level, followed by a 1-minute waiting period. This cycle will be repeated two additional times. Monitoring will occur during all hammering sessions.

(iii) *All activities:* Any shutdown due to sea otters sighted within the EZ must be followed by a 30-minute all-clear period and then a standard full ramp-up. Any shutdown for other reasons resulting in the cessation of the sound source for a period greater than 30 minutes must also be followed by full ramp-up procedures. If otters are observed during a ramp-up effort or prior to startup, a PSO must record the observation and monitor the animal's position until it moves out of visual range. Noise-generating work may commence if, after a full and gradual effort to ramp up the underwater sound level, the otter is outside of the EZ and does not show signs of visible distress (for example, vocalizing, repeatedly spy-hopping, or fleeing).

(5) *Startup procedures.* (i) Visual monitoring must begin at least 30 minutes prior to, and continue throughout, ramp-up efforts.

(ii) Visual monitoring must continue during all noise-generating work occurring in daylight hours.

(6) *Power-down procedures.* A power-down procedure involves reducing the volume of underwater sound generated to prevent an otter from entering the EZ.

(i) Whenever a sea otter is detected outside the EZ and, based on its position and motion relative to the noise-generating work, appears likely to enter the EZ but has not yet done so, operators may reduce power to noise-generating equipment as an alternative to a shutdown.

(ii) Whenever a sea otter is detected in the SZ, an operator may power down when practicable to reduce Level B take.

(iii) During a power-down of seismic work, the number of airguns in use may be reduced, such that the EZ is reduced, making the sea otters unlikely to enter the EZ. A mitigation airgun (airgun of small volume such as the 10-in^3 gun) will be operated continuously during a power-down of seismic work.

(iv) After a power-down, noise-generating work will not resume until the sea otter has cleared the applicable EZ. The animal will be considered to have cleared the applicable zone if it is visually observed to have left the EZ and has not been seen within the zone for 30 minutes.

(7) *Shutdown procedure.* A shutdown occurs when all noise-generating work is suspended.

(i) Noise-generating work will be shut down completely if a sea otter enters the EZ.

(ii) The shutdown procedure will be accomplished within several seconds of the determination that a sea otter is either in or about to enter the EZ or as

soon as practicable considering worker safety and equipment integrity.

(iii) Noise-generating work will not proceed until all sea otters have cleared the EZ and the PSOs on duty are confident that no sea otters remain within the EZ. An otter will be considered to have cleared the EZ if it is visually observed to have left the EZ or has not been seen within the zone for 30 minutes.

(iv) Visual monitoring must continue for 30 minutes after use of the acoustic source ceases or the sun sets, whichever is later.

(8) *Emergency shutdown.* If observations are made or credible reports are received that one or more sea otters are within the area of noise-generating work and are indicating acute distress associated with the work, such as any injury due to seismic noise or persistent vocalizations indicating separation of mother from pup, the work will be immediately shut down and the Service contacted. Work will not be restarted until review and approval by the Service.

(9) To ensure the proposed activities remain consistent with the estimated take of sea otters, operators may not conduct 3D seismic surveys where doing so will generate underwater noise levels that are likely to exceed acoustic exposure thresholds within areas of estimated sea otter densities greater than 0.026 otters per km. Maps of the areas will be provided to 3D seismic operators and may be adjusted based on SSV results. This does not apply to 2D seismic surveys.

(c) *Mitigation for all in-water construction and demolition activity.* (1) The applicant must implement a minimum EZ of a 10-m radius around the in-water construction and demolition. If a sea otter comes within or approaches the EZ, such operations must cease. A larger EZ may be required for some activities, such as blasting, and will be specified in the LOA.

(2) All work in intertidal areas shall be conducted during low tide when the site is dewatered to the maximum extent practicable.

(3) The applicant must evaluate alternatives to pile-supported facilities. If no practicable alternative exists, the applicant must then evaluate the use of sound-attenuation devices such as pile caps and cushions, bubble curtains, and dewatered cofferdams during construction. The Service may require sound-attenuation devices or alternatives to pile-supported designs.

(d) *Measures for vessel-based activities.* (1) Vessel operators must take every precaution to avoid harassment of sea otters when a vessel is operating near these animals.

(2) Vessels must remain at least 500 m from rafts of otters unless safety is a factor.

(3) Vessels must reduce speed and maintain a distance of 100 m (328 ft) from all sea otters unless safety is a factor.

(4) Vessels must not be operated in such a way as to separate members of a group of sea otters from other members of the group.

(5) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to avoid the likelihood of injury to sea otters.

(6) Vessels in transit and support vessels must use established navigation channels or commonly recognized vessel traffic corridors, and must avoid alongshore travel in shallow water (<20 m) whenever practicable.

(7) All vessels must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.

(8) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in paragraphs (d)(1) through (7) of this section.

(e) *Mitigation measures for aircraft activities.* (1) Aircraft must maintain a minimum altitude of 305 m (1,000 ft) to avoid unnecessary harassment of sea otters, except during takeoff and landing, and when a lower flight altitude is necessary for safety due to weather or restricted visibility.

(2) Aircraft must not be operated in such a way as to separate members of a group of sea otters from other members of the group.

(3) All aircraft must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.

(4) Unmanned aerial systems or drones must not cause take by harassment of sea otters. Measures for avoidance of take may be required in an LOA, and may include maintaining a minimum altitude and horizontal distance no less than 100 m away from otters, conducting continuous visual monitoring by PSOs, and ceasing activities in response to sea otter behaviors indicating any reaction to drones.

§ 18.138 Monitoring.

(a) Operators shall work with PSOs to apply mitigation measures, and shall recognize the authority of PSOs, up to and including stopping work, except where doing so poses a significant safety risk to personnel.

(b) Duties of PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(c) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of EZs during all daytime periods of underwater noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of approximately 12 hours on watch per day per PSO.

(d) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available for the Service to review.

(e) Observers will be provided with reticule binoculars (10x42), big-eye binoculars or spotting scopes (30x), inclinometers, and range finders. Field guides, instructional handbooks, maps and a contact list will also be made available.

(f) Observers will collect data using the following procedures:

(1) All data will be recorded onto a field form or database.

(2) Global positioning system data, sea state, wind force, and weather will be collected at the beginning and end of a monitoring period, every hour in between, at the change of an observer, and upon sightings of sea otters.

(3) Observation records of sea otters will include date; time; the observer's locations, heading, and speed (if moving); weather; visibility; number of animals; group size and composition (adults/juveniles); and the location of the animals (or distance and direction from the observer).

(4) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and underwater sound levels being generated, the position of sea otters relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

(5) For all otters in or near a mitigation zone, observers will record the distance from the vessel to the sea otter upon initial observation, the

duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

(6) Observers will note any instances of animals lingering close to or traveling with vessels for prolonged periods of time.

§ 18.139 Reporting requirements.

(a) Operators must notify the Service at least 48 hours prior to commencement of activities.

(b) Weekly reports will be submitted to the Service during in-water seismic activities. The reports will summarize project activities, monitoring efforts conducted by PSOs, the number of sea otters detected, the number exposed to sound levels greater than 160 dB, SSV results, and descriptions of all behavioral reactions of sea otters to project activities.

(c) Monthly reports will be submitted to the Service MMM for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information: Dates, times, weather, and sea conditions (including Cook Inlet marine state and wind force) when sea otters were sighted; the number, location, distance from the sound source, and behavior of the otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the otters exhibited in response to mitigation.

(d) A final report will be submitted to the Service within 90 days after the expiration of each LOA. It will include the following items:

(1) Summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the Service, the daily monitoring logs).

(2) All project activities will be described, along with any additional work yet to be done. Factors influencing visibility and detectability of marine mammals (*e.g.,* sea state, number of observers, and fog and glare) will be discussed.

(3) The report will also address factors affecting the presence and distribution of sea otters (*e.g.,* weather, sea state, and project activities). An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to 160 dB (based on visual observation).

(4) The report will describe changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

(5) It will provide a discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the Service in the form of electronic database or spreadsheet files.

(6) The report will also evaluate the effectiveness of the POC (if applicable) for preventing impacts to subsistence users of sea otters, and it will assess any effects the operations may have had on the availability of sea otters for subsistence harvest.

(e) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov.*

(f) Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.,* animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the Service within 24 hours of the discovery to either the Service MMM (1–800–362–5148, business hours); or the Alaska SeaLife Center in Seward (1–888–774–7325, 24 hours a day); or both. Photographs, video, location information, or any other available documentation shall be provided to the Service.

(g) Operators must notify the Service upon project completion or end of the work season.

§ 18.140 Measures to reduce impacts to subsistence users.

(a) Prior to conducting the work, the applicant will take the following steps to reduce potential effects on subsistence harvest of sea otters:

(1) Avoid work in areas of known sea otter subsistence harvest;

(2) Discuss the planned activities with subsistence stakeholders including Cook Inlet villages, traditional councils, and the Cook Inlet Regional Citizens Advisory Council;

(3) Identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and

(b) If any unresolved or ongoing concerns remain, develop a POC in consultation with the Service and subsistence stakeholders to address these concerns. The POC must include a schedule for ongoing community engagement and specific measures for mitigating any potential conflicts with subsistence hunting.

§ 18.141 Information collection requirements.

(a) We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has approved the collection of information contained in this subpart and assigned OMB control number 1018–0070. The applicant must respond to this information collection request to obtain a benefit pursuant to section 101(a)(5) of the Marine Mammal Protection Act. We will use the information to:

(1) Evaluate the application and determine whether or not to issue specific LOAs; and

(2) Monitor impacts of activities and effectiveness of mitigation measures conducted under the LOAs.

(b) Comments regarding the burden estimate or any other aspect of this requirement must be submitted to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed in 50 CFR part 2.1.

Dated: July 18, 2019.

Karen Budd-Falen,

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

[FR Doc. 2019–16279 Filed 7–26–19; 4:15 pm]

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CFR PARTS AFFECTED DURING AUGUST

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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