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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 351

RIN 3064–AE67

Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds; Corrections

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule; correcting amendments.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is correcting a final rule that appeared in the **Federal Register** on Thursday, November 14, 2019, regarding Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds. These corrections are necessary to standardize the language in the FDIC regulations with the other agencies' regulations.

DATES: Effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Bobby R. Bean, Associate Director, *bbean@fdic.gov,* Andrew D. Carayiannis, Senior Policy Analyst, *acarayiannis@fdic.gov,* or Brian Cox, Senior Policy Analyst, *brcox@fdic.gov,* Capital Markets Branch, (202) 898–6888; Michael B. Phillips, Counsel, *mphillips@fdic.gov,* or Benjamin J. Klein, Counsel, *bklein@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On November 14, 2019, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), FDIC, Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC) (collectively, the agencies) published a final rule, Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds.[1] The final rule adopted amendments to the regulations implementing section 13 of the Bank Holding Company Act, which contains certain restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. The FDIC wishes to make certain corrections to its final rule text in order to maintain consistency among the agencies.

For the reasons set out in the preamble and in this document, in FR Doc. 2019–22695, appearing on page 61974 in the **Federal Register** of Thursday, November 14, 2019, the following corrections are made:

§ 351.5 [Corrected]

■ 1. On page 62171, in the first column, in part 351, in amendment 35, the instruction ''Section 351.5 is amended by revising paragraphs (b) and (c)(1) and adding paragraph (c)(4) to read as follows:'' is corrected to read as follows: ''Section 351.5 is amended by revising paragraphs (b) and (c)(1) introductory text and adding paragraph (c)(4) to read as follows:''

■ 2. On page 62171, in the first column, in § 351.5, in paragraph (b), ''* * *'' is corrected to read ''*Requirements.*''

Dated on November 26, 2019.

Federal Deposit Insurance Corporation.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–26066 Filed 12–2–19; 8:45 am]

BILLING CODE 6714–01–P

[1] 84 FR 61974 (Nov. 14, 2019).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0669; Product Identifier 2019–NM–091–AD; Amendment 39–19802; AD 2019–23–08]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–03–19, which applied to all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. AD 2019–03–19 required a functional check of certain fuel probes, and replacement with a serviceable part if necessary. This AD continues to require a functional check of certain fuel probes, and replacement with a serviceable part if necessary. This AD also revises the definition of a ''serviceable part.'' This AD was prompted by reports that certain fuel probes indicated misleading fuel quantities on the engine indicating and crew alerting system (EICAS). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 7, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 2, 2019 (84 FR 6062, February 26, 2019).

ADDRESSES: For service information identified in this final rule, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* internet *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for

and locating Docket No. FAA–2019–0669.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0669; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

SUPPLEMENTARY INFORMATION:

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD 2018–0187R1, dated May 10, 2019 (''EASA AD 2018–0187R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0669.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–03–19, Amendment 39–19571 (84 FR 6062, February 26, 2019) (''AD 2019–03–19''). AD 2019–03–19 applied to all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on September 12, 2019 (84 FR 48083). The NPRM was prompted by reports that certain fuel probes indicated misleading fuel quantities on the EICAS. The NPRM proposed to continue to require a functional check of certain fuel probes, and replacement with a serviceable part if necessary. The NPRM also proposed to revise the definition of a ''serviceable part.'' The FAA is issuing this AD to address deteriorated capacity of the fuel probes, which could lead to incorrect fuel reading, possibly resulting in fuel starvation and uncommanded engine in-flight shutdown, and consequent reduced control of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Change Made to Paragraph (g) of This AD

Based on a recommendation by Office of the Federal Register (OFR), the FAA has revised paragraph (g)(2) of this AD to only include the new definition of a ''serviceable part,'' which has been changed from the definition used in AD 2019–03–19. Paragraph (g)(2) of the proposed AD included an explanation that operators who have already complied with the requirements of paragraph (i) of this AD before the effective date of this AD using the previous definition of a ''serviceable part'' do not need to redo the replacement specified in paragraph (i) of this AD using the new definition of a serviceable part. The FAA has removed that information from paragraph (g)(2) of this AD and added that information to note 1 to paragraph (g)(2) of this AD. The intent of that information has not changed.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

This AD requires Saab Service Bulletin 2000–28–028, dated April 19, 2018, which the Director of the Federal Register approved for incorporation by reference as of April 2, 2019 (84 FR 6062, February 26, 2019). This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 8 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2019–03–19	8 work-hours × $85 per hour = $680	$0	$680	$5,440

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$6,295	$6,465

The new definition of a ''serviceable part'' specified in this AD adds no additional economic burden.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2019–03–19, Amendment 39–19571 (84 FR 6062, February 26, 2019), and adding the following new AD:

2019–23–08 Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Amendment 39–19802; Docket No. FAA–2019–0669; Product Identifier 2019–NM–091–AD.

(a) Effective Date

This AD is effective January 7, 2020.

(b) Affected ADs

This AD replaces AD 2019–03–19, Amendment 39–19571 (84 FR 6062, February 26, 2019) (''AD 2019–03–19'').

(c) Applicability

This AD applies to all Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems) Model SAAB 2000 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by reports that certain fuel probes indicated misleading fuel quantities on the engine indicating and crew alerting system (EICAS). The FAA is issuing this AD to address deteriorated capacity of the fuel probes, which could lead to incorrect fuel reading, possibly resulting in fuel starvation and uncommanded engine in-flight shutdown, and consequent reduced control of the airplane.

(f) Compliance

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

(g) Retained Definition of Affected Part and New Definition of a Serviceable Part

This paragraph restates the requirements of paragraph (g) of AD 2019–03–19, with a new definition of a ''serviceable part.''

(1) An ''affected part'' is a fuel probe having part number (P/N) 20136–0101, P/N 20136–0102, P/N 20136–0103, P/N 20136–0104, P/N 20136–0105, or P/N 20136–0106; with fuel low level sensors having P/N 20137–0101.

(2) A ''serviceable part'' is an affected part that has accumulated less than 1,500 total flight hours or 12 months since first installation on an airplane, having been checked and found to be within the acceptable tolerances, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–028, dated April 19, 2018, or received as serviceable following repair or overhaul.

Note 1 to paragraph (g)(2): The definition of a ''serviceable part'' has been changed as of the effective date of this AD. Operators who have already complied with the requirements of paragraph (i) of this AD before the effective date of this AD using the previous definition of a ''serviceable part,'' which was ''an affected part that has accumulated less than 1,500 total flight hours or 12 months since first installation on an airplane,'' do not need to redo the replacement specified in paragraph (i) of this AD using the new definition of a serviceable part.

(h) Retained Functional Check, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2019–03–19, with no changes. Within 1,500 flight hours or 12 months after April 2, 2019 (the effective date of AD 2019–03–19), whichever occurs first, accomplish a functional check of the fuel indicator gauging accuracy and the low level warning, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–028, dated April 19, 2018.

(i) Retained Corrective Action, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2019–03–19, with no changes. If the functional check required by paragraph (h) of this AD is found to be out of tolerance, within the limits and under the applicable conditions, as specified in the operator's existing Minimum Equipment List (MEL), replace the affected part with a serviceable part, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–028, dated April 19, 2018.

(j) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an affected part, unless it is a serviceable part, as defined in paragraph (g)(2)(ii) of this AD.

(k) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement

in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0187R1, dated May 10, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0669.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on April 2, 2019 (84 FR 6062, February 26, 2019).

(i) Saab Service Bulletin 2000–28–028, dated April 19, 2018.

(ii) [Reserved]

(4) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* internet *http://www.saabgroup.com.*

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

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

Issued in Des Moines, Washington, on November 15, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–25204 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0638; Airspace Docket No. 19–ASO–7]

RIN 2120–AA66

Amendment and Removal of Air Traffic Service (ATS) Routes; Southeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 25 jet routes, removes 7 jet routes, and removes 1 high altitude area navigation (RNAV) route (Q-route) in the southeastern United States. This action supports the Northeast Corridor Atlantic Route Project to improve the efficiency of the National Airspace System (NAS) and reduce dependency on ground-based navigational systems.

DATES: Effective date 0901 UTC, January 30, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure in the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** for Docket No. FAA–2019–0638 (84 FR 48086; September 12, 2019) to amend or remove certain air traffic service routes in the southeastern United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Jet routes are published in paragraph 2004, and high altitude RNAV routes are published in paragraph 2006, respectively, of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The jet routes and Q-route listed in this document will be subsequently published in, or removed from, the Order.

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

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by amending 25 jet routes, removing 7 jet routes, and removing one high altitude RNAV route (Q-route) in the southeastern United States. This action complements the Florida Metroplex Project by removing certain jet route segments that are being replaced by RNAV routing. Additionally, the jet route changes will reduce aeronautical

chart clutter by removing unneeded route segments.

The jet route changes are as follows:

J–4: J–4 currently extends between the Los Angeles, CA, VORTAC and the Wilmington, NC, VORTAC. This action removes the segments of the route between the Colliers, SC, VORTAC and the Wilmington VORTAC. As amended, the route extends between Los Angeles, CA and Colliers, SC.

J–20: J–20 currently extends between the Seattle, WA, VORTAC and the Orlando, FL, VORTAC. This action removes the segments between the Seminole, FL, VORTAC and the Orlando VORTAC. The amended route extends between Seattle, WA and Seminole, FL.

J–37: J–37 currently extends between the Hobby, TX, VOR/DME and the Massena, NY, VORTAC. This action removes the route segments between Montgomery, AL, VORTAC and the Lynchburg, VA, VOR/DME leaving a gap in the route. As amended, J–37 consists of three separate segments: between Hobby, TX and Montgomery, AL; followed by a gap; and then between Lynchburg, VA and the Coyle, NJ, VORTAC; followed by a gap; and then between the Kennedy, NY, VOR/DME, and Massena, NY.

J–41: J–41 currently extends between the Key West, FL, VORTAC, and the Omaha, NE, VORTAC. This action removes the portion of the route between the Key West and the Seminole, FL, VORTAC. The amended route extends between Seminole, FL and Omaha, NE.

J–43: J–43 currently extends between the Dolphin, FL, VORTAC, and the Carleton, MI, VOR/DME. This action removes the segments between Dolphin, FL, and the currently charted NEDDY, GA, Fix (defined by the intersection of the Cross City, FL VORTAC 322° and the Seminole, FL, VORTAC 359° radials). The amended route extends between the intersection of the Cross City, FL, VORTAC 322° and the Seminole, FL, VORTAC 359° radials (the NEDDY, GA, Fix) and Carleton, MI.

J–45: J–45 currently extends between the Virginia Key, FL, VOR/DME and the Aberdeen, SD, VOR/DME. This action removes the segments between the Virginia Key, FL, VOR/DME, and the Alma, GA, VORTAC. The amended route extends between Alma, GA and Aberdeen, SD.

J–46: J–46 currently extends between the Tulsa, OK, VORTAC, and the Alma, GA, VORTAC. This action removes the segments between the Volunteer, TN, VORTAC, and the Alma, GA, VORTAC. The amended route extends between Tulsa, OK and Volunteer, TN.

J–47: J–47 currently extends between the Charleston, SC, VORTAC, and the Spartanburg, SC, VORTAC. The FAA is removing this entire route.

J–51: J–51 currently extends between the Craig, FL, VORTAC, and the Yardley, NJ, VOR/DME. This action removes the segments between the Craig, FL, VORTAC, and the charted TUBAS, NC, Fix (defined by the intersection of the Columbia, SC, VORTAC 042°, and the Flat Rock, VA, VORTAC 212° radials). As amended, the route extends between the intersection of the Columbia, SC 042° and the Flat Rock, VA 212° radials (the TUBAS, NC, Fix), and the Yardley VOR/DME.

J–52: J–52 currently extends between Vancouver, BC, Canada, VOR/DME and the Richmond, VA, VOR/DME. This action removes the segments between the Columbia, SC, VORTAC, and the charted TUBAS, NC, Fix (defined by the intersection of the Columbia VORTAC 042° and the Flat Rock, VA, VORTAC 212° radials). As amended J–52 extends, in two parts, between Vancouver, BC, Canada, and Columbia, SC; followed by a gap in the route, then resuming between the intersection of the Columbia, SC 042° and the Flat Rock, VA, 212° radials (the TUBAS, NC, Fix) and Richmond, VA. The portion within Canada is excluded.

J–53: J–53 currently extends between the Dolphin, FL, VORTAC, and the Pulaski, VA, VORTAC. This action removes the segments between Dolphin, FL, and the charted DUNKN, GA, Fix (defined by the intersection of the Craig, FL, VORTAC 347° and the Colliers, SC, VORTAC 174° radials). The amended route extends between the DUNKN Fix, and Pulaski, VA.

J–55: J–55 currently extends between the Dolphin, FL, VORTAC, and the Presque Isle, ME, VOR/DME. This action removes the segments between the Dolphin VORTAC, and the Charleston, SC, VORTAC. The amended route extends between Charleston, SC, and Presque Isle, ME.

J–73: J–73 currently extends between the Dolphin, FL, VORTAC and the Northbrook, IL, VOR/DME. This action removes the segments between the Dolphin VORTAC, FL, and the WYATT, FL, Fix (defined by the intersection of the Seminole, FL, VORTAC 344° and the Cross City, FL, VORTAC 322° radials). The amended route extends between the intersection of the Seminole VORTAC 344° and the Cross City VORTAC 322° radials (the WYATT, FL, Fix), and Northbrook, IL.

J–75: J–75 currently extends between the Dolphin, FL, VORTAC, and the Boston, MA, VOR/DME. This action removes the segments between the Dolphin VORTAC, and the Greensboro, NC, VORTAC. As amended, the route extends between Greensboro, NC and Boston, MA.

J–79: J–79 currently extends between the Key West, FL, VORTAC, and the Bangor, ME, VORTAC. This action removes the segments between the Key West VORTAC, and the Charleston, SC, VORTAC. The amended route extends between Charleston, SC, and Bangor, ME.

J–81: J–81 currently extends between the Dolphin, FL, VORTAC, and the Colliers, SC, VORTAC. This action removes the segments between the Dolphin VORTAC, and the charted DUNKN, GA, Fix (defined by the intersection of the Craig, FL, VORTAC 347° and the Colliers VORTAC 174° radials). The amended route extends between the intersection of the Craig VORTAC 347° and the Colliers VORTAC 174° radials (the DUNKN, GA, Fix) and the Colliers VORTAC.

J–85: J–85 currently extends between the Dolphin, FL, VORTAC and the Dryer, OH, VOR/DME. This action removes the segments between the Dolphin VORTAC, and the Alma, GA, VORTAC. The amended route extends between Alma, GA, and Dryer, OH. In addition, the words ''The portion within Canada is excluded'' is removed from the J–85 description because that segment was previously eliminated from the route but inadvertently left in the description.

J–89: J–89 currently extends between the intersection of the Taylor, FL, VORTAC 176° and the Valdosta, GA, VOR/DME 156° radials (the HITTR, FL, Fix) and the Winnipeg, MB, Canada, VORTAC. This action removes the segments between the intersection of the Taylor VORTAC 176° and the Valdosta VOR/DME radials (the HITTR, FL, Fix) and the charted ICBOD, GA, Fix (defined by the intersection of the Atlanta, GA, VORTAC 161° and the Alma, GA, VORTAC 252° radials). The amended route extends between the intersection of the Atlanta VORTAC 161°, and the Alma VORTAC 252° radials, and Winnipeg, MB, Canada. The portion within Canada is excluded.

J–91: J–91 currently extends between the intersection of the Orlando, FL, VORTAC 274° and the Cross City, FL, VORTAC 133° radials (the INPIN, FL, Fix), and the Henderson, WV, VORTAC. This action removes the segments between the intersection of the Orlando VORTAC 274° and the Cross City VORTAC 133° radials, and the intersection of the Cross City 338° and the Atlanta, GA, VORTAC 169° radials (currently charted as the JOHNN, GA, Fix). The amended route extends

between the intersection of the Cross City VORTAC 338° and the Atlanta VORTAC 169° radials, and the Henderson VORTAC.

J–103: J–103 currently extends between the Ormond Beach, FL, VORTAC, and the Savannah, GA, VORTAC. This action removes the entire route. RNAV route Q–93 provides alternative routing in this area.

J–113: J–113 currently extends between the Virginia Key, FL, VOR/DME and the Craig, FL, VORTAC. This action removes the entire route. RNAV route Q–77 can be used as an alternative in this area.

J–119: currently J–119 extends between the St. Petersburg, FL, VORTAC and the Taylor, FL, VORTAC. This action removes the entire route. A combination of RNAV routes Q–79, Q–65, and Q–99 are available as alternatives in this area.

J–121: J–121 currently extends between the Craig, FL, VORTAC, and the Kennebunk, ME, VOR/DME. This action removes the segments between the Craig VORTAC, and the Charleston, SC, VORTAC. The amended route extends between Charleston, SC, and Kennebunk, ME.

J–151: J–151 currently extends between the Cross City, FL, VORTAC, and the Whitehall, MT, VOR/DME. This action removes the segments between the Cross City, FL, VORTAC, and the Vulcan, AL, VORTAC. The amended route extends between Vulcan, AL, and Whitehall, MT.

J–165: J–165 currently extends between the Charleston, SC, VORTAC and the Richmond, VA, VOR/DME. This action removes the segment between the Charleston VORTAC and the intersection of the Charleston VORTAC 025° and the Florence, SC, VORTAC 085° radials (the DWYTE, SC, Fix). The amended route extends between the intersection of the Charleston VORTAC 025° and the Florence VORTAC 085° radials, and the Richmond VOR/DME.

J–174: J–174 currently extends between the Craig, FL, VORTAC, and the intersection of the Marconi, MA, VOR/DME 090°, and the Nantucket, MA, VOR/DME 066° radials (the HERIN, MA, Fix). This action removes the segments between the Craig VORTAC and the Charleston, SC, VORTAC. The amended route extends between the Charleston VORTAC and the intersection of the Marconi VOR/DME 090° and the Nantucket VOR/DME 066° radials.

J–207: J–207 currently extends between the Savannah, GA, VORTAC and the Franklin, VA, VORTAC. This action removes the segments between the Savannah, GA, VORTAC and the Florence, SC, VORTAC. The amended route extends between the Florence VORTAC and the Franklin VORTAC.

J–208: J–208 currently extends between the Athens, GA, VOR/DME, and the Hopewell, VA, VORTAC. This action removes the entire route.

J–209: J–209 currently extends between the Greenwood, SC, VORTAC, and the intersection of the Coyle, NJ, VORTAC 036° and the Robbinsville, NJ, VORTAC 136° radials (the WHITE, NJ, Fix). The action removes the segment between the Greenwood VORTAC and the Raleigh-Durham, NC, VORTAC. The amended route extends between the Raleigh-Durham VORTAC and the intersection of the Coyle VORTAC 036° and the Robbinsville VORTAC 136° radials.

J–210: J–210 currently extends between the intersection of the Savannah, GA, VORTAC 256° and the Vance, SC, VORTAC 221° radials (the DUNKN, GA, Fix), and the Wilmington, NC, VORTAC. This action removes the segment between the Savannah VORTAC, and the Vance VORTAC. The amended route extends between Vance, SC, and Wilmington, NC.

J–614: J–614 currently extends between the Sarasota, FL, VOR/DME, and the Dolphin, FL, VORTAC. This action removes the entire route.

J–616: J–616 currently extends between the Sarasota, FL, VOR/DME, and the Dolphin, FL, VORTAC. This action removes the entire route.

In addition to the above jet route changes, this action removes one high altitude RNAV route as follows:

Q–112: Q–112 currently extends between the DEFUN, FL, fix, and the INPIN, FL, fix. This action removes the entire route because a number of other Q-routes in the vicinity are available as alternatives.

Jet routes are published in paragraph 2004; and United States Area Navigation Routes are published in paragraph 2006, respectively, of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The jet routes and RNAV route listed in this document will be subsequently amended in, or removed from, the Order.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying 25 jet routes, removing seven jet routes, and removing one high altitude RNAV route in the southeastern United States qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–4 [Amended]

From Los Angeles, CA, via INT Los Angeles 083° and Twentynine Palms, CA, 269° radials; Twentynine Palms; Parker, CA; Buckeye, AZ; San Simon, AZ; Newman, TX; Wink, TX; Abilene, TX; Ranger, TX; Belcher, LA; Magnolia, MS; Meridian, MS; Montgomery, AL; INT Montgomery 051° and Colliers, SC, 268° radials; to Colliers.

J–20 [Amended]

From Seattle, WA, via Yakima, WA; Pendleton, OR; Donnelly, ID; Pocatello, ID; Rock Springs, WY; Falcon, CO; Hugo, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; Belcher, LA; Magnolia, MS; Meridian, MS; Montgomery, AL; to Seminole, FL.

J–37 [Amended]

From Hobby, TX, via INT of the Hobby 090° and Harvey, LA, 266° radials; Harvey; Semmes, AL; to Montgomery, AL. From Lynchburg, VA; Gordonsville, VA; Brooke, VA; INT Brooke 067° and Coyle, NJ, 226° radials; to Coyle. From Kennedy, NY; Kingston, NY; Albany, NY; to Massena, NY.

J–41 [Amended]

From Seminole, FL; Montgomery, AL; Vulcan, AL; Memphis, TN; Springfield, MO, Kansas City, MO, to Omaha, NE.

J–43 [Amended]

From INT Cross City, FL 322° and Seminole, FL 359° radials; Atlanta, GA; Volunteer, TN; Falmouth, KY; Rosewood, OH; to Carleton, MI.

J–45 [Amended]

From Alma, GA; Macon, GA; Atlanta, GA; Nashville, TN; St Louis, MO; Kirksville, MO; Des Moines, IA; Sioux Falls, SD; to Aberdeen, SD.

J–46 [Amended]

From Tulsa, OK, via Walnut Ridge, AR; Nashville, TN; to Volunteer, TN.

J–47 [Remove]

J–51 [Amended]

From INT Columbia 042° and Flat Rock, VA, 212° radials; Flat Rock; Nottingham, MD; Dupont, DE; to Yardley, NJ.

J–52 [Amended]

From Vancouver, BC, Canada; via Spokane, WA; Salmon, ID; Dubois, ID; Rock Springs, WY; Falcon, CO; Hugo, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Ardmore, OK, 309° radials; Ardmore; Texarkana, AR; Sidon, MS; Bigbee, MS; Vulcan, AL; Atlanta, GA; Colliers, SC; to Columbia, SC. From INT Columbia 042° and Flat Rock, VA 212° radials; Raleigh-Durham, NC; to Richmond, VA. The portion within Canada is excluded.

J–53 [Amended]

From INT Craig 347° and Colliers, SC, 174° radials; Colliers; Spartanburg, SC; to Pulaski, VA.

J–55 [Amended]

From Charleston, SC; Florence, SC; INT Florence 003° and Raleigh-Durham, NC, 224° radials; Raleigh-Durham; INT Raleigh-Durham 035° and Hopewell, VA, 234° radials; Hopewell; INT Hopewell 030° and Nottingham, MD, 174° radials. From Sea Isle, NJ; INT Sea Isle 050°and Hampton, NY, 223° radials; Hampton; Providence, RI; Boston, MA; Kennebunk, ME; to Presque Isle, ME.

J–73 [Amended]

From INT Seminole, FL 344° and Cross City, FL, 322° radials; La Grange, GA; Nashville, TN; Pocket City, IN; to Northbrook, IL.

J–75 [Amended]

From Greensboro, NC; Gordonsville, VA; INT Gordonsville 040° and Modena, PA, 231° radials; Modena; Solberg, NJ; Carmel, NY; INT Carmel 045° and Boston, MA, 252° radials; to Boston.

J–79 [Amended]

From Charleston, SC; Tar River, NC; Franklin, VA; Salisbury, MD; INT Salisbury 018°and Kennedy, NY, 218° radials; Kennedy; INT Kennedy 080°and Nantucket, MA, 254° radials; INT Nantucket 254° and Marconi, MA, 205° radials; Marconi; INT Marconi 006° and Bangor, ME, 206° radials; Bangor.

J–81 [Amended]

From INT Craig, FL, 347° and Colliers, SC, 174°, radials; Colliers.

J–85 [Amended]

From Alma, GA; Colliers, SC; Spartanburg, SC; Charleston, WV; INT Charleston 357° and Dryer, OH, 172° radials; Dryer.

J–89 [Amended]

From INT Atlanta, GA 161° and Alma, GA, 252° radials; Atlanta; Louisville, KY; Boiler, IN; Northbrook, IL; Badger, WI; Duluth, MN; to Winnipeg, MB, Canada. The portion within Canada is excluded.

J–91 [Amended]

From INT Cross City 338° and Atlanta, GA, 169° radials; Atlanta; Volunteer, TN; to Henderson, WV.

J–103 [Remove]

J–113 [Remove]

J–119 [Remove]

J–121 [Amended]

From Charleston, SC; Kinston, NC; Norfolk, VA; INT Norfolk 023° and Snow Hill, MD, 211° radials; Snow Hill; Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Sandy Point, RI; INT Sandy Point 031° and Kennebunk, ME, 190° radials; to Kennebunk.

J–151 [Amended]

From Vulcan, AL; Farmington, MO; St. Louis, MO; Kirksville, MO; Omaha, NE; O'Neil, NE; Rapid City, SD; Billings, MT; INT Billings 266° and Whitehall, MT, 103° radials; to Whitehall.

J–165 [Amended]

From INT Charleston, SC, 025° and Florence, SC, 085° radials to Richmond, VA.

J–174 [Amended]

From Charleston, SC; Wilmington, NC; Dixon NDB, NC; Norfolk, VA; INT Norfolk 023° and Snow Hill, MD, 211° radials; Snow Hill; Hampton, NY; INT Hampton 069° and Marconi, MA 228° radials; Marconi, to the INT of Marconi 090° and Nantucket, MA, 066° radials. The airspace below FL 240 is excluded between Snow Hill and lat. 38°45′00″ N, long. 74°43′59″ W. The airspace above FL 410 is excluded between Snow Hill and Hampton.

J–207 [Amended]

From Florence, SC; Raleigh-Durham, NC; to Franklin, VA.

J–208 [Remove]

J–209 [Amended]

From Raleigh-Durham, NC; Tar River, NC; Norfolk, VA; INT Norfolk 023° and Salisbury, MD, 199° radials; Salisbury; INT Salisbury 018° and Coyle, NJ, 226° radials; Coyle; to INT Coyle 036° and Robbinsville, NJ, 136° radials.

J–210 [Amended]

From Vance, SC; to Wilmington, NC.

J–614 [Remove]

J–616 [Remove]

* * * * *

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–112 [Remove]

* * * * *

Issued in Washington, DC, on November 25, 2019.

Rodger A. Dean Jr.,

Manager, Rules and Regulations Group.

[FR Doc. 2019–25921 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0846]

RIN 1625–AA00

Safety Zone for Fireworks Display; Spa Creek, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of Spa Creek. This action is necessary to provide for the safety of life on these navigable waters in Annapolis, MD, during a fireworks display on December 31, 2019. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 11 p.m. on December 31, 2019, to 1 a.m. on January 1, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0846 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Maryland-National Capital Region
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

Pyrotecnico, Inc., of New Castle, PA, notified the Coast Guard that from 11:59 p.m. on December 31, 2019, to 12:11 a.m. on January 1, 2020, it will be conducting a fireworks display launched from a barge in Spa Creek, approximately 600 feet southeast of Dock Street in Annapolis, MD. In response, on October 23, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone for Fireworks Display; Spa Creek, Annapolis, MD'' (84 FR 56731). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended November 22, 2019, we received three comments, only one of which was germane to the rulemaking.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with a fireworks display in this location.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with the fireworks to be used in this December 31, 2019, display will be a safety concern for anyone within 400 feet of the fireworks barge on Spa Creek. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one substantive comments on our NPRM published October 23, 2019. The comment stated that a distance of the safety zone of 400 feet from the fireworks barge seems inadequate.

The minimum safe distance from the fireworks barge used by the Coast Guard to determine the size of the safety zone is based on industry standards for outdoor aerial fireworks set by the National Fire Protection Association (NFPA). The NFPA standard for this fireworks display is 280 feet from the discharge site. At the request of the contracted fireworks company, Pyrotecnico, the Coast Guard is using 400 feet for the size of its safety zone, which is an increase of more than 40 percent above the safe distance set by the NFPA.

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

This rule establishes a safety zone from 11:00 p.m. on December 31, 2019 to 1:00 a.m. on January 1, 2020. The safety zone will cover all navigable waters within 400 feet of a fireworks barge in Spa Creek in approximate position latitude 38°58′32.48″ N, longitude 076°28′57.55″ W, located at Annapolis, MD. A ''FIREWORKS—DANGER—STAY AWAY'' sign would be posted on the port and starboard sides of the barge on-scene near the location. The duration and enforcement of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the fireworks display scheduled from 11:59 p.m. on December 31, 2019, to 12:11 a.m. on January 1, 2020. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, time-of-day and time-of-year of the safety zone. This safety zone will impact vessels intending to transit Spa Creek for 2 hours during the evening when vessel traffic is normally low. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting a total of 2 hours that will prohibit entry within a small designated area of Spa Creek in Annapolis, MD. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0846 to read as follows:

§ 165.T05–0846 Safety Zone for Fireworks Display; Spa Creek, Annapolis, MD.

(a) *Location.* The following area is a safety zone: All navigable waters of Spa Creek within 400 feet of the fireworks barge in approximate position latitude 38°58′32.48″ N, longitude 076°28′57.55″ W, located at Annapolis, MD. All coordinates refer to datum NAD 1983.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing any safety zone described in paragraph (a) of this section.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. All vessels underway within this safety zone at the time it is activated are to depart the zone.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement.* This safety zone will be enforced during the periods described in paragraph (f) of this section. A ''FIREWORKS—DANGER—STAY AWAY'' sign will be posted on the port and starboard sides of the barge on-scene near the location described in paragraph (a) of this section.

(f) *Enforcement period.* This section will be enforced from 11 p.m. on December 31, 2019, to 1 a.m. on January 1, 2020.

Dated: November 27, 2019.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2019–26094 Filed 12–2–19; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 20

International Country Listing for South Sudan

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to incorporate minor changes.

DATES: *Effective date:* January 26, 2020.

FOR FURTHER INFORMATION CONTACT: Michelle Lassiter at 202–268–2914.

SUPPLEMENTARY INFORMATION: Modifications to the country price list for international mail that appears in Part D of the Mail Classification Schedule have been posted under Docket Number MC2020–27 on the Postal Regulatory Commission's website at *http://www.prc.gov.*

On May 6, 2019, the designated operator for the Republic of South Sudan sent International Bureau Circular number 76 to remind designated operators to send dispatches addressed to South Sudan using ISO country code ''SS''. The Postal Service will add South Sudan to the following sections of the *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM): Section 292.45a; the Index of Countries and Localities; the Country Price Groups and Weight Limits; and the Individual Country Listings.

The Postal Service hereby adopts the following changes to the IMM, which are incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

2 Conditions for Mailing

* * * * *

213 Prices and Postage Payment Methods

* * * * *

213.5 Destinating Countries and Price Groups

* * * * *

Exhibit 213.5 Destinating Countries and Price Groups

[Add a new entry for South Sudan to read as follows]

Country name	GXG price group
South Sudan, Republic of.	No Service.

* * * * *

290 Commercial Services

* * * * *

292 International Priority Airmail (IPA) Service

* * * * *

292.45 IPA Foreign Office of Exchange Codes and Price Groups

* * * * *

Exhibit 292.45a IPA Foreign Office of Exchange Codes and Price Groups

[Add an entry in alphabetical order to read as follows:]

Country name	Foreign office of exchange code	Price group
* * *	* * *	*
South Sudan, Republic of	JUB	19
* * *	* * *	*

* * * * *

Index of Countries and Localities

[Add an entry in alphabetical order to read as follows:]

South Sudan, Republic of

* * * * *

Country Price Groups and Weight Limits

[Add an entry in alphabetical order to read as follows:]

Country	Global express guaranteed		Priority mail express international			Priority mail international			First-class mail international and first-class package international service	
	Price group	Max. Wt. (lbs.)	Price group	Max. Wt.	PMEI flat rate envelopes price group [1]	Price group	Max. Wt. (lbs.)	PMI flat rate envelopes and boxes price group [2]	Price group	Max. Wt. (lbs.)
*	*	*		*		*	*		*	
South Sudan, Republic of	n/a	n/a	n/a	n/a	n/a	7	44	8	7	See Note 3.
*	*	*		*		*	*		*	

* * * * *

Individual Country Listings

* * * * *

[Add an entry in alphabetical order to read as follows:]

South Sudan, Republic of

Country Conditions for Mailing

Prohibitions (130)

Arms, including spare parts and ammunition.

Infectious substances, including exempt patient specimens (human or animal) and Category B infectious substances under 135.1.

Gambling items, such as playing cards, poker chips and games of chance.

Narcotics, including those prescribed by a doctor.

Radioactive materials, including radioactive materials under 135.5.

Restrictions

No list furnished.

Observations

All goods sent to South Sudan are subject to a customs clearance fee of 450 South Sudan Pounds (SSP) and an administration fee of 550 SSP.

Global Express Guaranteed (210)

Not Available

Priority Mail Express International (220)

Not Available

Priority Mail International (230) Price Group 7

Refer to Notice 123, *Price List,* for the applicable retail, Commercial Base, or Commercial Plus price.

Weight Limit: 44 lbs.

Priority Mail International—Flat Rate

Flat Rate Envelopes or Small Flat Rate Priced Boxes: The maximum weight is 4 pounds. Refer to Notice 123, *Price List,* for the applicable retail, Commercial Base, or Commercial Plus price.

Flat Rate Boxes—Medium and Large: The maximum weight is 20 pounds, or the limit set by the individual country, whichever is less. Refer to Notice 123, *Price List,* for the retail, Commercial Base, or Commercial Plus price.

Size Limits (231.22)

Maximum length: 42 inches.

Maximum length and girth combined: 79 inches.

Insurance (232.91)

NOT Available.

Customs Forms Required (123)

All Priority Mail International items: PS Form 2976–A inside PS Form 2976–E (envelope).

First-Class Mail International (240) Price Group 7

Refer to Notice 123, *Price List,* for the applicable retail price.

Weight Limit: 3.5 oz. for letters and postcards; 15.994 oz. for large envelopes (flats).

Size Limits

Letters: See 241.212.

Postcards: See 241.221.

Large Envelopes (Flats): See 241.232.

Customs Form Required (123)

PS Form 2976 as required (see 123.61).

First-Class Package International Service (250) Price Group 7

Refer to Notice 123, *Price List,* for the applicable retail, Commercial Base, or Commercial Plus price.

Weight Limit: 4 lbs.

Size Limits

Packages (Small Packets): See 251.22 and 251.23.

Customs Form Required (123)

PS Form 2976.

Airmail M-bags (260)—

Direct Sack to One Addressee Price Group 7

Refer to Notice 123, *Price List,* for the applicable retail price.

Weight Limit: 66 lbs.

Customs Form Required (123)

PS Form 2976.

Free Matter for the Blind (270)

Free when sent as First-Class Mail International (documents only), First-Class Package International Service, Priority Mail International Flat Rate Envelopes, or Priority Mail International Small Flat Rate Priced Boxes.

Weight limit: 4 pounds.

Free when sent as Priority Mail International items.

Weight limit: 15 pounds.

Customs Form Required (123)

First-Class Mail International items or First-Class Package International Service items:

PS Form 2976 as required (see 123.61).

Priority Mail International items (including Priority Mail International Flat Rate Envelopes and Priority Mail International Small Flat Rate Priced Boxes):

PS Form 2976–A inside PS Form 2976–E (envelope).

Extra Services

Certificate of Mailing (310)

Individual Pieces—Refer to Notice 123, *Price List*, for the applicable price:

Individual article (PS Form 3817).

Firm mailing books (PS Form 3665), per article listed (minimum 3).

Duplicate copy of PS Form 3817 or PS Form 3665 (per page).

Bulk Quantities—Refer to Notice 123, *Price List*, for the applicable price:

First 1,000 pieces (or fraction thereof).

Each additional 1,000 pieces (or fraction thereof).

Duplicate copy of PS Form 3606.

Registered Mail (330)

Fee: Refer to Notice 123, *Price List,* for the applicable price.

Maximum Indemnity: $42.66.

Available only for First-Class Mail International (including postcards), First-Class Package International Service, and Free Matter for the Blind sent as First-Class Mail International or as First-Class Package International Service.

Return Receipt (340)

Fee: Refer to Notice 123, *Price List,* for the applicable price.

Available for Registered Mail only.

Restricted Delivery (350)

NOT Available for International Mail as of January 27, 2013.

International Postal Money Order (371)

NOT Available.

International Reply Coupons (381)

NOT Available for International Mail as of January 27, 2013.

International Business Reply Service (382)

NOT Available.

* * * * *

We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2019–25767 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0713: FRL–10001–66–Region 9]

Revisions to California State Implementation Plan; Antelope Valley Air Quality Management District and Ventura County Air Pollution Control District; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve two state implementation plan (SIP) revisions submitted by the State of California addressing the nonattainment new source review (NNSR) requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and one SIP revision regarding a permit rule. These SIP revisions address the Antelope Valley Air Quality Management District (AVAQMD or District) and Ventura County Air Pollution Control District (VCAPCD or District) portions of the California SIP. This action is being taken pursuant to the Clean Air Act (CAA or ''Act'') and its implementing regulations.

DATES: This rule will be effective on January 2, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0713. All documents in the docket are listed on the *https://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 through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Manny Aquitania, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; (415) 972–3977, *aquitania.manny@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action
II. Public Comments
III. EPA Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Proposed Action

On August 22, 2019 (84 FR 43738), the EPA proposed to approve the SIP revisions listed in Table 1, addressing the NNSR requirements for the 2008 8-hour ozone NAAQS for the AVAQMD and the VCAPCD, and one SIP revision regarding a permit rule.

TABLE 1—SIP REVISIONS

District	Rule #	Rule title	Adoption/ amend date	Submittal date
AVAQMD	N/A	2008 Ozone Certification	7/17/2018	8/31/2018
VCAPCD	N/A	2008 Ozone Certification	7/31/2018	8/31/2018
VCAPCD	10	Permits Required	4/13/2004	7/19/2004

Initially, the EPA proposed to approve the SIP revisions for AVAQMD and VCAPCD on May 10, 2019. The EPA received one adverse comment stating that Section V, Incorporation by Reference, contained an administrative error regarding what provisions were to be incorporated by reference. To address this error, the EPA corrected Section V and re-proposed our action in the **Federal Register** on August 22, 2019 (84 FR 43738). Our new notice clearly stated that we proposed to incorporate by reference Ventura County Rule 10, ''Required Permits'' into the SIP.

We proposed approval of these SIP revisions because we determined that the 2008 ozone certification submitted for each District fulfills the 40 CFR 51.1114 revision requirement and meets the requirements of Clean Air Act (CAA) section 110 and the minimum SIP requirements of 40 CFR 51.165.

II. Public Comments

The EPA's proposed action provided a 30-day public comment period. No comments were received.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the two certifications and one rule, into the California SIP as proposed.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the VCAPCD rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available electronically through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

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

Dated: October 21, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(332)(i)(B)(5) and (c)(528) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(332) * * *

(i) * * *

(B) * * *

(*5*) Ventura County Rule 10—Permits Required, adopted on April 13, 2004.

* * * * *

(528) New additional materials for the following air districts were submitted on August 31, 2018 by the Governor's designee.

(i) [Reserved]

(ii) *Additional Materials.*

(A) Antelope Valley Air Quality Management District.

(*1*) ''Nonattainment New Source Review (NNSR) Compliance Demonstrations for the 2008 Ozone National Ambient Air Quality Standard (NAAQS),'' adopted July 17, 2018.

(*2*) [Reserved]

(B) Ventura County Air Pollution Control District.

(*1*) ''NNSR Compliance Demonstrations for the 2008 Ozone NAAQS,'' adopted July 31, 2018.

(*2*) [Reserved]

[FR Doc. 2019–26036 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0468; FRL–10001–89–Region 7]

Air Plan Approval; Iowa; Revisions to Regional Haze Plan and Visibility Requirements in Infrastructure State Implementation Plans for the 2006 $PM_{2.5}$, 2012 $PM_{2.5}$, 2010 NO_2, 2010 SO_2, 2008 Ozone, and 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Iowa. This final action will amend the SIP to rely on the Cross State Air Pollution Rule (CSAPR) for certain regional haze requirements, fully approve Iowa's Regional Haze Plan, remove the Federal Implementation (FIP) the state replaced, and approve the Visibility portions of infrastructure SIPs for the 2006 Fine Particulate Matter ($PM_{2.5}$), 2012 $PM_{2.5}$, 2010 Nitrogen Dioxide (NO_2), 2010 Sulfur Dioxide (SO_2), 2008 Ozone, and 2015 Ozone National Ambient Air Quality Standards (NAAQS).

DATES: This final rule is effective on January 2, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2019–0468. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jed D. Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7588; email address *wolkins.jed@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

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I. What is being addressed in this document?

On May 14, 2019, the State of Iowa submitted a request to revise the State of Iowa's Regional Haze Plan, changing from reliance on the Clean Air Interstate Rule (CAIR) to reliance on the Cross State Air Pollution Rule (CSAPR) for certain regional haze requirements; removing EPA's Federal Implementation Plan (FIP) for reliance on CSAPR for certain regional haze requirements, convert EPA's limited approval/limited disapproval of Iowa's Regional Haze Plan for the first regional haze planning period to a full approval; and approve the states' submissions addressing the Clean Air Act (CAA or the Act) section 110(a)(2)(D)(i)(II) provision (prong 4) that prohibit emissions activity in one state from interfering with measures to protect visibility in another state of Iowa's infrastructure SIP submittals for the 2006 Fine Particulate Matter ($PM_{2.5}$) 2012 Fine Particulate Matter ($PM_{2.5}$), 2010 Nitrogen Dioxide (NO_2), 2010 Sulfur Dioxide (SO_2), 2008 Ozone, and 2015 Ozone NAAQS. The EPA is finalizing approval of these requests.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided the Federal Land Managers the draft rule on February 28, 2019, providing until April 28, 2019, to receive comments and received no comments. The state provided public notice of this SIP revision on March 29, 2019, providing until April 29, 2019 to receive comments and received no comments. The state held a public hearing on April 29, 2019 and received no comments. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule opened August 22, 2019 the date of its publication in the **Federal Register** and closed on September 23, 2019. During this period, the EPA received one comment.

Comment: EPA must immediately retract this proposal per the decision made by the D.C. Circuit Court ruling in Wisconsin, *et al* v. *EPA*. As the EPA states in [its] now remanded final rule, the CSAPR Update addresses both the 2008 and 1997 ozone NAAQS in addition to the D.C. Circuit's 2015 remand of the CSAPR rule. ''This CSAPR Update also is intended to address the July 28, 2015 remand by the United States Court of Appeals for the District of Columbia Circuit of certain states' original CSAPR phase 2 ozone season NO_X emission budgets. In addition, this rule updates the status of certain states' outstanding interstate ozone transport obligations with respect to the 1997 ozone NAAQS, for which the original CSAPR provided a partial remedy.'' And so, until EPA addresses the D.C. Circuit's 2019 remand of the CSAPR Update rule, EPA can't rely on a CSAPR better than BART reasoning until EPA fully [addresses] the remand of CSAPR Update[.]

Response: The EPA disagrees with this comment. BART-eligible electric generating unit (EGU) sources in Iowa may satisfy best available retrofit technology (BART) requirements for a given visibility pollutant by participating in any of the Cross-State Air Pollution Rule (CSAPR) trading programs for that pollutant, as authorized by the regional haze rule, 40 CFR 51.308(e)(4). Iowa's covered EGUs not only participate in the CSAPR Update ozone season NO_X trading program for transport of ozone but also the CSAPR annual NO_X and SO_2 trading programs for transport of fine particulate matter ($PM_{2.5}$) under the 1997 and 2006 national ambient air quality standards (NAAQS) for $PM_{2.5}$. See 40 CFR 52.38(a)(2)(i), 52.39(b); see also CSAPR Final Rule, 76 FR 48208–76 FR 48213 (August 8, 2011). Thus, regardless of whether Iowa's EGUs participate in the CSAPR Update ozone season NO_X trading program, their participation in the CSAPR annual NO_X trading program would continue to be sufficient to satisfy BART requirements for NO_X as a visibility pollutant.

EPA initially determined that participation in either ozone-season or annual NO_X trading programs would satisfy BART for NO_X in concluding that participation in the trading programs established under CAIR, the predecessor to CSAPR, could serve as BART alternatives. See BART Guidelines Final Rule, 70 FR 39104–70 FR 39143 (July 6, 2005); see also 71 FR 60612–71 FR 60623 (October 13, 2006) (clarifying EPA's 2005 determination that ''participation in either the annual or seasonal CAIR NO_X cap-and-trade program is a necessary condition for relying on EPA's determination that States can substitute CAIR for BART for NO_X''). When CSAPR replaced CAIR, EPA conducted a BART-alternative analysis similar to the BART-alternative analysis conducted for CAIR, and again specifically assessed whether participation in either the CSAPR ozone-season NO_X trading program or the CSAPR annual NO_X trading program would be sufficient to satisfy the BART-alternative analysis for NO_X; EPA again concluded that either would suffice. See 77 FR 33642 at 77 FR 33650–77 FR 33651 (June 7, 2012). Thus, the current text of the regional haze rule continues to provide that a state ''subject to a trading program [under CSAPR] need not require BART-eligible fossil fuel fired steam electric plants in the State to install, operate, and maintain BART for the pollutant covered by such trading program in the State,'' 40 CFR 51.308(e)(4) (emphasis added). This provision recognizes that participation in either the ozone-season or annual NO_X trading program would satisfy BART. So long as Iowa's BART-eligible fossil-fuel fired EGUs are subject to CSAPR's annual NO_X trading program, their participation in the ozone-season NO_X trading program—or the status of the CSAPR Update ozone-season NO_X program more generally—is not relevant for determining that these sources' BART obligations for NO_X are satisfied.

Further, if it so chose, Iowa could continue to rely on the CSAPR Update (81 FR 74504, October 26, 2016) ozone-season NO_X trading program to satisfy best available retrofit technology (BART) requirements for Iowa's BART-eligible electric generating units (EGUs), as authorized by 40 CFR 51.308(e)(4). The court's decision in *Wisconsin* v. *EPA*, No. 16–1406 (D.C. Cir. September 13, 2019), did not vacate the CSAPR Update, and that rule, including Iowa's ozone-season NO_X budget, remains in place. The Wisconsin decision upheld the CSAPR Update rule in most respects, but held the rule was inconsistent with the CAA to the extent it failed to require upwind states to eliminate their significant contributions to downwind ozone problems in accordance with the downwind areas' ozone attainment deadline. Wisconsin, Slip Op. 13. The court remanded the Update rule but expressly declined to vacate it in order to avoid ''substantial disruption'' and in recognition of the potential ''harm to the public health and environment'' vacatur could cause. Id. at 59.

At this time, the CSAPR Update rule remains in operation, and it is entirely speculative—not to mention improbable

in light of the court's reasoning—that on remand, the CSAPR Update's ozone-season NO_X budget for any state would become less stringent, much less in a way that could impact EPA's analysis of the CSAPR program as a BART-alternative.

Finally, the commenter states that the CSAPR Update rule addressed not only the 2008 ozone NAAQS but also the remand of some of the original CSAPR ozone-season NO_X budgets for the 1997 ozone NAAQS in *EME Homer City Generation* v. *EPA*, 795 F.3d 118 (D.C. Cir. 2015). See CSAPR Update Final Rule, 81 FR 74504 at 81 FR 74507 (October 26, 2016). The relevance of this observation to the present action is not clear. Iowa's was not one of the original CSAPR ozone-season NO_X budgets remanded due to potential over-control in EME Homer City, see 795 F.3d 118, 138. Further, in the Wisconsin case reviewing the CSAPR Update rule, no party challenged the portion of that rule resolving the remanded budgets from EME Homer City, and there is no reason to believe those determinations would be revisited or reopened on the remand in Wisconsin.

For all these reasons, the Wisconsin decision and remand of the CSAPR Update does not alter or affect Iowa's ability to continue to rely on participation in CSAPR trading programs to satisfy BART for NO_X and SO_2 for its BART-eligible sources covered by the CSAPR trading programs.

IV. What action is the EPA taking?

The EPA is amending the Iowa SIP to relying on CSAPR for certain Regional Haze requirements in accordance with the CAA and the Regional Haze Rule (40 CFR 51.308(e)(4)); withdrawing the FIP relying on CSAPR to satisfy those requirements; fully approving Iowa's regional haze SIP for the first planning period; and approving the prong 4 portions for each of the six NAAQS identified above.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the PRA. This action approves state plans that do not impose any information collection.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action approves state plans that rely on no new requirements on any entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. There are no Indian reservation lands in Missouri. Thus, Executive Order 13175 does not apply to this rule.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it approves a state program and approves a state action implementing a federal standard.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

L. Determination Under Section 307(d)

Pursuant to CAA section 307(d)(1)(B), this action is subject to the requirements of CAA section 307(d), as it revises a FIP under CAA section 110(c).

M. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action [is/is not] a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 3, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action, Revisions to Regional Haze Plan and Visibility Requirements in Infrastructure State Implementation Plans for the 2006 $PM_{2.5}$, 2012 $PM_{2.5}$, 2010 NO_2, 2010 SO_2, 2008 Ozone, and 2015 Ozone NAAQS may not be challenged later in

proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: November 25, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

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 Q—Iowa

■ 2. In § 52.820, the table in paragraph (e) is amended by adding paragraph (e)(52) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(e) * * *

EPA—APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
*	*	*	*	*
(52) Sections 110 (a)(2) Infrastructure Prong 4 Requirements for the 2006 Fine Particulate Matter, 2012 Fine Particulate Matter, 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide, 2008 Ozone, and 2015 Ozone NAAQS.	Statewide	1/17/2013; 7/28/2013; 7/29/2013; 7/29/2013; 12/22/2015; 11/30/2018; 5/14/2019	12/3/2019, [insert **Federal Register** citation].	This action approves the following CAA elements: 110(a)(2)(D)(i)(II)—prong 4. [EPA–R07–OAR–2019–0468; FRL–10001–89–Region 7.].

■ 3. Section 52.842 is revised to read as follows:

§ 52.842 Visibility protection.

The requirements of section 169A of the Clean Air Act are met because the Regional Haze plan submitted by Iowa on March 25, 2008 and supplemented on May 14, 2019, includes fully approvable measures for meeting the requirements of the Regional Haze Rule including 40 CFR 51.308(d)(3) and 51.308(e) with respect to emissions of NO_X and SO_2 from electric generating units.

[FR Doc. 2019–26040 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 19–334; FCC 19–114]

Closure of FCC Lockbox 979095 Used To File Fees for Service Provided by the Office of Engineering and Technology

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) adopts an Order that closes Lockbox 979095 and modifies the relevant rule provisions of filing and making fee payments in lieu of closing the lockbox.

DATES: Effective January 2, 2020.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of Managing Director at (202) 418–2653 or Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 19–114, MD Docket No. 19–334, adopted on November 7, 2019 and released on November 8, 2019. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *https://www.fcc.gov/document/amendment-part-1-commissions-rules.*

I. Introduction

1. In the Order, we reduce expenditures by the Commission and modernize procedures by amending § 1.1103 of our rules, 47 CFR 1.1103, which sets forth the application fees for services administered by the FCC's Office of Engineering and Technology (OET). The rule amendment reflects the closure of the lockbox (P.O. Box) [1] used for such manual payment of filing fees for four types of OET services: Experimental radio services; assignment of grantee codes; advance approval of subscription TV systems; and certification of equipment approval services. We discontinue the option of manual fee payments and instead require the use of an electronic payment for each service listed above.

2. Section 1.1103 of the Commission's rules, 47 CFR 1.1103, provides a schedule of application fees for complaint proceedings handled by OET. The rule had also directed filers that do not utilize the Commission's on-line filing and fee payment systems to send manual payments to P.O. Box 979095 at U.S. Bank in St. Louis, Missouri. In recent years, there have been a decreasing number of lockbox filers, and it now is rare that the Commission receives a lockbox payment.

3. The Commission has begun to reduce its reliance on P.O. Boxes for the collection of fees, instead encouraging the use of electronic payment systems for all application and regulatory fees and closing certain lockboxes. We find that electronic payment of fees for the services processed by OET reduces the agency's expenditures (including eliminating the annual fee for the bank's services) and the cost of manually processing each transaction, with little or no inconvenience to the

[1] A P.O. Box used for the collection of fees is referred to as a ''lockbox'' in our rules and other Commission documents. The FCC collects application processing fees using a series of P.O. Boxes located at U.S. Bank in St. Louis, Missouri. *See* 47 CFR 1.1101–1.1109 (setting forth the fee schedule for each type of application remittable to the Commission along with the correct lockbox).

Commission's regulatees, applicants, and the public.

4. As part of this effort, we are now closing P.O. Box 979095 and modifying the relevant rule provision that requires payment of fees via the closed P.O. Box. The rule change is contained in the Appendix of the Order. We make this change without notice and comment because it is a rule of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act, *see* 5 U.S.C. 553(b)(A).

5. *Implementation.* As a temporary transition measure, for 90 days after publication of this document in the **Federal Register**, U.S. Bank will continue to process payments to P.O. Box 979095. After that date, payments for these OET services must be made in accordance with the procedures set forth on the Commission's website, *https://www.fcc.gov/licensing-databases/fees/application-processing-fees* (Office of Engineering and Technology Fee Filing Guide). For now, such payments will be made through the Fee Filer Online System (Fee Filer), accessible at *https://www.fcc.gov/licensing-databases/fees/fee-filer.* As we assess and implement U.S. Treasury initiatives toward an all-electronic payment system, we may transition to other secure payment systems with appropriate public notice and guidance.

II. Procedural Matters

A. Final Regulatory Flexibility Analysis

6. Section 603 of the Regulatory Flexibility Act, as amended, requires a regulatory flexibility analysis in notice and comment rulemaking proceedings. See 5 U.S.C. 603(a). As we are adopting these rules without notice and comment, no regulatory flexibility analysis is required.

B. Final Paperwork Reduction Act of 1995 Analysis

7. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

8. The Commission will not send a copy of the Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not ''substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

III. Ordering Clauses

9. *Accordingly, it is ordered,* that pursuant to sections 4(i), 4(j), 158, 208, and 224 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 158, 208, and 224, the Order is hereby *adopted* and the rules set forth in the Appendix of the Order are hereby *amended* effective January 2, 2020.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 2. Amend § 1.1103 by revising the introductory text to read as follows:

§ 1.1103 Schedule of charges for assignment of grantee code, experimental radio services (or service).

Remit payment for these services electronically using the Commission's electronic payment system in accordance with the procedures set forth on the Commission's website, *www.fcc.gov/licensing-databases/fees.*

* * * * *

[FR Doc. 2019–26118 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 84, No. 232

Tuesday, December 3, 2019

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0970; Product Identifier 2018–SW–089–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: The FAA must receive comments on this proposed AD by February 3, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0970; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic 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 service information identified in this proposed rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Jignesh Patel, Aerospace Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *jignesh.patel@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2018–0209, dated September 21, 2018 (EASA AD 2018–0209), to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale) Model AS 332 C, AS 332 C1, AS 332 L, AS 332 L1, and AS 332 L2 helicopters, except those with modification 0726383.

EASA advises that during production of AS332 helicopters, closure of the fuel tank drains with plugs was implemented. EASA states that this closure disregards compliance with an airworthiness certification requirement and in the event of fuel leakage in flight, a closed fuel drain creates the risk of fuel accumulation and/or migration to an adjacent area. EASA advises this area may contain electrical equipment that could be susceptible to creating a source of ignition. EASA states this condition, if not corrected, could result in the ignition of fuel vapors, resulting in a fire causing damage to the helicopter or injury to the occupants.

Accordingly, EASA AD 2018–0209 requires modification of the draining system of the fuel tank compartments by removing the drain plugs from the fuel tank compartments located under the bottom structure.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other products of the same type designs.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopter Alert Service Bulletin No. AS332–

53.01.62, Revision 1, dated May 28, 2019 (ASB AS332–53.01.62, Revision 1), for Model AS332C, AS332C1, AS332L, AS332L1, and AS332L2 helicopters. This service information contains procedures for removing the drain plugs from the fuel tank compartments located under the bottom structure of the helicopter. This service information also specifies that the number of drain plugs varies depending on the version of the helicopter.

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

Other Related Service Information

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

Proposed AD Requirements

This proposed AD would require removing the drain plugs from the fuel tank compartments.

Costs of Compliance

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

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify this proposed regulation:

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

2. Will not affect intrastate aviation in Alaska, and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2019–0970; Product Identifier 2018–SW–089–AD.

(a) Applicability

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

(b) Unsafe Condition

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

(c) Comments Due Date

The FAA must receive comments by February 3, 2020.

(d) Compliance

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

(e) Required Actions

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

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

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

(f) Credit for Previous Actions

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

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. AS332–53.01.62, Revision 0, dated June 7, 2018, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact

Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

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

(i) Subject

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

Issued in Fort Worth, Texas, on November 25, 2019.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2019–26079 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0766; Product Identifier 2019–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5B1, CF34–8C5A2, CF34–8C5A3, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 turbofan engine models. This proposed AD was prompted by a predicted reduction in the cyclic life of the combustion chamber assembly aft flange, which could result in certain combustion chamber assemblies failing before reaching their published life limit. This proposed AD would require revisions to the Airworthiness Limitations Section (ALS) of the manufacturer's Instructions for Continued Airworthiness (ICA) and to the air carrier's approved Continued Airworthiness Maintenance Programs (CAMP) to incorporate initial and repetitive fluorescent penetrant inspections (FPIs) of the combustion chamber assembly. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 17, 2020.

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

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

For service information identified in this NPRM, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7759.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0766; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0766; Product Identifier 2019–NE–23–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

The FAA was notified by the manufacturer that they found a reduction in the cyclic life of the combustion chamber assembly when updating their life analysis. As a result, the manufacturer added a scheduled maintenance check. This condition, if not addressed, could result in combustion chamber assemblies failing before reaching their published life limit.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE CF34–8E Engine Manual Temporary Revision (TR) 05–0085, dated February 21, 2019; GE CF34–8C TR 05–0141, dated February 21, 2019; and GE CF34–8C TR 05–143, dated February 13, 2019. These TRs, differentiated by GE CF34–8 turbofan engine model, identify the combustion chamber assembly part number, life limit cycles, and new inspections.

The FAA also reviewed GE CF34–8E TR 05–0086, dated February 13, 2019, and GE CF34–8C TR 05–0142, dated February 13, 2019. These TRs, differentiated by GE CF34–8 turbofan engine model, describe new inspection threshold limits and re-inspection interval limits for the combustion chamber assembly.

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

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require revisions to the ALS of the manufacturer's ICA and the air carrier's approved CAMP to incorporate initial

and repetitive FPIs of the combustion chamber assembly.

Costs of Compliance

The FAA estimates that this proposed AD affects 1,216 GE CF34–8C turbofan engine models and 638 GE CF34–8E turbofan engine models installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS and CAMP (GE CF34–8C and CF34–8E).	1 work-hour × $85 per hour = $85	$0	$85	$157,590
FPI combustion chamber assembly (GE CF34–8C).	6 work-hours × $85 per hour = $510	0	510	620,160
FPI combustion chamber assembly (GE CF34–8E).	5 work-hours × $85 per hour = $425	0	425	271,150

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2019–0766; Product Identifier 2019–NE–23–AD.

(a) Comments Due Date

The FAA must receive comments by January 17, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5B1, CF34–8C5A2, CF34–8C5A3, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 turbofan engine models, including engine models marked on engine data plate as CF34–8C5/B, CF34–8C5/M, CF34–8C5A1/B, CF34–8C5A1/M, CF34–8C5B1/B, CF34–8C5A2/B, and CF34–8C5A2/M.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Combustion Section.

(e) Unsafe Condition

This AD was prompted by a predicted reduction in the cyclic life of the combustion chamber assembly aft flange. The FAA is issuing this AD to prevent failure of the combustion chamber assembly. The unsafe condition, if not addressed, could result in combustion chamber assemblies failing before reaching their published life limit, uncontained release of the combustion chamber assembly, 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

(1) Within 90 days after the effective date of this AD, revise the Airworthiness Limitations Section of the GE Instructions for Continued Airworthiness. For air carrier operations, within 90 days after the effective date of this AD, also revise the approved continuous airworthiness maintenance program. These revisions must incorporate the following requirements for fluorescent penetrant inspections (FPI) of the combustion chamber assembly aft flange.

(i) For a combustion chamber assembly with part number (P/N) 4145T11G08, P/N 4145T11G09, P/N 4180T27G01, or P/N 4180T27G03 installed on GE CF34–8E turbofan engine models, revise CF34–8E Engine Manual GEK112031 by:

(A) Replacing Table 801, Static Structures—Life Limits (''Table 801''), with the revised Table 801 in Task 05–11–05–200–801 of GE CF34–8E Engine Manual Temporary Revision (TR) 05–0085, dated February 21, 2019, and

(B) Adding Task 05–21–03–200–801 of GE CF34–8E TR 05–0086, dated February 13, 2019 (''GE CF34–8E TR 05–0086'').

(ii) For a combustion chamber assembly with P/N 4126T87G04, P/N 4126T87G05, P/N 4126T87G07, P/N 4126T87G08, P/N

4180T27G04, P/N 4923T82G01, or P/N 4923T82G02 installed on GE CF34–8C1 turbofan engine models, or with P/N 4145T11G08, P/N 4145T11G10, P/N 4180T27G02, P/N 4180T27G04, or P/N 4923T82G02 installed on GE CF34–8C5, CF34–8C5/M, CF34–8C5A1, CF34–8C5A1/M, CF34–8C5A2, CF34–8C5A2/M, CF34–8C5A3, or CF34–8C5B1 turbofan engine models, revise CF34–8C Engine Manual GEK105091 by:

(A) Replacing Table 801, (For –8C1) and Table 802 (For –8C5) Static Structures—Life Limits (''Table 801'' and ''Table 802''), with the revised Tables 801 and 802 in Task 05–11–05–200–801 of GE CF34–8C Engine Manual TR 05–0141, dated February 21, 2019, and

(B) Adding Task 05–21–03–200–801 of GE CF34–8C TR 05–0142, dated February 13, 2019 (''GE CF34–8C TR 05–0142'').

(iii) For a combustion chamber assembly with P/N 4145T11G08, P/N 4145T11G10, P/N 4180T27G02, P/N 4180T27G04, or P/N 4923T82G02 installed on GE CF34–8C5B1/B CF34–8C5/B, CF34–8C5A1/B, or CF34–8C5A2/B turbofan engine models (Business Jet), revise CF34–8C Engine Manual GEK105091 by:

(A) Replacing Table 801 (For/B –8C5 Models) Static Structures—Life Limits with the revised Table 801 in Task 05–11–25–200–801 of GE CF34–8C TR 05–143, dated February 13, 2019, and

(B) Adding Task 05–21–03–200–801 of GE CF34–8C TR 05–0142.

(2) For any combustion chamber assembly that has exceeded the initial inspection threshold (in cycles) specified in GE CF34–8E TR 05–0086 or GE CF34–8C TR 05–0142:

(i) Perform the initial FPI of the combustion chamber assembly aft flange within 2,200 cycles after the effective date of this AD in accordance with GE CF34–8E TR 05–0086 or GE CF34–8C TR 05–0142. Thereafter, perform repetitive FPIs in accordance with the intervals in GE CF34–8E TR 05–0086 or GE CF34–8C TR 05–0142.

(ii) If, during the FPI required by paragraph (g)(2)(i) of this AD, a crack is found in the combustion chamber assembly aft flange, disposition the assembly in accordance with paragraph 2.A. of GE CF34–8E TR 05–0086, or paragraph 2.A. of GE CF34–8C TR 05–0142.

(h) 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 (i)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(i) Related Information

(1) For more information about this AD, contact David Bethka, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7129; fax: 781–238–7199; email: *david.bethka@faa.gov.*

(2) For service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7759.

Issued in Burlington, Massachusetts, on November 25, 2019.

Robert J. Ganley,

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

[FR Doc. 2019–25987 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 22, 23, 49, 52, 55, 71, 78, 124, and 222

[EPA–HQ–OGC–2019–0406; FRL–10002–10–OGC]

Modernizing the Administrative Exhaustion Requirement for Permitting Decisions and Streamlining Procedures for Permit Appeals

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes a procedural rule intended to streamline and modernize part of the Agency's permitting process by creating a new, time-limited alternative dispute resolution process (ADR process) as a precondition to judicial review. Under this proposal, the parties in the ADR process may agree by unanimous consent to either extend the ADR process or proceed with an appeal before the Environmental Appeals Board (EAB). If the parties don't agree to proceed with either the ADR process or an EAB appeal, the permit would become final and could be challenged in federal court. EPA also proposes to amend the current appeal process to clarify the scope and standard of EAB review, remove a provision authorizing participation in appeals by *amicus curiae,* and eliminate the EAB's authority to review Regional permit decisions on its own initiative, even absent an appeal. To promote internal efficiencies, EPA also proposes to establish a 60-day deadline for the EAB to issue a final decision once an appeal has been fully briefed and argued and to limit the length of EAB opinions to only as long as necessary to address the issues raised in an appeal; EPA also proposes to limit the availability of extensions to file briefs. The proposed rule would apply to permits issued by or on behalf of EPA under the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resources Conservation and Recovery Act. In addition to these permit appeal reforms, EPA proposes several additional reforms designed to provide tools to better allow the Administrator to exercise his or her statutory authority together with appropriate checks and balances on how the Board exercises its delegated authority. In this vein, EPA proposes to set twelve-year terms for EAB Judges, which the Administrator may renew at the end of that twelve-year period or reassign the Judge to another position within EPA. EPA also proposes a new process to identify which EAB opinions will be considered precedential. Finally, EPA proposes a new mechanism by which the Administrator, by and through the General Counsel, can issue a dispositive legal interpretation in any matter pending before the EAB.

DATES: Comments must be received on or before January 2, 2020.

ADDRESSES: Submit your comments, identified in Docket ID No. EPA–HQ–OGC–2019–0406, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mark Talty, Office of General Counsel, Environmental Protection Agency, 1200

Pennsylvania Avenue NW, Washington, DC 20460; (202) 564–2751; email address: *staff_ogc@epa.gov.*

SUPPLEMENTARY INFORMATION:

Submitting CBI. Do not submit information that you consider to be CBI electronically through *https://www.regulations.gov* or email. Send or deliver information identified as CBI only to the following address using U.S. Postal Service: U.S. Environmental Protection Agency, EPA Docket Center, EPA–HQ–OGC–2019–2751, Mail Code 2310A, 1200 Pennsylvania Avenue NW, Washington, DC 20460. For other methods of delivery, see *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. General Information
A. Does this action apply to me?
B. What action is the Agency taking?
C. What is the Agency's authority for taking this action?
II. Background
A. The Evolving Role of the EAB in Permit Appeals
B. What are the major permitting functions of the EAB?
C. What is the current process for permit appeals to the Environmental Appeals Board?
III. Summary of Today's Proposal
A. What are the key elements of this proposal?
1. New Time-Limited ADR Process
2. Clarifying the EAB's Scope and Standard of Review in Permit Appeals
3. Eliminating *Amicus Curiae* Participation
4. Eliminating *Sua Sponte* Review
5. Expediting the Appeal Process
6. 12-Year Terms for EAB Judges
7. Identifying Precedential EAB Decisions
8. Administrator's Legal Interpretations
9. Conforming Revisions
B. How would today's proposal affect pending appeals?
C. Why is EPA undertaking this reform?
D. What provisions of the CFR is EPA proposing to revise?
E. What regulatory text has EPA included in this proposal?
IV. Request for Comment
V. Statutory and Executive Orders

I. General Information

A. Does this action apply to me?

This proposed procedural rule would not regulate any person or entity outside EPA. This proposal would modify the process relevant to certain administrative appeals handled by the EAB under 40 CFR 124.19 and other regulations listed below. It may be of interest to persons and entities that apply for or are interested in challenging EPA permitting decisions under the National Pollutant Discharge Elimination System (NPDES) program of the Clean Water Act, the Safe Drinking Water Act's Underground Injection Control (UIC) program, and the Resources Conservation and Recovery Act (RCRA), including Remedial Action Plans, 40 CFR 270.42(f) & 270.155. It may also be of interest to persons or entities interested in challenging EPA permitting decisions under the Clean Air Act, including Outer Continental Shelf permits, 40 CFR 55.6(a)(3); Title V permits, 40 CFR 71.11(*l*); Acid Rain permits, 40 CFR 78.3(b)(1); Tribal Major Non-Attainment NSR permits, 40 CFR 49.172(d)(5); and Tribal Minor NSR permits, 40 CFR 49.159(d).

In addition, any person or entity interested in EPA's administrative processes may be interested in this proposal. With exception of section III.A.7 (Administrator's Legal Interpretations), nothing in this proposal affects the EAB's adjudication of enforcement appeals.

B. What action is the Agency taking?

This is a rule of agency organization, procedure or practice. Although not subject to the notice and comment requirements of the Administrative Procedure Act, the Agency nonetheless voluntarily seeks comment because it believes that the information and opinions supplied by the public will inform the Agency's views. To this end, EPA solicits information and comment from the public on EPA's proposal to streamline part of EPA's permitting process.

Each proposal is identified immediately below and described in Section III.

First, EPA solicits comment on a proposal to create a new, time-limited ADR process, resulting in a fundamental change to the Agency's long-held administrative exhaustion requirements. Any interested party seeking judicial review of an EPA permit would have to participate in this new process before filing a petition in federal court. Under this new process, the parties would have the choice, by unanimous consent, to extend the ADR process or proceed to an appeal before the EAB.

Second, EPA solicits comment on a proposal to clarify the scope and standard of the EAB's review. Under the current regulations, the EAB reviews petitions for a finding of fact or conclusion of law that is clearly erroneous. 40 CFR 124.19(a)(4)(i)(A). However, the current regulations also include a provision that provides that the EAB may review of an exercise of discretion ''or an important policy consideration.'' 40 CFR 124.19(a)(4)(i)(B). This has led to some confusion as to whether a petitioner may ask the EAB—standing in the Administrator's shoes—to address issues that a federal court generally could not review, such as whether EPA properly exercised its discretion relative to an ''important policy consideration.'' In any event, to the extent 40 CFR 124.19(a)(4)(i)(B) suggests that the EAB may review EPA's compliance with discretionary policies, EPA is proposing to eliminate that provision and clarify that the EAB's scope and standard of review is limited to findings of fact and conclusions of law that are clearly erroneous.

Third, EPA solicits information and comment on a proposal to remove 40 CFR 124.19(e), which currently authorizes interested persons to participate in a permit appeal as *amicus curiae.* Under today's proposal, the EAB would no longer accept *amicus curiae* briefs.

Fourth, EPA also solicits comment on a proposal to eliminate the EAB's authority to review Regional permit decisions on its own initiative (*sua sponte*), even absent a private party appeal. In EPA's experience, the EAB rarely invokes this authority, and to exercise it now could impede timely permitting.

Fifth, EPA solicits comment on a proposal to establish a 60-day deadline for the EAB to issue a final decision once an appeal has been fully briefed and argued. EPA also solicits information and comment on a proposal to limit the availability of filing extensions to one request per party, with a maximum extension of 30 days. (Nothing in the proposed rule would modify the EAB's discretion to relax or suspend filing requirements for good cause.)

Sixth, EPA solicits comment on a proposal to set twelve-year terms for

EAB Judges, which the Administrator may renew at the end of that twelve-year period or reassign the Judge to another position within EPA.

Seventh, EPA solicits comment on a proposal to establish a mechanism by which the Administrator, by and through the General Counsel, can issue a dispositive legal interpretation in any matter pending before the EAB or on any issue addressed by the EAB.

The new ADR process and the revised permit appeal procedures apply only to permitting decisions under:

- The National Pollutant Discharge Elimination System (NPDES) program of the Clean Water Act;
- The Safe Drinking Water Act's Underground Injection Control (UIC) program;
- The Resources Conservation and Recovery Act (RCRA), including Remedial Action Plans, 40 CFR 270.42(f) & 270.155; and
- The Clean Air Act, including Prevention of Significant Deterioration (PSD) permits, Outer Continental Shelf permits, 40 CFR 55.6(a)(3); Title V permits, 40 CFR 71.11(*l*); Acid Rain permits, 40 CFR 78.3(b)(1); Tribal Major Non-Attainment NSR permits, 40 CFR 49.172(d)(5); and Tribal Minor NSR permits, 40 CFR 49.159(d).

In particular, the new ADR process and procedural changes in this proposal would not apply to other types of appeals not listed above. Those topics are outside the scope of this rulemaking. Specifically, EPA does not solicit comment on the EAB's enforcement functions. In addition, with the exception of the proposed revisions above, nothing in this proposal would alter the mechanics of permit appeals or the process by which parties interact with the EAB, *e.g.,* service requirements. Those issues are also outside the scope of this rulemaking and EPA does not solicit comment on them.

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

EPA's authority to issue this proposed procedural rule is contained in Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* and Clean Air Act, 42 U.S.C. 1857 *et seq.* EPA has additional authority under the Federal Housekeeping Statute, 5 U.S.C. 301, which authorizes an agency head to prescribe regulations governing his or her department and the performance of its business, among other purposes.

II. Background

A. The Evolving Role of the Environmental Appeals Board in Permit Appeals

The EAB was created in 1992 to hear, among other things, administrative appeals of enforcement proceedings and EPA-issued permits. The purpose of its creation was to formally transfer the Administrator's authority over such appeals to the new Board in an effort to address the Agency's expanding enforcement docket and an increase in EPA-issued permits.

Over the past 27 years, the EAB's role in permit appeals has changed as more states and tribes have assumed permitting authority under EPA's statutes. For example, 47 states and one territory have assumed authority to administer NPDES permits under the Clean Water Act. In the context of RCRA, 48 states, the District of Columbia, and Guam have been authorized to implement either all or parts of state hazardous waste programs in lieu of RCRA subtitle C. Under the Clean Air Act, 43 states fully administer the PSD program, and EPA has approved Title V permit programs in all 50 states. As discussed later in this document, the EAB does not hear challenges to most state-issued permits.

As more states and tribes have assumed authority, the Agency has dramatically reduced the number of EPA-issued permits and, in turn, the number of permits appealed to the EAB. Since January 1, 2016, a total of 50 permit appeals have been filed with the EAB affecting a total of 40 permits.

In 2010, the EAB launched a voluntary ADR program to assist parties in resolving disputes before the EAB, including permit appeals. The EAB established this ADR program to promote faster resolution of issues and more creative, satisfying and enduring solutions; to foster a culture of respect and trust among EPA, its stakeholders, and its employees and to improve working relationships; to promote compliance with environmental laws and regulations; to expand stakeholder support for Agency programs; and to promote better environmental outcomes. The EAB's ADR program currently offers parties the option of participating in ADR with the assistance of an EAB Judge acting as a neutral evaluator/mediator (generally referred to as the Settlement Judge). The ADR program has been highly successful, and, to date, over 90% of the cases that have gone through the program have been resolved without litigation. *See The EPA's Environmental Appeals Board at Twenty-five: An Overview of the Board's Procedures, Guiding Principles, and Record of Adjudicating Cases,* p. 5 available at *https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/8f612ee7fc725edd852570760071cb8e/381acd4d3ab4ca358525803c00499ab0/$FILE/The%20EAB%20at%20Twenty-Five.pdf.* Since its inception, the ADR Program has helped parties achieve faster resolution of issues, enduring solutions, and broader support for outcomes. *Id.*

B. What are the major permitting functions of the Environmental Appeals Board?

Under the current regulations, the EAB has jurisdiction over three categories of permit-related actions, and an appeal to the EAB is a prerequisite for judicial review of the permit. (Prior to 1992, appeal to the Administrator was a prerequisite for judicial review of permits issued by Regional Administrators.)

The first category consists of appeals of federal permitting decisions by Regional Administrators under the Clean Air Act (PSD, Title V, Outer Continental Shelf, and some acid rain program permits), the Safe Drinking Water Act (UIC permits), the Clean Water Act (NPDES permits) and RCRA permits. Appeals under RCRA include decisions to deny a permit for the active life of a hazardous waste management facility or unit. This category also includes appeals by of Clean Air Act permits issued by states in certain circumstances.[1]

In the case of PSD permits, the entire process—from the determination that an application is complete to a final decision to grant or deny a permit application—must occur within one year by statutory mandate. 42 U.S.C. 7475(c); *see Avenal Power Center LLC* v. *EPA,* 787 F.Supp.2d 1 (D.D.C. 2011). Nothing in today's proposal would affect that statutory obligation.

The second category consists of appeals of Clean Air Act NSR permits

[1] In some permitting programs, EPA regulations provide authority for EPA to delegate the administration of the federal permitting program to a state or tribal administrative agency. *See, e.g.,* 40 CFR 52.21(u); 40 CFR 71.10. This delegation empowers the delegated agency to ''stand in the shoes'' of an EPA Regional Office and exercise federal law authority. But the action taken by the delegate remains a federal permitting decision subject to review in the Environmental Appeals Board. This relationship is distinct from an EPA-approved or authorized permitting program under which a state agency applies state laws and regulations that EPA has determined are sufficient to meeting the minimum programs requirements for such a permitting program. *See, e.g.,* 40 CFR 51.166; 40 CFR part 70. State permitting decisions under an EPA-approved program is an action under state law that is reviewable under any applicable state administrative procedures and in state courts.

issued by EPA in Indian Country. The third category consists of terminations of NPDES, RCRA and Marine Protection, Research, and Sanctuaries Act permits. Under 40 CFR 124(*l*), the EAB's decision and the Regional Administrator's subsequent issuance of the permit constitutes final agency action.

These permit-related functions are listed below, accompanied by the parts of the Code of Federal Regulations where they currently appear.

Appeals from NPDES permit decisions made by Regional Administrators and Administrative Law Judges under the Clean Water Act (40 CFR part 124).

Appeals from permit decisions and remedial action plan (RAP) approvals made by Regional Administrators under RCRA (40 CFR part 124; 40 CFR 270.42(f) & 270.155).

Appeals from PSD permit decisions made by Regional Administrators and delegated states under the Clean Air Act (40 CFR part 124; 40 CFR 52.21(q)).

Appeals from Title V operating permit decisions made by Regional Administrators and delegated states under the Clean Air Act (40 CFR 71.11(*l*)).

Appeals of Outer Continental Shelf permit decisions made by Regional Administrators (40 CFR part 124; 40 CFR 55.6(a)(3)).

Appeals from certain acid rain permitting decisions made by Regional Administrators (40 CFR 78.3(b)(1)).

Appeals from UIC permit decisions made by Regional Administrators under the Safe Drinking Water Act (40 CFR part 124).

Appeals from ocean dumping permit decisions made by Regional Administrators under the Marine Protection, Research, and Sanctuaries Act (40 CFR part 222).

Appeals from Federal Major Non-Attainment New Source Review permit decisions by Regional Administrators in Indian County under the Clean Air Act (40 CFR 49.172(d)).

Appeals from Federal Minor New Source Review permit decisions made by Regional Administrators in Indian Country under the Clean Air Act (40 CFR 49.159(d)).

Appeals from the terminations of NPDES and RCRA permits and RAPs (40 CFR 22.44).

C. What is the current process for permit appeals to the Environmental Appeals Board?

Any person who participated in the permit public participation process, either by filing comments on the draft permit or by speaking at a public hearing, may petition the EAB for review. 40 CFR 124.19(a)(2). In addition, anyone may petition the EAB for review of a permit condition that reflects changes from the draft. *Id.* A petition for review must be filed within thirty days after service of notice of the issuance of a permit decision and must identify the contested permit condition or other challenge to the permit decision and clearly set forth the petitioner's contentions, with appropriate support, as to why the Board should review the decision. *Id.* at § 124.19(a)(4). A petitioner must demonstrate that each issue raised in the petition was previously raised during the public comment period, or at a public hearing. *Id.* In order to prevail, a petitioner must show that each challenged permit condition is based on ''[a] finding of fact or conclusion of law that is clearly erroneous'' or ''[a]n exercise of discretion or an important policy consideration that the Environmental Appeals Board should, in its discretion, review.'' *Id.* § 124.19(a)(4)(i). Generally, the EPA Region—or other authority acting on EPA's behalf—that issued the permitting decision must file a response to a petition for review together with a certified index of the administrative record and relevant portions of the record within 30 days after service of the petition. *Id.* at § 124.19(b)(2). In the case of PSD or other new source permit appeals, the Agency has 21 days to file its response. *Id.* at § 124.19(b)(1). A permit applicant who did not appeal a permit decision may also file a notice of appearance and respond to a petition, as may a state or tribal authority where a permitted facility is (or is proposed to be) located. *Id.* § 124.19(b)(3) through (4). Any other interested person may also participate in the appeal by filing an amicus brief. *Id.* § 124.19(e).

Once the EAB has received a petition for review of a permit, the Clerk of the Board assigns the matter to a panel of judges using a neutral case assignment system. The EAB typically hears matters before it in three-member panels, with the fourth member of the EAB available to serve as a settlement judge in the event the parties opt to participate in the EAB's ADR program. *See id.* § 1.25(e)(1). The panel decides each matter before it ''in accordance with applicable statutes and regulations'' and considers the standard of review, prior EAB precedents, Agency policy it deems relevant, and the evidence in the record. *Id.* at §§ 1.25, 22.30(d), 124.19(h). When appropriate, the EAB hears oral argument on any or all issues in a proceeding. *Id.* at 124.19(h). The regulations specify that the EAB shall decide matters by majority vote. *Id.* at § 1.25. The EAB issues its opinions in writing, and the Regional Administrator's subsequent issuance of the permit consistent with the opinion constitutes final agency action.

Currently, under the EAB's ADR Program, parties to an appeal are invited to participate in ADR with the assistance of an EAB Judge acting as a neutral evaluator/mediation (referred to as the ''Settlement Judge''). An EAB staff attorney (referred to as ''EAB Settlement Counsel'') is often assigned to assist the Settlement Judge. Each party to the appeal must agree to participate in ADR for the case to proceed under the Program, which is often referred to as an ''opt-in'' ADR process. If all parties agree to proceed with ADR, an EAB Judge is assigned as the Settlement Judge, and the appeal proceedings are stayed for 60 days. The Settlement Judge contacts the parties for a status conference, followed by submission of issue summaries within 10 days of the status conference and an initial ADR meeting at which the parties begin the case evaluation/mediation process.

The ADR process may be terminated and the case returned to the EAB's active docket if: (1) The Settlement Judge, at any point following his or her designation, determines, in his or her discretion, that ADR is no longer appropriate; (2) the Settlement Judge, in his or her discretion, determines that the ADR process has not made substantial progress within the stay period; or (3) any party determines that it no longer wishes to participate in ADR. If a matter is returned to the EAB's active docket, the Settlement Judge and the EAB Settlement Counsel are prohibited from participating in any way in the EAB's resolution.

If the parties reach an acceptable resolution to all or part of their dispute, the parties must create a written agreement signed by each party. Upon execution of any agreement resolving all issues, the parties then file a joint motion to dismiss the pending matter. The EAB then issues an order dismissing the appeal. If some, but not all issues are resolved, and the issues are severable, the parties must file a motion for dismissal of the resolved issues. The EAB then issues an order returning the remaining issues to the EAB's active docket for resolution.

III. Summary of Today's Proposal

A. What are the key elements of this proposal?

1. New Time-Limited ADR Process

EPA proposes to create a new, time-limited ADR process and participation in that process would be a precondition to judicial review in federal court. Under the current regulations, an interested party must file a petition for review with the EAB as a precondition to judicial review. *See* 40 CFR 124.19(*l*). Once the appeal process has begun, parties to an appeal may ''opt-in'' to the EAB's ADR program to resolve the dispute without litigating the issues before a panel of EAB Judges. EPA is seeking to leverage the success of the EAB's current ADR program and empower the parties to decide for themselves the best, most efficient process to resolve their disputes.

Under this proposal, the EAB's ADR program would be switched from an opt-in process to an opt-out process conducted in compliance with the confidentiality provisions of the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 574. Under the proposed process, an interested person would have thirty days after service of notice of the issuance of a permit decision to file a notice of dispute with the EAB in which the interested person identifies the contested permit condition or other specific challenge to the permit decision. The notice of dispute would also need to certify that the party filed comments on the draft permit or participated in a public hearing on the draft permit or that the disputed conditions in the final permit reflect changes from the proposed draft permit. The party filing the notice would have to serve the notice on the Regional Administrator that issued the permitting decision, the permit applicant, as well as the state or tribal authority where the permitted facility is (or is proposed to be) located. The Regional Administrator would be required to file its response to a notice within 21 days after service of the notice of dispute. A permit applicant who did not dispute a permit decision may file a notice of appearance and a response, as may the relevant state or tribal authority, within the same 21-day period.

Upon receipt of the notice of dispute, the Clerk of the EAB would assign an EAB Judge to act as the Settlement Judge. The Settlement Judge would have thirty days from the deadline for filing a response to convene a meeting of all the parties. Each party would be required to file issue summaries with the Settlement Judge no later than ten days prior to the convening meeting. At the convening meeting, each party would be required to meet with the Settlement Judge in a private session in which the Settlement Judge would provide the party with a confidential, oral assessment of the strengths and weaknesses of their case. Information discussed in the private sessions would be confidential unless a party authorizes the Settlement Judge to disclose it. At the conclusion of the convening meeting, or no later than thirty days after the deadline to file a response, the parties may decide by unanimous consent to either extend the ADR process (beyond the initial thirty-day window) or proceed with an appeal before the EAB. The Regional Administrator would not be considered a party for purposes of this unanimous agreement, meaning the Regional Administrator would not have a say in how the parties decide to proceed. EPA is proposing to make any agreement of the parties issue-specific, meaning only those issues or conditions that all parties agree to resolve via further ADR or EAB review continue through the process. However, EPA solicits comment on whether the parties' agreement should apply to all issues raised in the notice of dispute. All parties would be required to attend and participate in the convening meeting as a prerequisite to seeking judicial review in federal court. If the parties do not agree to proceed with either the ADR process or an EAB appeal, the notice of dispute would be dismissed, the permit would become final and it could be challenged in federal court. Lastly, any issues that are raised in notice of dispute process but do not continue beyond the initial thirty-day period would be preserved for appeal but may not be challenged in federal court until the remaining administrative process concludes. Again, EPA solicits comment on whether all issues raised in the notice of dispute should be required to continue through the ADR process or EAB appeal rather than only those issues or conditions that all parties agree should proceed. If promulgated, the new ADR process would apply only to any permit decision issued on or after the effective date of the procedural rule. The proposal would not apply to any current permit appeals.

2. Clarifying the EAB's Scope and Standard of Review in Permit Appeals

The current regulations establish a ''clearly erroneous'' standard of review and direct petitioners to demonstrate that ''each challenge to the permit is based on . . . a finding of fact or conclusion of law that is clearly erroneous.'' 40 CFR 124.19(a)(4)(i)(A). However, the current regulations also include a paragraph that provides that the EAB may review of an exercise of discretion ''or an important policy consideration.'' 40 CFR 124.19(a)(4)(i)(B). This has led to some confusion as to whether a petitioner may ask the EAB—standing in the Administrator's shoes—to address issues that a federal court generally could not review, such as whether EPA properly exercised its discretion relative to an ''important policy consideration.'' To the extent that 40 CFR 124.19(a)(4)(i)(B) authorizes the EAB to review EPA's compliance with discretionary policies, EPA proposes to eliminate that provision. In doing so, EPA intends to make clear that while the EAB's *scope* of review would no longer include exercises of discretion or important policy considerations, nothing in this proposal would alter the *standard* of review employed by the EAB in adjudicating permit.

3. Eliminating *Amicus Curiae* Participation

EPA proposes to eliminate the provision at 40 CFR 124.19(e) that authorizes interested persons to participate in a permit appeal as *amicus curiae.* Under today's proposal, the EAB would no longer accept amicus curiae briefs in permit appeals.

Under the current regulations, any interested person can appeal an EPA permit to the EAB; therefore, the *amicus curiae* process allowed the EAB to consider additional views in support of or opposition to the Region's permit. As discussed above, EPA proposes to create a new ADR process that would be a prerequisite to seeking judicial review in federal court. EPA believes that this new process would be the proper forum for parties to resolve disputes over Agency permits and that allowing for additional input in a permit appeal, should the parties choose to proceed in such a manner, is unnecessary. Moreover, eliminating amicus curiae briefs is consistent with the proposed streamlining of the EAB permit appeal process. By eliminating amicus briefs, EPA proposes to hasten the resolution of permit appeals by 15 days, see 40 CFR 124.19(e), and to simplify the process. All members of the public are encouraged to submit comments on draft EPA permits, and the Regions consider those comments when making permit decisions. This is meaningful public engagement that has the potential to shape the permit before it is appealed to the EAB. Moreover, the public comments coupled with the Region's

responses become part of the permit's administrative record. EPA believes that the availability of these comments, coupled with the vigorous briefing by the permit applicant, the Region, and other parties will ensure that the EAB becomes aware of any issues or positions that might otherwise be raised by *amici.* Under these circumstances, the benefits of expeditious resolution of appeals outweigh any benefits associated with *amici* participation.

4. Eliminating *Sua Sponte* Review

The current regulations authorize the EAB to decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision for which review is otherwise available. Today's proposal would eliminate this provision. Allowing *sua sponte* review by the EAB would be inconsistent with the Agency's goal of empowering the parties of a permit dispute to dictate the process they believe will most effectively and efficiently resolve their dispute.

5. Expediting the Appeal Process

EPA proposes several additional changes to the appeal process that are intended to expedite resolution of appeals, should the parties choose to proceed with an EAB appeal. First, EPA proposes to establish a deadline of 60 days for the EAB to issue a final decision, measured from the date of oral argument or the filing of the last brief, whichever is later. This deadline demonstrates EPA's commitment to making permits final and effective expeditiously. It also should be achievable, in light of the EAB's reduced workload contemplated by this proposed rule.

Second, in light of the proposed 60-day deadline, EPA proposes to limit the length of EAB opinions by advising the Board to make them only as long as needed to address the specific issues raised in the appeal. EPA solicits comment on whether to set a numerical limit, either in words or pages.

In the third time-saving change, EPA proposes to revise the provisions in the current regulations relating to extensions of time to file briefs. The regulations at 40 CFR 124.19(g) authorize parties to seek such extensions. A review of motion practice before the EAB reveals that much of the delay in resolving appeals stems from frequent and lengthy extensions requested by the parties. Today's proposal would authorize each party to request a one-time 30-day extension that the EAB, in the exercise of its discretion, may choose to grant. Nothing in the proposed rule would eliminate the EAB's discretion to relax or suspend filing requirements for good cause. *See* 40 CFR 124.19(n).

6. 12-Year Terms for EAB Judges

The EAB is a permanent body with continuing functions established by regulation. It exercises authority expressly delegated to it from the Administrator by Title 40 of the Code of Federal Regulations. 40 CFR 1.25(e)(2). The EAB is composed of no more than four judges designated by the Administrator, 40 CFR 1.25(e)(1), but all positions need not be filled depending on the work load before the Board. By custom, EAB Judges are career employees of EPA and members of the Senior Executive Service (SES).

Over the years, the Agency has benefited from the arrival of new judges to fill vacancies created as former judges retire or move to other senior executive positions. Since 2012, eight different judges have served on the EAB, bringing with them experience from the Offices of the Regional Counsel, the Office of General Counsel, the Office of Enforcement and Compliance Assistance and other Federal agencies, including the U.S. Department of Justice. For judges joining the EAB since January 1, 2012, the average term of service is four years.

At the same time, the Agency has benefited from judges who have served on the Environmental Appeals Board for much longer terms. These judges bring deep experience in EAB jurisprudence and provide needed stability in light of frequent vacancies. Of the twelve judges who have served on the EAB since its creation in 1992, four of the first five EAB judges held their positions for nine to 21 years. One judge has served for 24 years.

In today's document, EPA proposes to set fixed twelve-year terms for EAB Judges, which the Administrator may renew at the end of that twelve-year period or reassign the Judge to another position within EPA. EPA solicits comment on whether eight-year terms are more appropriate. EPA also solicits comment on whether any other term length is more appropriate. The Administrator would apply the new twelve-year terms to the current EAB judges on a rolling basis over the next twelve years. Each seat on the EAB would be designated a number based on the seniority of the Board's current members. The seat of the longest serving judge would be designated as seat one, the second longest serving judge as seat two, the third longest serving judge as seat three, and the most recent judge as seat four. The term for the newly designated seat one would end three years after the effective date of the final rule. The process would then continue at three-year intervals, with seat two ending six years after the effective date, seat three ending nine years after the effective date, and seat four ending twelve years after the effective date. Thereafter, all terms will last for twelve years. If a judge vacates his or her position before the end of the judge's term, the Administrator would appoint a new judge to serve for the remainder of the vacated term. That new member could then be renewed at the end of the vacated term. For example, assume the term of the judge holding seat two ends in 2026, subject to renewal. Further assume that this judge retires in 2020. The new judge occupying seat two would serve for six years (until 2026) and then be eligible for a twelve-year term renewal. But assume this judge leaves after five years in 2025. The newest judge occupying seat two would serve for one year (until 2026) and then be eligible for twelve-year term renewal. There would be no limit to the number of twelve-years terms that one judge could serve. EPA also solicits comment on whether a different process for retention of EAB Judges is more appropriate.

If the Administrator chooses not to renew the appointment, the Administrator would assign that judge to another SES position within EPA for which he or she qualifies, in compliance with all applicable procedures. (As members of the SES, EAB judges are subject to reassignment to any other SES position in the Agency for which he or she qualifies, after approval from OPM and the Office of Presidential Personnel. *See Guide to the Senior Executive Service,* published by the Office of Personnel Management (March 2017), pages 8, 10. *https://www.opm.gov/policy-data-oversight/senior-executive-service/referencematerials/guidesesservices.pdf. See also* 5 U.S.C. 3131(5) (SES program shall be administered so as to enable the head of an agency to reassign senior executives to best accomplish the agency's mission).

In EPA's experience, EAB judges have left their appointments either to retire from federal service or to take another position within EPA or elsewhere. Nothing in this process would prevent a judge from leaving the EAB before the expiration of his or her twelve-year term. Similarly, nothing in this process prevents the Administrator from reassigning an EAB judge to another position prior to the expiration of his or her renewable twelve-year term.

7. Identifying Precedential EAB Decisions

EPA is soliciting comment on whether it should create a process to explicitly identify certain decisions of the EAB as precedential. Under such a process, only published decisions could be considered precedential. The determination of which decisions should be published would be determined by the Administrator acting through the General Counsel.

Other federal agencies that utilize adjudicatory hearings have similar processes for identifying precedential decisions. For instance, the Department of Homeland Security and the Department of Justice designate certain decisions as ''precedent decisions'' in various immigration proceedings. Under their process, ''precedent decisions'' are administrative decisions of the Administrative Appeals Office, the Board of Immigration Appeals (BIA), and the Attorney General, which are selected and designated as precedent by the Secretary of the Department of Homeland Security, the BIA, and the Attorney General, respectively. Identifying certain decision as precedential is important because federal courts give greater deference to such decisions. For that reason, EPA is soliciting comment on whether the Agency should affirmatively designate certain EAB decisions as precedential.

8. Administrator's Legal Interpretations

EPA proposes a new mechanism by which the Administrator, by and through the General Counsel, can issue a dispositive legal interpretation in any matter before the EAB or on any issue addressed by the EAB. This legal interpretation would be binding on the EAB. Under this proposal, the General Counsel may file written notice to the EAB providing the Administrator's legal interpretation of an applicable Agency regulation or governing statute in any matter before the EAB; this proposal is not limited just to permit appeals. This new mechanism is distinguished from legal briefs filed by EPA's Regions, which simply set forth the Agency's position on any relevant legal interpretations. The intent of this proposal is to allow the Administrator, in specific cases, to retain authority as it pertains to legal interpretations. Nothing in this proposal would limit the Administrator's existing authority (derived from his or her statutory authority to issue the permits in the first instance) to review or change any EAB decision.

9. Conforming Revisions

EPA also proposes conforming changes to regulatory text to implement the objectives described above.

B. How would today's proposal affect pending appeals?

If promulgated as proposed, today's revisions would not apply to appeals that had been filed with the EAB before the effective date of any final rule codifying such revisions.

C. Why is EPA undertaking this reform?

EPA has an almost 20-year history of promoting the expanded use of ADR to address disputes and resolve conflict. *See* EPA's Policy on Alternative Dispute Resolution, 65 FR 81,858 (Dec. 27, 2000). The Agency has long recognized that ADR techniques can have many benefits, including faster resolution of issues; more creative, satisfying and enduring solutions; fostering a culture of respect and trust among EPA, its stakeholders, and its employees; improving working relationships; promoting compliance with environmental laws and regulations; expanding stakeholder support for Agency programs; and promoting better environmental outcomes. *Id.* at 81,858–59. The EAB instituted its ADR program in 2010 in recognition of these many benefits and the success experienced by other federal agencies and by federal courts (including appellate courts) in settling contested matters through ADR. As noted above, the EAB's ADR program has been highly successful with over ninety percent of the cases that have gone through the program resolved without litigation.

EPA is seeking to build off the success of the EAB's ADR program by creating a new process that will ensure speedy resolution of disputes while providing the interested parties with options to achieve those ends. Under this proposal, the EAB's ADR program would switch to an opt-out process by requiring all parties to convene with an EAB Judge acting as a Settlement Judge. EPA believes the parties can greatly benefit from the input of the Settlement Judge's unique assessment of litigation risk, which, in the Agency's experience, carries significant weight among parties and often drives quick resolution of the issues. After receiving this valuable input from the Settlement Judge, the parties would then be empowered to decide for themselves the best, most efficient process to resolve their disputes, whether it be through further mediation, an EAB appeal or litigation in federal court.

In addition, EPA's proposals to reform the current permit appeal process go hand-in-hand with the newly proposed ADR process. By modifying and expediting the appeal process, EPA hopes to make an EAB appeal a more attractive, less time-consuming option for the parties to resolve permit disputes.

In proposing this new process, EPA recognizes that it is fundamentally changing the administrative exhaustion requirement. However, based on the changes to EAB permit reviews over time and the documented success of ADR processes, EPA ultimately believes that an ADR-focused, party-driven process will resolve disputes faster and result in better outcomes (either through ADR, streamlined Board adjudication or expedited judicial review).

Lastly, EPA is proposing several measured reforms designed to better align the Board's role with its delegated authority from the Administrator. The Administrator is given the authority to issue permits under each of the relevant statutes implicated in EPA's proposal. In creating the EAB, the Administrator delegated a portion of this authority to the Board. By providing the Administrator with tools to exercise his or her statutory authority in the first instance together with some appropriate checks and balances on how the Board exercises its delegated authority, the measures included in today's proposal are designed to better reflect how the Administrator exercises or delegates his or her permitting authority.

D. What provisions of the CFR is EPA proposing to revise?

EPA proposes to revise the following provisions of the CFR:

- 40 CFR 1.25(e) (Environmental Appeals Board).
- 40 CFR 22.44 (appeals from the terminations of NPDES and RCRA permits).
- 40 CFR part 23 (judicial review provisions).
- 40 CFR 49.159(d) (appeals from Federal Minor New Source Review permit decisions made by Regional Administrators in Indian Country under the Clean Air Act).
- 40 CFR 49.172(d) (appeals from Federal Major Non-Attainment New Source Review permit decisions by Regional Administrators in Indian County under the Clean Air Act).
- 40 CFR 52.21(q) (appeals from PSD permit decisions made by Regional Administrators and delegated states under the Clean Air Act).
- 40 CFR 55.6(a)(3) (appeals of Outer Continental Shelf permit decisions made by Regional Administrators).
- 40 CFR 71.11(*l*) (appeals from Title V operating permit decisions made by

Regional Administrators and delegated states under the Clean Air Act).

- 40 CFR 78.3(b)(1) (appeals from certain acid rain permitting decisions made by Regional Administrators).
- 40 CFR 124.16 & 124.19 (appeals from NPDES permit decisions made by Regional Administrators and Administrative Law Judges under the Clean Water Act; appeals from permit decisions made by Regional Administrators under RCRA; appeals from PSD permit decisions made by Regional Administrators and delegated states under the Clean Air Act; appeals of Outer Continental Shelf permit decisions made by Regional Administrators; appeals from UIC permit decisions made by Regional Administrators under the Safe Drinking Water Act).
- 40 CFR part 222 (appeals from ocean dumping permit decisions made by Regional Administrators under the Marine Protection, Research, and Sanctuaries Act).
- 40 CFR 270.42(f) & 270.155 (appeals from Remedial Action Plan decisions under RCRA).

E. What regulatory text has EPA included in this proposal?

EPA has included proposed regulatory text for 40 CFR part 124 that would effectuate the proposed ADR process for most permit appeals. The Agency has provided this regulatory text to show the public how the substance of the newly proposed ADR process would be implemented. While this proposal makes clear that the proposed ADR process would apply to each of the permit decisions listed in section I.B. of this document, EPA has not included proposed conforming regulatory text for the following sections:

- 40 CFR 49.159(d) (appeals from Federal Minor New Source Review permit decisions in Indian Country under the Clean Air Act).
- 40 CFR 49.172(d) (appeals from Federal Major Non-Attainment New Source Review permit decisions in Indian County under the Clean Air Act).
- 40 CFR 52.21(q) (appeals from PSD permit decisions made by Regional Administrators and delegated states under the Clean Air Act).
- 40 CFR 55.6(a)(3) (appeals of Outer Continental Shelf permit decisions).
- 40 CFR 71.11(l) (appeals from Title V operating permit decisions made by Regional Administrators and delegated states under the Clean Air Act).
- 40 CFR 78.3(b)(1) (appeals from certain acid rain permitting decisions).
- 40 CFR part 222 (appeals from ocean dumping permit decisions under the Marine Protection, Research, and Sanctuaries Act).
- 40 CFR 270.42(f) & 270.155 (appeals from Remedial Action Plan decisions under RCRA)

EPA seeks comment on how to conform the above-cited sections with the proposed revisions to part 124. EPA could conform those sections by cross-referencing the proposed revisions in part 124 (requiring persons to file a notice of dispute under proposed § 124.19) or by drafting separate regulatory text that would create an identical ADR exhaustion process within each of those sections.

IV. Request for Comment

EPA solicits comment on all aspects of the proposed regulation and the bases articulated for it above.

Except for the proposal regarding the Administrator's legal interpretations (Section III, A.8. of this document), EPA is not soliciting comment on any functions of the EAB unrelated to permit appeals. For example, EPA is not soliciting comment on enforcement appeals or any other aspect of the EAB's work not specifically proposed today. With the exception of the proposals discussed above—for which EPA solicits comment—nothing in today's proposal would change the processes for having an appeal adjudicated by the EAB (should the parties agree to proceed with an appeal before the EAB). Therefore, EPA does not solicit comment on the unchanged aspects of the permit appeal processes.

V. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because it is limited to agency organization, management or personnel matters.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because it relates to ''agency organization, management or personnel.''

C. Paperwork Reduction Act (PRA)

This action does not contain any information collection activities and therefore does not impose an information collection burden under the PRA.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the EPA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1536, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have 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.

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

This action does not have tribal implications as specified in Executive Order 13175.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''convered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action is not subject to Executive Order 12898 (59 Fed 7629, Feb. 16, 1994) because it does not establish an environmental health or safety standard.

List of Subjects

40 CFR Part 1

Organization and functions (Government agencies).

40 CFR Part 22

Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Noise prevention, Water pollution control.

40 CFR Part 23

Administrative practice and procedure, Air pollution control, Courts, Hazardous substances, Hazardous waste, Pesticides and pests, Radiation protection, Water pollution control, Water supply.

40 CFR Part 49

Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and Recordkeeping requirements.

40 CFR part 52

Administrative practice and procedure, Air pollution control, Ammonia, Carbon monoxide, Environmental protection, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 55

Administrative practice and procedure, Air pollution control, Continental shelf, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 71

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 78

Acid rain, Administrative practice and procedure, Air pollution control, Electric utilities, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 124

Administrative practice and procedures, Air pollution control, Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 222

Administrative practice and procedures, Water pollution control.

Dated: November 6, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA proposes to revise 40 CFR parts 1, 22, 23, 49, 52, 55, 71, 78, 124, and 222 as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: 5 U.S.C 552.

■ 2. Amend § 1.25 by revising paragraph (e)(2) and adding paragraph (e)(4) to read as follows:

§ 1.25 Staff offices.

* * * * *

(e)(2) *Functions.* (i) The Environmental Appeals Board shall exercise any authority expressly delegated to it in this title. With respect to any matter for which authority has not been expressly delegated to the Environmental Appeals Board, the Environmental Appeals Board shall, at the Administrator's request, provide advice and consultation, make findings of fact and conclusions of law, prepare a recommended decision, or serve as the final decisionmaker, as the Administrator deems appropriate.

(ii) In performing its functions, the Environmental Appeals Board may consult with any EPA employee concerning any matter governed by the rules set forth in this title, provided such consultation does not violate applicable *ex parte* rules in this title.

(iii) The Administrator may limit the Environmental Appeals Board's authority to interpret statutes and regulations otherwise delegated to it in this title by issuing, through the General Counsel, a binding legal interpretation of any applicable statute or regulation. Nothing in this section limits the Administrator's authority to review or change any EAB decision.

* * * * *

(4) *Term.* (i) Each member of the Environmental Appeals Board is appointed to a twelve-year term, with an option for renewal at the end of that twelve-year period. Nothing in this paragraph prevents a member of the Environmental Appeals Board from resigning before the expiration of the member's twelve-year term. Similarly, nothing in this paragraph forecloses the Administrator from reassigning a member of the Environmental Appeals Board to another position prior to the expiration of the member's renewable twelve-year term.

(ii) If a member of the Environmental Appeals Board resigns before the expiration of the member's term, the replacement member will serve for the remaining portion of the term, with an option for renewal at the end of the term.

PART 124—PROCEDURES FOR DECISIONMAKING

■ 3. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* Clean Air Act, 42 U.S.C. 7401 *et seq.*

Subpart A—General Program Requirements

■ 4. Amend § 124.16 by revising the first sentences of paragraphs (a)(1) and (a)(2)(ii), and by revising paragraph (b)(1) to read as follows:

§ 124.16 Stays of contested permit conditions.

(a) * * *

(1) If a notice of dispute of a RCRA, UIC, or NPDES permit under § 124.19 of this part is filed, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. * * *

(2) * * *

(ii) The Regional Administrator shall, as soon as possible after receiving notification from the EAB of the filing of a notice of dispute, notify the EAB, the applicant, and all other interested parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit as of the date specified in paragraph (a)(2)(i) of this section. * * *

(b) * * *

(1) A stay may be granted based on the grounds that a dispute to the Administrator under § 124.19 of one permit may result in changes to another EPA-issued permit only when each of the permits involved has been disputed to the Administrator.

* * * * *

■ 5. Revise § 124.19 to read as follows:

§ 124.19 Dispute of RCRA, UIC, NPDES and PSD Permits.

(a) *Disputing a permit decision*—(1) *Initiating a dispute.* Disputing a RCRA, UIC, NPDES, or PSD final permit decision issued under § 124.15 of this part, or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29 of this chapter, is commenced by filing a notice of dispute with the Clerk of the Environmental Appeals Board within the time prescribed in paragraph (a)(3) of this section.

(2) *Who may file?* Any person who filed comments on the draft permit or participated in a public hearing on the draft permit may file a notice of dispute as provided in this section. Additionally, any person who failed to file comments or failed to participate in the public hearing on the draft permit may dispute any permit conditions set forth in the final permit decision, but only to the extent that those final permit conditions reflect changes from the proposed draft permit.

(3) *Filing deadline.* A notice of dispute must be filed with the Clerk of the Environmental Appeals Board within 30 days after the Regional Administrator serves notice of the issuance of a RCRA, UIC, NPDES, or PSD final permit decision under § 124.15 or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29 of this chapter. A notice is filed when it is received by the Clerk of the Environmental Appeals Board at the address specified for the appropriate method of delivery as provided in paragraph (i)(2) of this section.

(4) *Notice contents.* (i) A notice of dispute must identify the contested permit condition or other specific challenge to the permit decision and clearly set forth the party's contentions for why the permit decision should be reviewed.

(ii) A notice of dispute may not exceed 20 double-space pages.

(iii) A person filing a notice of dispute must certify that:

(A) The person filed comments on the draft permit or participated in a public hearing on the draft permit; or

(B) The disputed conditions in the final permit reflect changes from the proposed draft permit.

(b) *Response(s) to a notice of dispute.* (1) The Regional Administrator must file a response to the notice of dispute within 21 days after the service of the petition.

(2) A permit applicant who did not file a notice of dispute but who wishes to participate in the dispute process must file a notice of appearance and a response. Such documents must be filed by the deadline provided in paragraph (b)(1) of this section.

(3) The State or Tribal authority where the permitted facility or site is or is proposed to be located (if that authority is not the permit issuer) must also file a notice of appearance and a response if it wishes to participate in the dispute process. Such response must be filed by the deadline provided in paragraph (b)(1) of this section.

(4) *Response contents.* (i) A response must respond to the issues raised in the notice of dispute.

(ii) A response may not exceed 20 double-spaced pages.

(c) *Filing and service requirements.* Documents filed under this section, including the notice of dispute, must be filed with the Clerk of the Environmental Appeals Board. A document is filed when it is received by the Clerk of the Environmental Appeals Board at the address specified for the appropriate method of delivery as provided in paragraph (c)(2) of this section. Service of a document between parties to a dispute or by the Environmental Appeals Board on a party is complete upon mailing for U.S. mail or EPA internal mail, when placed in the custody of a reliable commercial delivery service, or upon transmission for facsimile or email.

(1) *Caption and other filing requirements.* Every document filed with the Environmental Appeals Board must specifically identify in the caption the permit applicant, the permitted facility, and the permit number. All documents that are filed must be signed by the person filing the documents or the representative of the person filing the documents. Each filing must also indicate the signer's name, address, and telephone number, as well as an email address, and facsimile number, if any.

(2) *Method of filing.* Unless otherwise permitted under these rules, documents must be filed either by using the Environmental Appeals Board's electronic filing system, by U.S. mail, or by hand delivery or courier (including delivery by U.S. Express Mail or by a commercial delivery service).

(i) *Electronic filing.* Documents that are filed electronically must be submitted using the Environmental Appeals Board's electronic filing system, subject to any appropriate conditions and limitations imposed by order of the Environmental Appeals Board. All documents filed electronically must include the full name of the person filing below the signature line. Compliance with Environmental Appeals Board electronic filing requirements constitutes compliance with applicable signature requirements.

(ii) *Filing by U.S. Mail.* Documents that are sent by U.S. Postal Service (except by U.S. Express Mail) must be sent to the official mailing address of the Clerk of the Environmental Appeals Board at: U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue NW, Mail Code 1103M, Washington, DC 20460–0001. The original and two copies of each document must be filed. The person filing the documents must include a cover letter to the Clerk of the Environmental Appeals Board clearly identifying the documents that are being submitted, the name of the party on whose behalf the documents are being submitted, as well as the name of the person filing the documents, his or her address, telephone number and, if available, fax number and email address.

(iii) *Filing by hand delivery or courier.* Documents delivered by hand or courier (including deliveries by U.S. Express Mail or by a commercial delivery service) must be delivered to the Clerk of the Environmental Appeals Board at: U.S. Environmental Protection Agency, Environmental Appeals Board, WJC East Building, 1201 Constitution Avenue NW, Room 3332, Washington, DC 20004.

(3) *Service*—(i) *Service information.* The first document filed by any person must contain the name, mailing address, telephone number, and email address of an individual authorized to receive service relating to the proceeding. Parties must promptly file any changes in this information with the Clerk of the Environmental Appeals Board, and serve copies on all parties to the proceeding. If a party fails to furnish such information and any changes thereto, service to the party's last known address satisfies the requirements of paragraph (i)(3) of this section.

(ii) *Service requirements for parties.* A party must serve the notice of dispute on the Regional Administrator, the permit applicant and the state or tribal authority where the permitted facility or site is (or is proposed to be) located (if the applicant, state or tribal authority is not the disputing party). Once a dispute is docketed, every document filed with the Environmental Appeals Board must be served on all other parties. Service must be by first class U.S. mail, by any reliable commercial delivery service, or, if agreed to by the parties, by facsimile or other electronic means, including but not necessarily limited to email. A party who consents to service by facsimile or

other electronic means must file an acknowledgement of its consent (identifying the type of electronic means agreed to and the electronic address to be used) with the Clerk of the Environmental Appeals Board. The Environmental Appeals Board may by order authorize or require service by facsimile, email, or other electronic means, subject to any appropriate conditions and limitations.

(iii) *Service of rulings, orders, and decisions.* The Clerk of the Environmental Appeals Board must serve copies of rulings, orders, and decisions on all parties. Service may be made by U.S. mail (including by certified mail or return receipt requested, Overnight Express and Priority Mail), EPA's internal mail, any reliable commercial delivery service, or electronic means (including but not necessarily limited to facsimile and email).

(4) *Proof of service.* A certificate of service must be appended to each document filed stating the names of persons served, the date and manner of service, as well as the electronic, mailing, or hand delivery address, or facsimile number, as appropriate.

(d) *Dispute resolution process.* (1) Upon receipt of a notice of dispute under paragraph (a)(3) of this section, the Clerk of the Environmental Appeals Board shall assign one of the Board's judges to act as the Settlement Judge for the dispute.

(2) *Convening of parties*—(i) *Timing.* The Settlement Judge shall convene all parties to the dispute, either in-person or via video conference, within 30 days from the deadline provided in paragraph (b)(1) of this section. This deadline may be extended by unanimous consent of the parties.

(ii) *Issue summaries.* (A) No later than 10 days before the date of the convening, each party must submit a brief written submission (no more than 15 double-spaced pages) summarizing the issues in dispute and its positions on those issues. In addition to identifying any jurisdictional or policy issues, these submissions should include any background information that might facilitate settlement discussions. The submissions should also include discussions of what the parties seek from ADR and their perspective on what a successful agreement might include.

(B) Unless authorized by the submitting party, the issue summaries may not be shared with any other party.

(iii) *Initial mediation.* (A) Each party must meet with the Settlement Judge in a private session at or before the convening meeting. In the private session, the Settlement Judge shall provide each party with a confidential, oral assessment of the strengths and weaknesses of their case. Unless authorized by the communicating party, the Settlement Judge may not disclose any information provided in private session.

(B) Following the private sessions, the parties may engage in direct discussions to resolve the dispute.

(3) *Concluding the resolution process.*

(i) At the conclusion of the convening meeting, or no later than 30 days after the deadline provided in paragraph (b)(1) of this section, the parties may decide by unanimous agreement to:

(A) Continue mediation under the Environmental Appeals Board's alternative dispute resolution program; or

(B) Proceed with an appeal under § 124.20 of this chapter.

(ii) If the parties fail to agree to continue mediation or to proceed with an appeal under section 124.20 of this chapter, the Clerk of the Environmental Appeals Board shall dismiss the dispute.

(iii) If all parties agree to continue mediation under paragraph (d)(3)(i) of this section, the following provisions apply:

(A) The parties may decide by unanimous agreement at any time during the mediation process to proceed with an appeal under § 124.20 of this chapter.

(B) The Clerk of the Environmental Appeals Board may dismiss the notice of dispute and end the mediation process if:

(*1*) The Settlement Judge determines that the mediation has not made substantial progress or that mediation is no longer appropriate; or

(2) Any party to the mediation no longer wishes to participate.

(4) *Parties to unanimous agreement.* Under this section, the Regional Administrator is not considered a party when determining the unanimous agreement of the parties.

(e) *Withdrawal of permit or portions of permit by Regional Administrator.* The Regional Administrator, at any time prior to 30 days after the Regional Administrator files its response to the notice of dispute under paragraph (b) of this section, may, upon notification to the Environmental Appeals Board and any interested parties, withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit must proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit that are not withdrawn and that are not stayed under § 124.16(a) continue to apply. If the Settlement Judge has convened an initial meeting of the parties under paragraph (d)(2) of this section, the Regional Administrator may not unilaterally withdraw the permit, but instead must request that the Environmental Appeals Board grant a voluntary remand of the permit or any portion thereof.

(f) *Request for dismissal of dispute.* The disputing party, by motion, may request to have the Environmental Appeals Board dismiss its dispute. The motion must briefly state the reason for its request.

(g) *Judicial review.* (1) Filing a notice of dispute under paragraph (a)(1) of this section and participating in the convening meeting under paragraph (d)(2) of this section are, under 5 U.S.C. 704, a prerequisite to seeking judicial review of the final agency action.

(2) For purposes of judicial review under the appropriate Act, final agency action on a RCRA, UIC, NPDES, or PSD permit occurs when:

(i) A notice of dispute is dismissed under paragraph (d)(4) or (d)(5)(ii) of this section; or

(ii) When agency review procedures under § 124.20 of this chapter are exhausted and the Regional Administrator subsequently issues a final permit decision under § 124.20(i)(2) of this chapter.

(h) *General NPDES permits.* (1) Persons affected by an NPDES general permit may not file a petition under this section or otherwise challenge the conditions of a general permit in further Agency proceedings. Instead, they may do either of the following:

(i) Challenge the general permit by filing an action in court; or

(ii) Apply for an individual NPDES permit under § 122.21 as authorized in § 122.28 of this chapter and may then petition the Environmental Appeals Board to review the individual permit as provided by this section.

(2) As provided in § 122.28(b)(3) of this chapter, any interested person may also petition the Director to require an individual NPDES permit for any discharger eligible for authorization to discharge under an NPDES general permit.

■ 6. Revise § 124.20 to read as follows:

§ 124.20 Appeal of RCRA, UIC, NPDES and PSD Permits.

(a) *Appealing a permit decision*—(1) *Initiating an appeal.* An appeal of a RCRA, UIC, NPDES, or PSD final permit decision issued under § 124.15 of this part, or a decision to deny a permit for

the active life of a RCRA hazardous waste management facility or unit under § 270.29 of this chapter, is commenced by filing a notice with the Clerk of the Environmental Appeals Board indicating that all parties to the dispute resolution process agree to proceed with an appeal under this section.

(2) *What may be appealed?* An appeal under this section is limited to only those issues or permit conditions that the parties to the dispute resolution process agreed to appeal.

(3) *Administrative record.* The Regional Administrator must file a certified index of the administrative record and the relevant portions of the administrative record within 30 days after the service of the notice under paragraph (a)(1) of this section.

(b) *Opening brief.* (1) *Filing the brief.* A party that filed a notice of dispute under § 124.19(a)(1) of this chapter may file an opening brief within 30 days after service of the notice under paragraph (a)(1) of this section.

(2) *Contents of the brief.* In addition to meeting the requirements in paragraph (e) of this section, the opening brief must:

(i) Identify the contested permit condition or other specific challenge to the permit decision;

(ii) Demonstrate that each challenge to the permit decision is based on a finding of fact or conclusion of law that is clearly erroneous; and

(iii) Demonstrate, by providing specific citation or other appropriate reference to the administrative record (*e.g.,* by including the document name and page number), that each issue being raised in the brief was raised during the public comment period (including any public hearing) to the extent required by § 124.13. For each issue raised that was not raised previously, the brief must explain why such issues were not required to be raised during the public comment period as provided in § 124.13. Additionally, if the brief raises an issue that the Regional Administrator addressed in the response to comments document issued pursuant to § 124.17, then it must provide a citation to the relevant comment and response and explain why the Regional Administrator's response to the comment was clearly erroneous.

(c) *Answering brief(s).* (1) The Regional Administrator must file an answering brief within 30 days after service of the opening briefing. The answering brief must respond to arguments raised by the appellant, together with specific citation or other appropriate reference to the record (*e.g.,* by including the document name and page number).

(2) A permit applicant that participated in the dispute resolution process may file an answering brief that responds to the arguments raised by the appellant within 30 days after service of the opening brief.

(3) If the State or Tribal authority where the permitted facility or site is or is proposed to be located (if that authority is not the permit issuer) participated in the dispute resolution process, it may file an answering brief within 30 days after service of the opening brief.

(d) *Replies.* (1) In PSD and other new source permit appeals, the Environmental Appeals Board will apply a presumption against the filing of a reply brief. By motion, appellant may seek leave of the Environmental Appeals Board to file a reply to the answering brief, which the Environmental Appeals Board, in its discretion, may grant. The motion must be filed simultaneously with the proposed reply within 10 days after service of the answering brief. In its motion, appellant must specify those arguments in the response to which appellant seeks to reply and the reasons appellant believes it is necessary to file a reply to those arguments. Appellant may not raise new issues or arguments in the motion or in the reply.

(2) In all other permit appeals under this section, appellant may file a reply within 15 days after service of the answering brief. Appellant may not raise new issues or arguments in the reply.

(e) *Content and form of briefs*—(1) *Content requirements.* All briefs filed under this section must contain, under appropriate headings:

(i) A table of contents, with page references;

(ii) A table of authorities with references to the pages of the brief where they are cited;

(iii) A table of attachments, if required under paragraph (e)(2) of this section; and

(iv) A statement of compliance with the word limitation.

(2) *Attachments.* Parts of the record to which the parties wish to direct the Environmental Appeals Board's attention may be appended to the brief submitted. If the brief includes attachments, a table must be included that provides the title of each appended document and assigns a label identifying where it may be found (*e.g.,* Excerpts from the Response to Comments Document — Attachment 1).

(3) *Length.* Unless otherwise ordered by the Environmental Appeals Board, opening briefs and answering briefs may not exceed 14,000 words, and all other briefs may not exceed 7,000 words. Filers may rely on the word-processing system used to determine the word count. In lieu of a word limitation, filers may comply with a 30-page limit for petitions and response briefs, or a 15-page limit for replies. Headings, footnotes, and quotations count toward the word limitation. The table of contents, table of authorities, table of attachments (if any), statement requesting oral argument (if any), statement of compliance with the word limitation, and any attachments do not count toward the word limitation. The Environmental Appeals Board may exclude any opening brief, answering brief, or other brief that does not meet word limitations. Where a party can demonstrate a compelling and documented need to exceed such limitations, such party must seek advance leave of the Environmental Appeals Board to file a longer brief. Such requests are discouraged and will be granted only in unusual circumstances.

(f) *Motions*—(1) *In general.* A request for an order or other relief must be made by written motion unless these rules prescribe another form.

(2) *Contents of a motion.* A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support the motion. In advance of filing a motion, parties must attempt to ascertain whether the other party(ies) concur(s) or object(s) to the motion and must indicate in the motion the attempt made and the response obtained.

(3) *Response to motion.* Any party may file a response to a motion. Responses must state with particularity the grounds for opposition and the legal argument necessary to support the motion. The response must be filed within 15 days after service of the motion unless the Environmental Appeals Board shortens or extends the time for response.

(4) *Reply.* Any reply to a response filed under paragraph (f)(3) of this section must be filed within 10 days after service of the response. A reply must not introduce any new issues or arguments and may respond only to matters presented in the response.

(5) *Length.* Unless otherwise ordered by the Environmental Appeals Board, motions and any responses or replies may not exceed 7000 words. Filers may rely on the word-processing system used to determine the word count. In lieu of a word limitation, filers may comply with a 15-page limit. Headings, footnotes, and quotations count toward the word or page-length limitation. The

Environmental Appeals Board may exclude any motion that does not meet word limitations. Where a party can demonstrate a compelling and documented need to exceed such limitations, such party must seek advance leave of the Environmental Appeals Board. Such requests are discouraged and will be granted only in unusual circumstances.

(6) *Disposition of a motion for a procedural order.* The Environmental Appeals Board may act on a motion for a procedural order at any time without awaiting a response.

(g) *Motions for extension of time.* (1) Parties must file motions for extensions of time sufficiently in advance of the due date to allow other parties to have a reasonable opportunity to respond to the request for more time and to provide the Environmental Appeals Board with a reasonable opportunity to issue an order.

(2) Each party may only file one motion for extension and the requested extension may not exceed 30 days.

(h) *Filing and service requirements.* Documents filed under this section must be filed and serviced in accordance with the requirements of § 124.19(c) of this chapter.

(i) *Final disposition.* (1) The Environmental Appeals Board shall issue its decision on a permit appeal by the later date occurring 60 days after the date on which:

(i) The final brief has been submitted; or

(ii) Oral argument is concluded.

(2) Any written opinion issued by the Environmental Appeals Board should only be as long as necessary to address the specific issues presented to the Board in the appeal.

(3) The Regional Administrator must issue a final permit decision:

(i) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(ii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(4) The Regional Administrator must promptly publish notice of any final agency action regarding a PSD permit in the **Federal Register**.

(j) *Motions for reconsideration or clarification.* Motions to reconsider or clarify any final disposition of the Environmental Appeals Board must be filed within 10 days after service of that disposition. Motions for reconsideration must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for clarification must set forth with specificity the portion of the decision for which clarification is being sought and the reason clarification is necessary. Motions for reconsideration or clarification under this provision must be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration or clarification directed to the Administrator, rather than the Environmental Appeals Board, will not be considered, unless such motion relates to a matter that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.2 and for which the Administrator has issued the final order. A motion for reconsideration or clarification does not stay the effective date of the final order unless the Environmental Appeals Board specifically so orders.

(k) *Board authority.* In exercising its duties and responsibilities under this part, the Environmental Appeals Board may do all acts and take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal under this part including, but not limited to, imposing procedural sanctions against a party who, without adequate justification, fails or refuses to comply with this part or an order of the Environmental Appeals Board. Such sanctions may include drawing adverse inferences against a party, striking a party's pleadings or other submissions from the record, and denying any or all relief sought by the party in the proceeding. Additionally, for good cause, the Board may relax or suspend the filing requirements prescribed by these rules or Board order.

■ 7. Revise § 124.20 to read as follows:

§ 124.20 Computation of time.

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) When a party or interested person may or must act within a prescribed period after being served and service is made by U.S. mail, EPA's internal mail, or reliable commercial delivery service, 3 days shall be added to the prescribed time. The prescribed period for acting after being served is not expanded by 3 days when service is made by personal delivery, facsimile, or email.

[FR Doc. 2019–24940 Filed 12–2–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0656; FRL–10002–64–Region 7]

Air Plan Approval; Missouri; Sampling Methods for Air Pollution Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted by the State of Missouri to EPA on October 25, 2019. The purpose of the revisions is to provide a more efficient way to perform emissions sampling on air pollution sources throughout Missouri. The State is requesting approval of incorporating by reference the federally defined methods for stack testing. These proposed revisions are administrative in nature and do not affect the stringency of the SIP.

DATES: Comments must be received on or before January 2, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0656 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jan Simpson, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7089; email address *simpson.jan@epa.gov.*

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0656, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to the Missouri SIP submitted by the State of Missouri to the EPA on October 25, 2019. The revisions to the previously federally approved Missouri State rule 10 CSR 10–6.030 *Sampling Methods for Air Pollution Sources* are administrative in nature and do not affect the stringency of the SIP. If approved, the revisions will provide a more efficient way to perform emissions sampling by incorporating by reference (IBR) federally promulgated methods.

In sections (1) through subsection (5)(b) and sections (6) through (16) the State removed the title of the sampling method and added a reference to the IBR at section (22) of the revised rule. The sampling method required in each section was not changed. In subsection (5)(c) through (5)(f) the State removed the title of the sampling method and added a reference to the IBR at section (21) of the revised rule. The sampling method required in each subsection was not changed. In section (17) the State removed the title of the sampling method and added a reference to the IBR section (23) of the revised rule. The sampling method required in each section was not changed. At section (20) the State updated its IBR information and documentation identification.

In order to consolidate IBRs and for ease of updating the IBRs in the future, the State is adding sections (21), (22) and (23), of the Federal rule, effective July 1, 2018. Section (21) incorporates by reference 40 CFR part 51, appendix M ''Recommended Test Methods for State Implementation Plans''. Section (22) incorporates by reference 40 CFR part 60, appendix A ''Test Methods'', appendix B ''Performance Specifications'', and appendix F ''Quality Assurance Procedures''. Section (23) incorporates by reference 40 CFR part 61, appendix B ''Test Methods''.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from May 15, 2018 to August 2, 2018 and received eight comments. Based on the comments received the State made revisions to rule text in sections (21), (22), and (23) that incorporated by reference specific appendices and subparts. The State provided a second public notice on this SIP revision from April 15, 2019 to June 6, 2019 and received no comments. In addition, as explained above, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

IV. What action is the EPA taking?

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulation described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian

country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: November 22, 2019.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

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 AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.030'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c)* * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.030	Sampling Methods for Air Pollution Sources.	11/30/2019	January 3, 2020, [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

[FR Doc. 2019–26002 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2018–0705; FRL–10002–28–Region 6]

Air Plan Approval; New Mexico; Interstate Transport Requirements for the 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act, (CAA or Act), the Environmental Protection Agency (EPA) is proposing action on submissions from the State of New Mexico and the City of Albuquerque—Bernalillo County that are intended to demonstrate that the New Mexico State Implementation Plan (SIP) meets certain interstate transport requirements of the CAA for the 2008 ozone National Ambient Air Quality Standards (NAAQS). These submissions address interstate transport, CAA section 110(a)(2)(D)(i)(I), which requires each state's SIP to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the NAAQS in other states. The EPA is proposing to approve these submittals based on the conclusion that New Mexico will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.

DATES: Written comments must be received on or before January 2, 2020.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R06–OAR–2018–0705, at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436, March 27, 2008).

Primary standards are set to protect human health while secondary standards are set to protect public welfare. The 2008 ozone NAAQS are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to the NAAQS, as determined in accordance with appendix P to 40 CFR part 50.[1] This action is being taken in response to the promulgation of the 2008 8-hour ozone NAAQS.

The CAA requires states submit, within three years after promulgation of a new or revised standard, SIP revisions meeting the applicable ''infrastructure'' elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i)(I), requires SIPs to contain provisions to prohibit certain adverse air quality effects on downwind states due to interstate transport of pollution. Specifically, section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised standard contain adequate provisions to prohibit any emissions activity within the State from emitting air pollutants that will ''contribute significantly to nonattainment'' (sub-element 1) or ''interfere with maintenance'' (sub-element 2) of the applicable air quality standard in any other state.[2]

Ozone is not emitted directly into the air but is created by chemical reactions between oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) in the presence of sunlight. Emissions from electric utilities and industrial facilities, motor vehicles, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOCs. Because ground-level ozone formation increases with temperature and sunlight, ozone levels are generally higher during the summer. Increased temperature also increases emissions of VOCs and can indirectly increase NO_X emissions (*See* 81 FR 74504, 74513, October 26, 2016).

EPA has established a four-step interstate transport framework to address the sub-element 1 and 2 requirements for ozone and fine particulate matter ($PM_{2.5}$) NAAQS through the development and implementation of several previous rulemakings.[3] The four steps of this framework are as follows: (1) Identify downwind air quality problems; (2) identify upwind states that impact those downwind air quality problems enough to warrant further review and analysis; (3) identify the emissions reductions, if any, necessary to prevent an identified upwind state from contributing significantly or interfering with maintenance with respect to those downwind air quality problems; and (4) adopt permanent and enforceable measures needed to achieve those emissions reductions. The EPA has applied this framework in various actions addressing sub-elements 1 and 2 for the $PM_{2.5}$ and ozone NAAQS.[4] In prior actions, the EPA has concluded that states with impacts on downwind nonattainment and maintenance receptors less than 1% of the 2008 ozone NAAQS do not significantly contribute to nonattainment or interfere with maintenance pursuant to CAA section 110(a)(2)(D)(i)(I). This framework will be followed in this evaluation.

To assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS, the EPA has conducted interstate ozone transport modeling, provided informational memos, issued two Notices of Data Availability (NODAs), and issued regional rules that use the four-step framework to evaluate states' interstate transport obligations. The modeling data were developed to inform our analysis, in various actions, of downwind air quality problems and upwind state impacts on those problems. We published and requested public comment on interstate ozone transport modeling data for two different analytic years. For the purposes of this document, we will be referring to the data from these as the ''Transport Future Year 2017 modeling'' [5] and the ''Transport Future Year 2023 modeling.'' [6] The final version of the Transport Future Year 2017 modeling was released with the CSAPR Update and included projections of downwind nonattainment and maintenance receptors as well as calculations of the projected impacts of upwind states to these downwind receptors. The latest version of the Transport Future Year 2023 modeling relied on in this action was released in an October 27, 2017 memorandum ''Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I).'' [7] The

[1] Under appendix P, digits to the right of the third decimal place are truncated.

[2] All other parts of the infrastructure SIP for the State of New Mexico were submitted on September 14, 2013 and final approval was published June 24, 2015 (80 FR 36246). All other parts of the 2008 ozone infrastructure SIP for City of Albuquerque—Bernalillo County were submitted December 26, 2008 and final approval was published September 19, 2013 (77 FR 58032).

[3] *See, e.g.,* Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (also known as the NO_X SIP Call), 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25 162 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR) final rule. 76 FR 48208 (August 8, 2011); CSAPR Update final rule. 81 FR 74504 (October 26, 2016).

[4] *See, e.g.,* ''Interstate Transport Prongs 1 and 2 for the 2012 Fine Particulate Matter ($PM_{2.5}$) Standard for Colorado, Montana, North Dakota, South Dakota and Wyoming,'' 83 FR 21227 (May 9, 2018); ''Approval and Promulgation of Air Quality State Implementation Plans; California; Interstate Transport Requirements for Ozone, Fine Particulate Matter, and Sulfur Dioxide,'' 83 FR 5375 (February 7, 2018), ''Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements to Address Interstate Transport for the 2008 Ozone NAAQS'', 81 FR 15200 (March 22, 2016).

[5] *See* Notice of Availability of the Environmental Protection Agency's Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard (NAAQS), 80 FR 46271 (August 4, 2015); *see also* ''Updated Air Quality Modeling Technical Support Document for the 2008 Ozone NAAQS Transport Assessment,'' August 2015 (included in the docket to the NODA); *see also* the final updated modeling known as the ''Transport Future Year 2017 Model'' with all design values (DVs) for all monitors in all states (both east and west) and all states contribution breakouts for all monitors in the CSAPR Update docket; EPA–HQ–OAR–2015–0500–0459, 2017 Ozone Contributions, *https://www.regulations.gov/document?D=EPA-HQ-OAR-2015-0500-0459;* ''Air Quality Modeling Technical Support Document for the Final Cross State Air Pollution Rule Update; August 2016''; (aq_modeling_TSD_final_CSAPR_update.pdf at *https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-final-cross-state-air-pollution-rule*).

[6] *See* Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality (January 6, 2017, 82 FR 1733) *https://www.regulations.gov/docket?D=EPA-HQ-OAR-2016-0751* for the original notice and data file. The updated information including supplemental data with updated contribution analysis can be found at EPA's Clean Air Markets internet page ''Memo and Supplemental Information Regarding Interstate Transport SIPs for the 2015 Ozone NAAQS'' *https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs.* ''*Air Quality Modeling Technical Support Document for the 2015 Ozone NAAQS Preliminary Interstate Transport Assessment; December 2016*'' *https://www.epa.gov/sites/production/files/2017-01/documents/aq_modeling_tsd_2015_o3_naaqs_preliminary_interstate_transport_assessmen.pdf https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-2015-ozone-naaqs-preliminary-interstate).*

[7] *See* Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), October 27, 2017, available in the docket for this action and at *https://www.epa.gov/sites/production/files/2017-10/documents/final_2008_o3_naaqs_transport_memo_10-27-17b.pdf.*

modeling projections of downwind nonattainment and maintenance receptors as well as calculations of the projected impacts of upwind states to these downwind receptors was released in a March 27, 2018 memorandum ''Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I).'' [8]

Using the four step framework and considering the information in the memos, the underlying modeling information and NODA's discussed above, EPA conducted a Weight of Evidence (WOE) evaluation of the State of New Mexico SIP submittal (submitted by the New Mexico Environment Department), the City of Albuquerque—Bernalillo County SIP submittal (submitted by the City of Albuquerque Environmental Health Department) and the New Mexico SIP.

II. New Mexico's and City of Albuquerque-Bernalillo County's NAAQS Infrastructure Submissions

The New Mexico Environment Department (NMED) and City of Albuquerque Environmental Health Department (EHD) each provided submissions intended to demonstrate how the existing New Mexico SIP meets the applicable 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. The NMED submittal was received on October 10, 2018 [9] while the EHD submittal was made on October 4, 2018. Because the City of Albuquerque and Bernalillo County are a separate, combined jurisdiction from the rest of New Mexico for air quality purposes, the agencies for each jurisdiction made separate submittals to EPA for the 110(a)(2)(D)(i)(I) requirement for 2008 ozone NAAQS. NMED made the submittal on behalf of the New Mexico governor for the City of Albuquerque—Bernalillo County. NMED made the submittal covering the remainder of the State. Each submittal applied a common analytical framework addressing the State as a whole.

Relevant statutes and local ordinances convey the legislative authority for these submittals. Legislative authority for New Mexico's air quality program is codified in Chapter 74 (Environmental Improvement) of the New Mexico Statutes Annotated 1978 (NMSA 1978), which gives the State Environmental Improvement Board and NMED the authority to implement the CAA in New Mexico. Legislative authority for the City of Albuquerque—Bernalillo County Air Quality Control Board and EHD is codified in NMSA 1978 section 74–2–4 and in local ordinances, Revised Ordinances of the City of Albuquerque sections 9–1–5–1 to 9–1–5–99, and Bernalillo County Ordinances sections 30–31 to 30–47.

The authority to implement air quality programs under State statutes is contained in the New Mexico Administrative Code (NMAC), specifically Title 20, Chapter 2—Air Quality (Statewide) and Title 20, Chapter 11—City of Albuquerque—Bernalillo County Air Quality Control Board. These regulations are part of the approved New Mexico SIP and cited in 40 CFR 52.1620(c).

In their submittals, NMED and EHD, both point to certain rules and the Statutes Codified at Title 74 of the NMSA (the Air Quality Control Act 74–2–1) in the infrastructure SIPs (i-SIPs) to support their authority that the New Mexico SIP meets the requirements to prohibit certain adverse air quality effects on downwind states due to interstate transport of pollution. Specifically, they assert in the submittals that the SIP contains adequate provisions to prohibit any emissions activity within the State from emitting air pollutants that will ''contribute significantly to nonattainment'' (sub-element 1) or ''interfere with maintenance'' (sub-element 2) of the applicable air quality standard in any other state.

NMED's portion of the SIP contains enforceable emission limitations and other control measures for ozone and its precursors (including NO_X and VOCs) in Title 20 Chapter 2 of the New Mexico Administrative Code, Parts 3, 5, 7, 8, 10, 32–34, 72–75, 79, and 99. EHD's portion of the SIP contains enforceable emissions limitations and other control measures for any NAAQS, including ozone and its precursors in Title 20, Chapter 11 NMAC Parts 1–8, 40–41, 47, 49, 60–61, 63–67, 90, and 102. New Mexico and Bernalillo County regulations that have been approved in the New Mexico SIP can be found listed at 40 CFR 52.1620(c).

Both agencies point to the rules for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPS), and Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants (MACT).

We note that the SIP approved rules for NMED at 20.2.7.200.A(3) and (6) require that a source subject to NSPS, NESHAPS, and/or MACT must obtain a New Source Review (NSR) SIP Permit. The SIP approved rule at 20.2.72.208 requires that an NSR SIP permit cannot be issued if violations of the NAAQS, NSPS, NESHAPS, MACT, PSD increment, NMED rules, and NMED statutes would occur. The EHD SIP approved rules incorporate by reference the requirement to meet New Source Performance Standards for Stationary Sources, in 20.11.63 NMAC, and Emission Standards for Hazardous Air Pollutants for Stationary Sources in 20.11.64 NMAC. We note that SIP approved rule for EHD at 20.11.41.2.B.1 NMAC requires that sources within Bernalillo County subject to NSPS and NESHAP must obtain an NSR SIP permit. The SIP approved rule at 20.11.41.16(A) requires that an NSR SIP permit cannot be issued if violations of the NAAQS, NSPS, NESHAPS, Board rule, and Air Quality Control Act would occur. The SIP approved rule at 20.11.41.18.B reiterates this.

NMED and EHD also considered the EPA's modeling when developing their SIP submittals intended to demonstrate that their SIP meets CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. They state that neither the Transport Future Year 2017 modeling nor the Transport Future Year 2023 modeling linked New Mexico to any nonattainment receptors in other states. They note that the Transport Future Year 2017 modeling linked New Mexico to one maintenance receptor, National Renewable Energy Lab (NREL), monitor 080590011, in Jefferson County, Colorado, but that the Transport Future Year 2023 modeling did not show New Mexico linked to any maintenance receptors in other states.

In their submittals, NMED and EHD conclude, using a WOE approach, that New Mexico emissions will not contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states. They based their WOE conclusion on four elements: (1) The insignificance of EPA modeled impact on nonattainment and maintenance receptors of concern in 2023; (2) Control measures scheduled to be implemented through 2023 that were incorporated into EPA's modeling; (3) An attainment demonstration approved for the Denver nonattainment area for the 2008 ozone NAAQS; And, (4) an exceptional events demonstration for wildfires, which occurred in 2017 that supported the Denver attainment demonstration.

[8] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), March 27, 2018, available in the docket for this action and at *https://www.epa.gov/sites/production/files/2018-03/documents/transport_memo_03_27_18_1.pdf.*

[9] The cover letter is dated July 24, 2018.

As discussed above, it was necessary for both NMED and the EHD to make independent submittals to demonstrate how the existing New Mexico SIP meets the applicable CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS because the organizations have authority for air pollution control in different areas of the State. The submittals, however, are sufficiently similar that for our evaluation we will refer to the departments jointly as ''New Mexico'' in this document.

III. EPA's Evaluation

A. EPA's Sub-Element 1 Evaluation (Do emissions originating in New Mexico contribute significantly to the nonattainment of the 2008 ozone NAAQS in other states?)

EPA reviewed all elements of the WOE analysis provided in the New Mexico submittals as well as additional relevant technical information to determine whether the SIP has adequate provisions to ensure emissions from the State will not contribute significantly to nonattainment of the 2008 ozone NAAQS in a downwind state. While we reviewed all 4 elements of New Mexico's submittal we found elements 1 and 2 to be the most relevant and persuasive with consideration of the additional information provided by EPA's Transport Future Year 2017 modeling analysis. The EPA conducted this review within the established four-step interstate transport framework.

Step 1—Identification of Downwind Air Quality Problems

In order to determine whether a state will contribute significantly to nonattainment of the NAAQS in other states, the EPA first identifies projected nonattainment problems in a future analytic year (step 1 of the four-step framework). As mentioned above, EPA identifies nonattainment receptors as those monitoring sites that have projected average Future Design Values (FDVs) [10] exceeding the NAAQS. Both models discussed in Section I above (Transport Future Year 2017 model and Transport Future Year 2023 model) evaluated potential downwind air quality problems and projected contributions from upwind states to downwind receptors.

Both the Transport Future Year 2017 modeling and Transport Future Year 2023 modeling utilized a modeled base-case year of 2011 and monitoring data from the 2009–2013 period to establish the base period DVs. The Transport Future Year 2017 model projected downwind air quality problems and upwind state contributions using meteorological input from the base-case period (2011) with source emissions data estimated for the future year 2017 to yield model projected ozone levels in the future year analysis (2017), also called the ''2017 analytic year.'' The Transport Future Year 2023 model projected downwind air quality problems and upwind state contributions using meteorological input from the base-case period (2011) with source emissions data estimated for the future year 2023 to yield model projected ozone levels for the future year 2023 analysis, also called the ''2023 analytic year.'' The Transport Future Year 2017 model forecasted nonattainment receptors located in several areas across the continental United States for the 2008 ozone NAAQS. The Transport Future Year 2023 model forecasted nonattainment receptors only in California for the 2008 ozone NAAQS.

Step 2—Identify Upwind States That Impact Those Downwind Air Quality Problems Enough To Warrant Further Review and Analysis

Consistent with previous rulemakings,[11] EPA applied a threshold of 1% of the 2008 ozone NAAQS of 75 ppb (0.75 ppb) to identify linkages at step 2 between upwind states and downwind nonattainment receptors. Accordingly, if a state's impact on identified downwind receptors did not equal or exceed 0.75 ppb, the state was not considered ''linked'' to those receptors and was not considered to contribute significantly to nonattainment or interfere with maintenance of the standard in those downwind areas. However, if a state's impact equaled or exceeded the 0.75 ppb threshold, that state was considered ''linked'' to the downwind nonattainment or maintenance receptor(s) and further analysis was conducted at step 3 to determine whether the state significantly contributes to nonattainment and in what degree.

As further discussed in our Technical Support Document (TSD) for this action, neither the 2017 nor the 2023 modeling showed New Mexico linked to any nonattainment receptor. The largest impact New Mexico was forecasted by the Transport Future Year 2017 model to make on a nonattainment area (Imperial County, California) was 0.26 ppb, well under EPA's 1% threshold. Likewise, the largest impact New Mexico is forecasted by the Transport Future Year 2023 model to make on a nonattainment area (Imperial County, California) is 0.13 ppb, again, well under EPA's 1% threshold. Since New Mexico is not forecasted to be linked to nonattainment areas at step 2 of the four-step interstate transport framework, undertaking a review of and analyses for the remainder of the four-step process is not warranted. Accordingly, the EPA proposes to agree with the NMED and EHD submittals based on the conclusion that New Mexico will not contribute significantly to nonattainment in any other state and therefore proposes to approve the two SIP revisions with respect to sub-element 1 of the good neighbor provision.

B. EPA's Sub-Element 2 Evaluation (Do emissions originating in New Mexico interfere with maintenance of the 2008 ozone NAAQS in other states?)

As described in EPA's Sub-Element 1 Evaluation, EPA reviewed all elements of WOE analysis presented in the New Mexico submittals and additional relevant technical information to determine whether the SIP has adequate provisions to ensure emissions from the State will not interfere with maintenance of the 2008 ozone NAAQS in a downwind state.

Step 1—Identification of Downwind Air Quality Problems

In order to determine whether a state will interfere with maintenance of the NAAQS in downwind states, EPA first identifies projected maintenance problems in a future analytic year (*i.e.* step 1 of the four-step framework). EPA identifies maintenance receptors as those monitoring sites with projected maximum FDVs exceeding the NAAQS. As discussed, we have two relevant interstate ozone transport modeling analysis, the Transport Future Year

[10] The modeling analyses projects FDVs by adjusting observed ambient concentrations during a selected base-case year using a ratio based on changes in model response at a receptor due to changes in emissions between the base-case year and the future year. The average FDV is calculated using an average base DV that is an average of the three DVs that include the 2011 base-case year in the DV. In this case, it is the average of the DVs (2009–2011 DV, 2010–2012 DV, and 2011–2013 DV). The maximum FDV is calculated using a maximum base DV that includes the base-case 2011 year in the DV. In this case, it is the maximum DV of the 2009–2011 DV, 2010–2012 DV, and 2011–2013 DV. Both the average and maximum DVs are adjusted using model response changes due to emissions changes between 2011 and the future analysis years of either 2023 and 2017.

[11] *See* Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (also known as the NO_X SIP Call), 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR) Final Rule, 70 FR 25162 (May 12, 2005); CSAPR Final Rule, 76 FR 48208 (August 8, 2011); CSAPR Update for the 2008 Ozone NAAQS (CSAPR Update) Final Rule, 81 FR 74504 (October 26, 2016).

2017 model analysis and the Transport Future Year 2023 model analysis. The Transport Future Year 2017 model projected maintenance receptors located in several areas across the continental United States for the 2008 ozone NAAQS. The Transport Future Year 2023 model projected maintenance receptors only in California for the 2008 ozone NAAQS.

Step 2—Identify Upwind States That Impact Those Downwind Air Quality Problems Enough To Warrant Further Review and Analysis

As above and consistent with previous rulemakings,[12] EPA applied a threshold of 1% of the 2008 ozone NAAQS of 75 ppb (0.75 ppb) to identify linkages at step 2 between upwind states and downwind maintenance receptors. EPA's Transport Future Year 2017 model analysis indicated New Mexico was linked to one maintenance receptor, NREL, monitor 080590011, in Jefferson County, Colorado with a maximum modeled 2017 future DV of 0.78 ppb (above the 0.75 ppb 2008 ozone NAAQS), and the modeling-based contribution from New Mexico is 0.77 ppb (above the 0.75 ppb 1% contribution threshold by 0.02 ppb). The Transport Future Year 2023 model analysis did not show New Mexico linked to any maintenance receptors in 2023. The currently applicable ozone attainment date for the 2008 NAAQS in the Denver area is July 2021 and would apply to the NREL receptor. We, however, have not conducted any air quality modeling aligned with the 2021 attainment date, so we evaluated available modeling and emissions data to determine whether we would expect the linkage identified in the 2017 modeling to persist in a year aligned with the applicable attainment date, 2021. As discussed further below, we believe that the New Mexico contribution is currently below the 1% threshold.

EPA examined the projected decrease in New Mexico's anthropogenic NO_X emissions inventories between the Transport Future Year 2017 (156,783 tons of NO_X) and Transport Future Year 2023 modeling analyses (130,318 tons of NO_X), see TSD for full analysis. We evaluated the change in New Mexico's anthropogenic NO_X emissions since previous EPA regional modeling has indicated reductions in NO_X emissions result in more ozone reductions in the context of reducing upwind state impacts on downwind receptors in other states.[13] Regional modeling in Colorado and Denver also indicate that area ozone levels are more sensitive to NO_X reductions. There is a projected decrease of 26,465 tons of NO_X (approximately 17%) between 2017 and 2023 with most of these reductions (22,292 tons of NO_X) occurring from fleet turnover in onroad, nonroad, and rail emissions. New Mexico's Electrical Generating Unit (EGU) NO_X emissions are also projected to decrease by 939 tons (approximately 7% of EGU NO_X emissions) between 2017 and 2023. The Transport Future Year 2017 analysis includes controls put on San Juan Generating Station Units 1 and 4 and the Transport Future Year 2023 analysis also included reductions due to the enforceable shutdowns of units 2 and 3 by December 31, 2017 as part of Regional Haze Best Available Retrofit Technology (''BART'') SIP.[14]

Since most of the decreases in New Mexico's anthropogenic NO_X emissions are from mobile, onroad, and rail source categories that change annually due to fleet turnover, it is reasonable, in this case, to assume that the change in New Mexico's anthropogenic NO_X emissions and downwind ozone impacts is approximately linear for these categories, which in turn would make the decrease in New Mexico contributions to the NREL receptor approximately linear.[15]

In March 2018 EPA released modeling contribution data for 2023. We used the daily contribution data from this 2023 modeling as part of the process for estimating contributions in the 2020 analytic year. This process included a linear interpolation of contributions between 2017 and 2023 to estimate the contribution from New Mexico in 2020. In order to ensure consistency in the 2020 and 2023 contributions for use in interpolating between these two analytic years, EPA calculated the average contribution from New Mexico to the NREL receptor using the underlying daily 2023 contribution data for the same days that were used to calculate the average contribution for 2017. Specifically, the 2017 contribution analysis included 5 days and we used the daily contributions from these same 5 days to calculate the Transport Future Year 2023 average contribution. Using this consistent methodology, the contribution from New Mexico in 2023 is 0.65 ppb in 2023, which is below the 1% contribution threshold.

We note that change in contribution between 2017 (0.77 ppb) and 2023 (0.65 ppb) is approximately a 16% decrease, which is very similar with the decrease of approximately 17% in New Mexico's anthropogenic NO_X emissions inventories between those two years and further supports using linear interpolation in this case. A linear interpolation between the 2017 contribution of 0.77 ppb and the 2023 contribution of 0.65 ppb gives an estimate of the linear rate of decline of the contribution of New Mexico to the NREL monitor of 0.022 ppb per year $(0.77 - 0.65)/6$. An estimate of the analytic year contribution for 2020 can be calculated by the equation $(0.77 - 3 * 0.022 \text{ ppb}) = 0.71$. Thus, EPA estimates that the contribution of New Mexico to the NREL maintenance monitor is and will continue to be below the 1% threshold, 0.75 ppb, for determining a linkage.

Had future year modeling been performed for an earlier year of 2020 which would align with 2021 Serious area attainment date for Denver area, our analysis indicates that New Mexico's contribution would be below 0.75 ppb to the NREL receptor, regardless of whether NREL was a maintenance receptor for the 2008 ozone NAAQS in that year, and New Mexico would not be linked to the NREL receptor. By this analysis, New Mexico is not forecasted to be linked to NREL or other maintenance receptors at step 2 of the four-step interstate transport framework, thus, completing a review of and analyses for the remainder of the four-step process is not warranted.

Based on our review of the October 10, 2018, NMED submittal and the October 4, 2018, EHD submittal and other relevant information, EPA proposes to approve the submissions based on the conclusion that New Mexico emissions will not interfere with maintenance of the 2008 ozone NAAQS in any other state and therefore propose to approve the two SIP revisions.

IV. Proposed Action

EPA is proposing to (1) determine that consistent with the CAA, that both, New Mexico and City of Albuquerque-Bernalillo County have met their

[12] *See* Footnote 3.

[13] CSAPR Update final rule. 81 FR 74504 (October 26, 2016) Section IV pgs.74513–74516. Including ''The EPA has previously concluded in the NO_X SIP Call, CAIR, and CSAPR that, for reducing regional-scale ozone transport, a NO_X control strategy is effective.''

[14] Approval and Promulgation of Implementation Plans; New Mexico; Regional Haze and Interstate Transport Affecting Visibility State Implementation Plan Revisions, Final Rule, 79 FR 60985, (Oct. 9, 2014).

[15] Linear interpolation may not be appropriate in other situations where, for example, the emissions reductions occur as a single step decline during one of the intervening years, and/or when the magnitude of the emissions reduction is relatively large, and/or when the interpolation is done over a long-time horizon.

obligation under CAA section 110(a)(2)(D)(i)(I) because New Mexico will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state and (2) approve the October 10, 2018 New Mexico and October 4, 2018 City of Albuquerque-Bernalillo County SIP revisions for the 2008 ozone NAAQS interstate transport requirements of CAA 110(a)(2)(D)(i)(I).

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone.

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

Dated: November 21, 2019.

Kenley McQueen,

Regional Administrator, Region 6.

[FR Doc. 2019–25991 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2018–0208; FRL–10002–11–Region 6]

Air Plan Approval; Oklahoma; Updates to the General SIP and New Source Review Permitting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve identified portions of revisions to the State Implementation Plan (SIP) for Oklahoma submitted by the State of Oklahoma designee by letters dated May 16, 1994; July 26, 2010; January 8, 2018; May 16, 2018; and December 19, 2018 and as clarified on May 16, 2018. This action addresses the revisions submitted to the Oklahoma SIP pertaining to incorporation by reference of Federal requirements, updates to the general SIP provisions and New Source Review (NSR) permit programs to address public notice and modeling requirements, including certain statutory provisions.

DATES: Written comments must be received on or before January 3, 2020.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2018–0208, at *https://www.regulations.gov* or via email to *wiley.adina@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Adina Wiley, (214) 665–2115, *wiley.adina@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Adina Wiley, EPA Region 6 Office, Air Permits Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214–665–2115, *wiley.adina@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Adina Wiley or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA's National Ambient Air Quality Standards (NAAQS). These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: Carbon monoxide, nitrogen

dioxide, ozone, lead, particulate matter, and sulfur dioxide. The state's air regulations are contained in its SIP, which is basically a clean air plan. Each state is responsible for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to the EPA for approval and any changes a state makes to the approved SIP also must be submitted to the EPA for approval.

Section 110(a)(2)(C) of the CAA requires states to develop and submit to the EPA for approval into the SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. The EPA codified minimum requirements for these State permitting programs including public participation and notification requirements at 40 CFR 51.160–51.164. Requirements specific to construction of new stationary sources and major modifications in nonattainment areas are codified in 40 CFR 51.165 for the NNSR program. Requirements for permitting of new stationary sources and major modifications in attainment areas subject to PSD, including additional public participation requirements, are found at 40 CFR 51.166.

The State of Oklahoma submitted revisions to the Oklahoma SIP on May 16, 1994; July 16, 2010; January 8, 2018; May 16, 2018; and December 19, 2018 and a clarification letter dated May 16, 2018. On May 16, 1994, the Governor of Oklahoma submitted the recodification of the Oklahoma regulations as a revision to the Oklahoma SIP. The EPA addressed most of this recodification on November 3, 1999; this proposed rulemaking addresses the repeal of Regulation 3.8. *See* 64 FR 59629. On July 16, 2010, Mr. J.D. Strong, Secretary of Environment, submitted revisions to the Oklahoma SIP to implement NSR Reform. The submittal included revisions to Subchapters 1 and 8 in OAC 252:100 that became effective June 15, 2006. The EPA has acted on all portions of the July 16, 2010, submittal except for the adoption of OAC 252:100–8–36.1, which will be addressed in this proposed rulemaking. *See* 81 FR 66535. On January 8, 2018, Mr. Michael Teague, Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP that included the annual SIP update for 2017, with amendments to Subchapters 1, 2, 8, and Appendix Q. On May 16, 2018, Mr. Michael Teague, Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP that included updates and amendments to OAC 252:4, relevant Oklahoma statutes, and a clarification letter dated May 16, 2018, about how the Oklahoma public notice process addresses the requirements for PSD public notice. On December 19, 2018, Mr. Michael Teague, Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP that included the annual SIP updates for 2018, with amendments to OAC 252:100, Subchapters 2, 8, and Appendix Q. Collectively, the submitted revisions update the incorporation by reference of Federal requirements, the general SIP provisions and New Source Review (NSR) permit programs to address public notice and modeling requirements.

II. The EPA's Evaluation

The accompanying Technical Support Document (TSD) for this action includes a detailed analysis of the submitted revisions to the Oklahoma SIP. Our analysis indicates that the May 16, 1994; July 16, 2010; January 8, 2018; May 16, 2018; and December 19, 2018, SIP revisions were developed in accordance with the CAA and the State provided reasonable notice and public hearing.

General SIP Updates

- On May 16, 1994, the Governor of Oklahoma submitted a recodification of the existing Oklahoma regulations as a revision to the Oklahoma SIP; as part of this recodification the State of Oklahoma requested that we remove Regulation 3.8 from the SIP. The EPA has determined that the provisions of Regulation 3.8, approved into the Oklahoma SIP on August 15, 1983, address the control of emissions of hazardous air pollutants (HAPs) and therefore do not need to be included in the Oklahoma SIP. Control of HAP emissions is appropriately addressed through the delegation of NESHAP and MACT standards; see the EPA's recent approval at 83 FR 53183 (October 22, 2018).
- The January 8, 2018, submittal updated the general definitions applicable to the entire Oklahoma SIP at OAC 252:100–1–3 to be consistent with Federal requirements. The definition of ''building, facility, or installation'' was revised to be consistent with the requirements at 40 CFR 51.165(a)(1)(ii)(A) and (B) and 40 CFR 51.166(b)(6)(i) and (ii). The definition of ''carbon dioxide equivalent emissions'' was revised to delete the Greenhouse Gas (GHG) Biomass Deferral provisions.[1] On May 23, 2016, the EPA disapproved the GHG Biomass Deferral revisions to the definition of ''carbon dioxide equivalent emissions'' at OAC 252:100–1–3 in the January 8, 2013, SIP submittal. *See* 81 FR 32239. The deletion of the provisions in the January 8, 2018, submittal is approvable as consistent with Federal requirements for permitting of GHGs and the EPA's May 23, 2016, disapproval. Additionally, removal of the GHG Biomass Deferral provisions from the definition will enable the EPA to remove the disapproval at 40 CFR 52.1922(c).
- The revisions to OAC 252:100, Subchapter 2 and Appendix Q submitted on January 8 and December 19, 2018, update the incorporation by reference dates so the Oklahoma SIP maintains consistency with Federal requirements. The State of Oklahoma is also incorporating by reference the requirements of the EPA's Guideline on Air Quality Models at 40 CFR part 51, appendix W; this updated incorporation ensures that the ODEQ will apply the current EPA models and requirements for SIP and air permit modeling needs.
- The May 16, 2018, Oklahoma SIP submittal included several revisions to existing SIP-approved requirements at OAC 252:4, Rules of Practice and Procedure, applicable to the entirety of the Oklahoma SIP. The submittal included revisions to OAC 252:4, Subchapter 1—General Provisions adopted May 6, 2005, April 25, 2013, and June 9, 2016; OAC 252:4, Subchapter 3—Meetings and Public Forums adopted March 27, 2007; and OAC 252:4, Subchapter 9—Administrative Proceedings, Part 3—Individual Proceedings adopted May 1, 2009, and April 25, 2013. The submitted revisions clarify existing SIP-approved requirements and update internal cross-references to other Oklahoma regulations.
- The May 16, 2018, Oklahoma SIP submittal included several revisions to the existing permit-related SIP requirements at OAC 252:4, Subchapter 7—Environmental Permit Process adopted on March 28, 2002; March 25, 2003, April 25, 2013, and June 13, 2017. OAC 252:4–7–5 has been expanded to clarify how the ODEQ processes permit fees and fee refunds. OAC 252:4–7–13

[1] On July 12, 2013, the D.C. Circuit, in Center for Biological Diversity v. EPA, 722 F.3d 401, vacated the provisions of the GHG Biomass Deferral. Due to a series of extension requests and rehearing proceedings, the court did not issue its mandate making the vacatur effective until August 10, 2015. However, the GHG Biomass Deferral expired by its own terms on July 21, 2014.

has been revised to include new public notice requirements. Revisions to OAC 252:4–7–13(g)(1)–(3) adopted on March 25, 2003, ensure consistency with Federal public notice requirements at 40 CFR 51.166(q)(2)(iii) by requiring public notices to be published in a newspaper of general circulation, identify the emissions changes involved in the modification, and require written notice to neighboring states where the air quality may be impacted. Revisions to OAC 252:4–7–13(g)(5) adopted on June 13, 2017, require public notices for PSD permits to specify the degree of increment consumption and that public notices for PSD permits are sent to the applicant, EPA Administrator, and officials and agencies having cognizance over the location of the proposed construction, consistent with the Federal PSD requirements at 40 CFR 51.166(q)(2)(iii) and (iv), discussed more fully in the section about PSD public notice requirements.[2] Section OAC 252:4–7–18 has been expanded to clarify how the ODEQ will review and correct a permit prior to issuance. Section OAC 252:4–7–20 has been added to specify the process of ODEQ review of a final permit decision and the contents of the final permit decision administrative record. The SIP-approved portions of OAC 252:4–7–32 have been renumbered; the EPA is only addressing the renumbering in this proposal. Section OAC 252:4–7–33 has been expanded to include new 7–33(c)(3) which requires Tier II public notice for the SIP-approved plant-wide emission plan approvals at OAC 252:100, Subchapters 37 or 39.

• The new provisions at OAC 252:4–17–1—OAC 252:4–17–7 adopted on April 27, 2007, and the revisions to OAC 252:4–17–2 and OAC 252:4–17–4 adopted on June 9, 2016, submitted as a revision to the Oklahoma SIP on May 16, 2018, establish the requirements for Cross-Media Electronic Reporting Rule (CROMERR) compliant electronic reporting under 40 CFR parts 51 and 52 in the State of Oklahoma. The EPA has separately evaluated and approved the Oklahoma Electronic Document Receiving System as CROMERR compliant. *See* 73 FR 58587, 79 FR 55792, and 81 FR 36301. The requirements at OAC 252:4–17–1 through OAC 252:4–17–7 are approvable as revisions to the Oklahoma SIP consistent with the requirements of 40 CFR 51.286.

[2] The EPA is taking no action on the severable revision to OAC 252:4–7–13(g)(4) adopted on March 25, 2003, and submitted May 16, 2018. This adopted provision is specific to operating permits, which are addressed through a state's part 70 program rather than the SIP.

The EPA has determined it is appropriate to approve the general revisions to the Oklahoma SIP discussed above because these revisions maintain consistency with Federal requirements and will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirements.

PSD Updates

The State of Oklahoma submitted revisions to the PSD Program on January 8, 2018, that were adopted on June 13, 2017 at OAC 252:100–8–31, Definitions; OAC 252:100–8–33, Exemptions; and OAC 252:100–8–35, Air quality impact evaluation. Additional revisions to OAC 252:100–8–35 were adopted on June 18, 2018 and submitted on December 19, 2018.

• The submitted revisions to OAC 252:100–8–31, update the definitions of: (1) ''Regulated NSR Pollutant'' to be consistent with the Federal requirements at 40 CFR 51.166(b)(49); (2) ''Significant'' to be consistent with the Federal requirements at 40 CFR 51.166(b)(23); and (3) ''Subject to regulation'' to remove the GHG Biomass Deferral and GHG PSD permitting requirements for non-anyway sources to be consistent with the Federal requirements at 40 CFR 51.166(b)(48). On May 23, 2016, the EPA disapproved the GHG Biomass Deferral and GHG PSD permitting requirements for non-anyway sources in the definition of ''Subject to regulation'' at OAC 252:100–8–31 in the January 8, 2013 SIP submittal. *See* 81 FR 32239. Approval of the revisions to the definition of ''Subject to regulation'' will allow the EPA to remove the disapproval of the Oklahoma non-anyway permitting provisions at 40 CFR 52.1922(b)(2) and the disapproval of the GHG Biomass Deferral at 40 CFR 52.1922(c).

• The revisions to OAC 252:100–8–33 update the PSD Exemptions consistent with Federal requirements. The provisions at OAC 252:100–8–33(a)(2) have been updated to reflect the Federal requirements at 40 CFR 51.166(i)(2) for nonattainment designations for revoked NAAQS. The exemptions from air quality analysis requirements at OAC 252:100–8–33(c) have been updated to remove the significant monitoring concentration exemption for $PM_{2.5}$, consistent with the Federal PSD requirements at 40 CFR 51.166(i)(5)(i) and the EPA's prior disapproval on October 28, 2016. *See* 81 FR 74921. As a result of this change, the EPA will remove the disapproval at 40 CFR 52.1920(b)(3).

• The revisions to OAC 252:100–8–35(a) adopted June 13, 2017 and submitted January 8, 2018, remove the provisions establishing $PM_{2.5}$ significant impact levels. The EPA previously disapproved the provisions at OAC 252:100–8–35(a)(2) on October 28, 2016. *See* 81 FR 74921. The deletion of these provisions from the State regulations is consistent with Federal PSD requirements at 40 CFR 51.166(k)(2) and addresses our disapproval. As such, the EPA will remove the disapproval at 40 CFR 52.1922(b)(4).

• The revisions to OAC 252:100–8–35(b) adopted June 18, 2018 and submitted December 19, 2018, remove the incorporation by reference date of the EPA's Guideline on Air Quality Models at 40 CFR part 51, appendix W. This revision is necessary to update the Oklahoma PSD SIP to use the current version of the EPA's Guideline on Air Quality Modeling, consistent with Federal PSD requirements at 40 CFR 51.166(l). The removal of the IBR date in OAC 252:100–8–35(b) works with the updated incorporation by reference dates submitted in OAC 252:100, Subchapter 2 and Appendix Q. As the EPA makes updates to appendix W, the ODEQ will update the Oklahoma SIP IBR dates in OAC 252:100, Subchapter 2 and Appendix Q, thereby ensuring the Oklahoma PSD program will be updated in the future.

• The revisions to OAC 252:100–8–35(c) adopted June 18, 2018 and submitted December 19, 2018, remove the incorporation by reference date of the EPA's 40 CFR part 58, appendix B. The removal of this date ensures the Oklahoma SIP can use the latest version of 40 CFR part 58, appendix B, consistent with the Federal PSD permitting requirements at 40 CFR 51.166(m)(3).

The EPA has determined it is appropriate to approve the revisions to the Oklahoma PSD program submitted January 8 and December 19, 2018, as discussed above because these revisions maintain consistency with Federal requirements and will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirements.

NNSR Updates

The State of Oklahoma submitted revisions to the NNSR Program on January 8, 2018 that were adopted on June 13, 2017 at OAC 252:100–8–51.1, Emissions reductions and offsets. The submitted revisions update the incorporation by reference date of 40 CFR 51.165(a)(11) to April 6, 2015, consistent with the effective date of the

revisions promulgated by the EPA on March 6, 2015 to address the NNSR permitting requirements for the 2008 ozone standard. *See* 80 FR 12264. The March 6, 2015, final rule specifies that emission offsets for NNSR permitting must be for the same regulated pollutant; states have the discretion to allow interprecursor trading for either ozone or direct $PM_{2.5}$ emissions only if this discretion is identified in the SIP. The State of Oklahoma is attainment for both ozone and $PM_{2.5}$; there is no requirement for the Oklahoma SIP to include an NNSR program for either ozone or $PM_{2.5}$, or to identify whether the State will exercise its discretionary authority to allow interprecursor trading to satisfy emission offset requirements. We can propose approval of the revisions to OAC 252:100–8–51.1 because the State has incorporated by reference Federal permitting requirements. However, if the State of Oklahoma is designated nonattainment for ozone or $PM_{2.5}$ at any time in the future, a subsequent SIP revision would be necessary to provide for interprecursor trading for emission offsets.

PSD Public Notice Updates

On June 15, 2006, the State of Oklahoma adopted, and submitted on July 26, 2010, a new provision for PSD Public Notice at OAC 252:100–8–36.1. This section relies on the separate authorities found at OAC 252:4 and 27A Oklahoma Statutes (O.S.) 2–5–112 and 27A O.S. 2–14–101 to 2–14–304 to satisfy the Federal public notice requirements for PSD permit applications. On May 16, 2018, the State of Oklahoma submitted a revision to the Oklahoma SIP that included revisions to OAC 252:4, updated versions of the Oklahoma Statutes, and a clarification letter dated May 16, 2018 regarding PSD public notice requirements. The EPA's evaluation of how these regulations and statutes satisfy PSD public notice requirements is summarized below. The full analysis is contained in the TSD for this action.

- 40 CFR 51.166(q)(1) requires that the permitting authority will notify all applicants within a specified time period as to the completeness of the application or any deficiency in the application. The Oklahoma SIP satisfies 40 CFR 51.166(q)(1) through OAC 252:4–7–7, which requires the ODEQ to complete an administrative completeness review within 60 calendar days from receipt of the permit application. If the application is deemed incomplete, then the applicant is notified by mail of the deficiencies and supplemental information is requested. The EPA SIP-approved OAC 252:4–7–7 on May 15, 2017. *See* 82 FR 22281.
- 40 CFR 51.166(q)(2)(i) requires that within one year after receipt of a complete application, the reviewing authority will make a preliminary determination whether construction should be approved, approved with conditions, or disapproved. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(i) through OAC 252:4–7–31, which requires that construction permits for PSD sources be reviewed and issued or denied within 365 days. Construction permits generally cover new PSD sources and modifications to existing PSD sources. The EPA SIP-approved OAC 252:4–7–31 on May 15, 2017. *See* 82 FR 22281.
- 40 CFR 51.166(q)(2)(ii) requires that within one year after receipt of a complete application, the reviewing authority will make available in at least one location in each region in which the proposed source is proposed to be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and any other materials considered in making the preliminary determination. The Oklahoma SIP satisfies 40 CFR 51.66(q)(2)(ii) through the May 16, 2018 clarification letter, the application of 27A O.S. 2–14–302(A), 302(B), and the definition of ''Record'' at 51 O.S. 24A.3 and OAC 252:4–1–5. Under the definition of ''Record'' at 51 O.S. 24A.3, any materials provided to the ODEQ during the permit application process would be considered part of the permit record in the State of Oklahoma. Section OAC 252:4–1–5 requires the permit record to be available for public inspection and copying at the ODEQ offices. The ODEQ confirmed this through the May 16, 2018, clarification letter in which they state ''All applications, including all materials, updates, modeling files, etc. that are submitted with the application or in support/clarification of the application, are considered part of the application, and, along with the Department's draft permit decision and analysis, are available for public review in the Department's main Oklahoma City office (and/or Tulsa office) (regardless of Tier).'' In addition, 27A O.S. 2–14–302(B) (applicable to Tier II and Tier III applications, per 27A O.S. 2–14–302(A)) requires the applicant upon publication of notice of a draft permit, to make the draft permit and the application available for public review at a location in the county where the proposed new site or existing facility is located.
- 40 CFR 51.166(q)(2)(iii) requires that within one year of receipt of a complete application, the reviewing authority will provide public notice in a newspaper of general circulation in each region in which the proposed source would be constructed of the application, the preliminary determination, the expected degree of increment consumption and the opportunity for comment at a public hearing as well as written comments. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(iii) through the May 16, 2018 clarification letter, the submitted revisions to OAC 252:4–7–13(g)(5) and the application of 27A O.S. 2–14–301 and 2–14–302. The Oklahoma SIP relies on newspaper notice for the consistent method of noticing under the Federal PSD requirements. 27A O.S. 2–14–301 requires that a permit applicant publish notice of filing in a local newspaper. 27A O.S. 2–14–302 requires that the public notice of the draft permit be provided by the applicant in a local newspaper; notice of a draft denial will be provided by the ODEQ in a local newspaper. The notice of the draft permit or denial will provide 30 days for public comment and the opportunity to request a public meeting. The revisions to OAC 252:4–7–13(g)(5) require that all published notices for a PSD permit application must include the expected degree of increment consumption.
- 40 CFR 51.166(q)(2)(iv) requires that within one year of receipt of a complete application, the reviewing authority will send a copy of the notice of public comment to the applicant, the EPA Administrator, and to officials and agencies having cognizance over the location where the proposed construction would occur. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(iv) through the May 16, 2018 clarification letter, the submitted revisions to OAC 252:4–7–13(g) and the application of 27A O.S. 2–14–302. 27A O.S. 2–14–302 requires public notice of the draft permit or denial through the local newspaper. OAC 252:4–7–13(g)(1) requires that permit applicants give notice to individuals on a mailing list maintained by the ODEQ. The revisions to OAC 252:4–7–13(g)(5) specify that the mailing list for PSD permit applicants must include the applicant; the EPA Administrator; chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Tribal Government whose lands may be affected by emissions from the source or modifications.
- 40 CFR 51.166(q)(2)(v) requires that within one year from receipt of a complete application, the reviewing authority must provide opportunity for

a public hearing for interested persons to appear and submit written or oral comments. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(v) through the May 16, 2018 clarification letter and the application of 27A O.S. 2–14–302 and 27A O.S. 2–14–303. 27A O.S. 2–14–302 requires that a public notice include a 30-day public comment period and the opportunity to request a formal public meeting. 27A O.S. 2–14–303 provides the rules the ODEQ will follow if a formal meeting is requested.

• 40 CFR 51.166(q)(2)(vi) requires that within one year from receipt of a complete application, the reviewing authority will consider all comments, both written and oral, and make all comments available for public inspection. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(vi) through the May 16, 2018 clarification letter, the definition of ''response to comments'' at 27A O.S. 2–14–103, the application of 27A O.S. 2–14–304, the definition of ''Record'' at 51 O.S. 24A.3, and OAC 252:4–1–5. Through the definition of ''record'', any comments submitted either written or oral, would be considered part of the ODEQ's permitting record and pursuant to OAC 252:4–1–5, must be available at the ODEQ offices. The ODEQ is required to prepare a response to comments document consistent with the definition at 27A O.S. 2–14–103 and the requirements at 27A O.S. 2–14–304.

• 40 CFR 51.166(q)(2)(vii) requires that within one year from receipt of a complete application, the reviewing authority will make a final determination on the permit application. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(vii) through OAC 252:4–7–31 which requires that construction permits for PSD sources be reviewed and issued or denied within 365 days. This would apply to a new PSD source or modification to an existing PSD source. EPA SIP-approved OAC 252:4–7–31 on May 15, 2017. *See* 82 FR 22281.

• 40 CFR 51.166(q)(2)(viii) requires that within one year from receipt of a complete application, the reviewing authority will notify the applicant in writing of the final determination and make the notification available for public inspection. The Oklahoma SIP satisfies 40 CFR 51.166(q)(2)(viii) through the May 16, 2018 clarification letter, the submitted revisions to OAC 252:4–7–20(c), the requirements at OAC 252:4–7–31, the application of 27A O.S. 2–14–304, 27A O.S. 2–14–304(C)(2), 27A O.S. 2–14–304(F), and the definition of ''Record'' at 51 O.S. 24A.3. OAC 252:4–7–31 requires that PSD construction permits will be issued or denied within one year from receipt of a complete application. The EPA SIP-approved the requirements at OAC 252:4–7–31 on November 26, 2010. *See* 75 FR 72695. 27A O.S. 2–14–304 requires the ODEQ to give notice of the final permit decision to the applicant. The new requirements at OAC 252:4–7–20(c) identify the elements of the permit administrative record that must be prepared by the ODEQ, including the final permit. In addition, OAC 252:4–1–5 requires the record to be available for public inspection at the ODEQ offices.

The EPA has also determined we need to approve portions of the submitted Oklahoma statutes into the Oklahoma SIP because they provide unique authorities not provided elsewhere through Oklahoma regulation. Specifically, the following statutory provisions are necessary for the Oklahoma SIP to satisfy the PSD public notice requirements:

• Definitions of ''Process Meeting'' and ''Response to Comments'' at 27A O.S. 2–14–103 added July 1, 1994, and last modified and effective November 1, 2015;

• The provisions for notification to an affected state at 27A O.S. 2–5–112(E) added May 15, 1992, and last modified and effective June 3, 2004;

• 27A O.S. 2–14–301, 2–14–302, and 2–14–303 added and in effect July 1, 1996;

• 27A O.S. 2–14–304 added July 1, 1996, and last modified and effective May 9, 2002;

• Definition of ''Record'' at 51 O.S. 24A.3, added November 1, 1985, and last modified and effective November 1, 2014;

• The requirement to maintain, and the description of the contents of, the rulemaking record at 75 O.S. 302(B) promulgated in 1963 and last modified and effective November 1, 1998;

• The process for adoption, amendment or revocation of a rule at 75 O.S. 303 promulgated in 1963 and last modified and affective November 1, 2013; and

• Definition of ''Meeting'' at 25 O.S. 304(2) added October 1, 1977, and last modified and effective in 2010.

The EPA has determined it is appropriate to approve the above identified statutory provisions and regulatory revisions into the Oklahoma SIP because these revisions maintain consistency with Federal requirements for PSD public notice and will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirements.

III. Proposed Action

We are proposing to approve under section 110 of the CAA, revisions to the Oklahoma SIP that revise the incorporation by reference dates for Federal requirements and update the NSR PSD and NNSR permitting programs to maintain consistency with Federal requirements. We have determined that the revisions submitted on May 16, 1994; July 26, 2010; January 8, 2018; May 16, 2018; and December 19, 2018, as clarified by letter dated May 16, 2018, were developed in accordance with the CAA and EPA's regulations, policy, and guidance for SIP development and NSR permitting. The EPA proposes approval of the following as revisions to the Oklahoma SIP:

• Removal of Regulation 3.8, adopted on March 30, 1994, submitted May 16, 1994;

• New OAC 252:100–8–36.1, Public Participation, adopted on April 28, 2006, effective on June 15, 2006, submitted July 16, 2010;

• Submitted on January 8, 2018:

○ Revisions to OAC 252:100–1–3, Definitions, adopted on June 13, 2017 and effective September 15, 2017;

○ Revisions to OAC 252:100–2–3 and Appendix Q for Incorporation by Reference, adopted on June 13, 2017 and effective September 15, 2017;

○ Revisions to OAC 252:100–8–31, Definitions, adopted on June 13, 2017 and effective September 15, 2017;

○ Revisions to OAC 252:100–8–33, Exemptions, adopted on June 13, 2017 and effective September 15, 2017;

○ Revisions to OAC 252:100–8–35, Air quality impact evaluation, adopted on June 13, 2017 and effective September 15, 2017; and

○ Revisions to OAC 252:100–8–51.1, Emissions reductions and offsets, adopted on June 13, 2017 and effective September 15, 2017.

• Submitted on May 16, 2018:

○ Revisions to OAC 252:4–1–2, Definitions, adopted on June 9, 2016, effective September 15, 2016;

○ Revisions to OAC 252:4–1–3, Organization, adopted on April 25, 2013, effective July 1, 2013, and revisions adopted on June 9, 2016, effective September 15, 2016;

○ Revisions to OAC 252:4–1–5, Availability of a record, adopted on May 6, 2005, effective June 15, 2005, and revisions adopted on April 25, 2013, effective July 1, 2013;

○ Revisions to OAC 252:4–1–6, Administrative fees, adopted on May 6, 2005, effective June 15, 2005;

○ Revisions to OAC 252:4–3–1, Meetings, adopted on March 27, 2007, effective June 15, 2007;

○ Revisions to OAC 252:4–7–5, Fees and fee refunds, adopted on June 13, 2017, effective September 15, 2017;

○ Revisions to OAC 252:4–7–13, Notices, adopted on March 25, 2003, effective June 1, 2003, except for OAC 252:4–7–13(g)(4), and revisions adopted April 25, 2013, effective July 1, 2013;

○ Revisions to OAC 252:4–7–15, Permit issuance or denial, adopted on May 28, 2002, effective June 1, 2002, and revisions adopted April 25, 2013, effective July 1, 2013;

○ Revisions to OAC 252:4–7–18, Pre-issuance permit review and correction, adopted April 25, 2013, effective July 1, 2013;

○ New OAC 252:4–7–20, Agency review of final permit decision, adopted April 25, 2013, effective July 1, 2013;

○ Revisions to OAC 252:4–7–32, Air quality applications -Tier I, adopted March 25, 2003, effective June 1, 2003;

○ Revisions to OAC 252:4–7–33, Air quality applications—Tier II, adopted March 25, 2003, effective June 1, 2003, except for OAC 252:4–7–33(c)(4);

○ Revisions to OAC 252:4–9–32, Individual proceedings filed by others, as adopted on May 1, 2009, effective July 1, 2009 and revisions adopted April 25, 2013, effective July 1, 2013;

○ Revisions to OAC 252:4–9–51, In general, adopted on March 24, 2004, effective June 1, 2004;

○ Revisions to OAC 252:4–9–52, Individual proceedings, adopted on March 24, 2004, effective June 1, 2004;

○ New OAC 252:4–17, Electronic Reporting, sections OAC 252:4–17–1—OAC 252:4–17–7, adopted April 27, 2007, effective June 15, 2017;

○ Revisions to OAC 252:4–17–2, Definitions, adopted June 9, 2016, effective September 15, 2016;

○ Revisions to OAC 252:4–17–4, Electronic signature agreement, adopted June 9, 2016, effective September 15, 2016;

○ Letter to Ms. Anne Idsal, Regional Administrator, EPA Region 6, dated May 16, 2018 regarding ''Clarification of PSD Public Participation Procedures under 2017 Revisions to the Oklahoma State Implementation Plan (SIP)'';

○ Definitions of ''Process Meeting'' and ''Response to Comments'' at 27A O.S. 2–14–103 added July 1, 1994, and last modified and effective November 1, 2015;

○ The provisions for notification to an affected state at 27A O.S. 2–5–112(E) added May 15, 1992, and last modified and effective June 3, 2004;

○ 27A O.S. 2–14–301, 2–14–302, and 2–14–303 added and in effect July 1, 1996;

○ 27A O.S. 2–14–304 added July 1, 1996, and last modified and effective May 9, 2002;

○ Definition of ''Record'' at 51 O.S. 24A.3, added November 1, 1985, and last modified and effective November 1, 2014;

○ The requirement to maintain, and the description of the contents of, the rulemaking record at 75 O.S. 302(B) promulgated in 1963 and last modified and effective November 1, 1998;

○ The process for adoption, amendment or revocation of a rule at 75 O.S. 303 promulgated in 1963 and last modified and affective November 1, 2013; and

○ Definition of ''Meeting'' at 25 O.S. 304(2) added October 1, 1977, and last modified and effective in 2010.

• Submitted December 19, 2018:

○ Revisions to OAC 252:100–2–3 and Appendix Q adopted on June 18, 2018 and effective September 15, 2018; and

○ Revisions to OAC 252:100–8–35, Air quality impact evaluation, adopted on June 18, 2018 and effective September 15, 2018.

The EPA is proposing that the provisions in OAC 252:4–1–1, 4–1–2, 4–1–3, 4–1–4, 4–1–5, 4–1–6, 4–1–7, 4–1–8, and 4–1–9, and OAC 252:100–5–1, 5–1.1 and 5–2.2 are applicable to the entirety of the Oklahoma SIP and the amendatory language table at 40 CFR 52.1920(c) should be modified to reflect this finding. Additionally, the EPA proposes to remove the disapprovals listed in 40 CFR 52.1922(b)(2), (3), and (4) and (c), because the State has submitted appropriate revisions to the SIP to correct the disapprovals.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Oklahoma regulations and statutes as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the EPA Region 6 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 21, 2019.

Kenley McQueen,

Regional Administrator, Region 6.

[FR Doc. 2019–25954 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 191126–0094]

RTID 0648–XY201

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Proposed 2020 and 2021 Harvest Specifications for Groundfish

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

ACTION: Proposed rule; harvest specifications and request for comments.

SUMMARY: NMFS proposes 2020 and 2021 harvest specifications, apportionments, and Pacific halibut prohibited species catch limits for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits for groundfish during the 2020 and 2021 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska. The 2020 harvest specifications supersede those previously set in the final 2019 and 2020 harvest specifications, and the 2021 harvest specifications will be superseded in early 2021 when the final 2021 and 2022 harvest specifications are published. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received by January 2, 2020.

ADDRESSES: Submit comments on this document, identified by NOAA–NMFS–2019–0102, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD) for the Final EIS, the annual Supplementary Information Reports (SIRs) to the Final EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action area available from *https://www.regulations.gov.* An updated 2020 SIR for the final 2020 and 2021 harvest specifications will be available from the same source. The final 2018 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2018, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252, phone 907–271–2809, or from the Council's website at *https://www.npfmc.org.* The 2019 SAFE report for the GOA will be available from the same source.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600, 679, and 680.

The FMP and its implementing regulations require that NMFS, after consultation with the Council, specify the total allowable catch (TAC) for each target species, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) (§ 679.20(a)(1)(i)(B)). Section 679.20(c)(1) further requires NMFS to publish and solicit public comment on proposed annual TACs and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and seasonal allowances of pollock and Pacific cod. The proposed harvest specifications in Tables 1 through 19 of this rule satisfy these requirements. For 2020 and 2021, the sum of the proposed TAC amounts is 408,534 mt.

Under § 679.20(c)(3), NMFS will publish the final 2020 and 2021 harvest specifications after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its December 2019 meeting, (3) considering information presented in the 2020 SIR to the Final EIS that assesses the need to prepare a Supplemental EIS (see **ADDRESSES**), and (4) considering information presented in the final 2019 SAFE reports prepared for the 2020 and 2021 groundfish fisheries.

Other Actions Affecting or Potentially Affecting the 2020 and 2021 Harvest Specifications

Reclassify Sculpins as an Ecosystem Component Species

In October 2019, the Council recommended that sculpins be reclassified in the FMP as an ''ecosystem component'' species, which is a category of non-target species that are not in need of conservation and management. Currently, NMFS annually sets an overfishing level (OFL), Acceptable Biological Catch (ABC), and TAC for sculpins in the GOA groundfish harvest specifications. Under the Council's recommended action, OFL, ABC, and TAC specifications for sculpins would no longer be required. NMFS intends to develop rulemaking to implement the Council's recommendation for sculpins. Such rulemaking would prohibit directed fishing for sculpins, maintain recordkeeping and reporting, and establish a sculpin maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. Further details (and public comment on the sculpin action) will be available on publication of the proposed

rule to implement an FMP amendment that would reclassify sculpins as an ecosystem component species of the FMP. If the FMP amendment and its implementing regulations are approved by the Secretary of Commerce, the action is anticipated to be effective in 2021. Until effective, NMFS will continue to publish OFLs, ABCs, and TACs for sculpins in the GOA groundfish harvest specifications.

Final Rulemaking To Prohibit Directed Fishing for American Fisheries Act (AFA) and Crab Rationalization (CR) Program Sideboard Limits

On February 8, 2019, NMFS published a final rule (84 FR 2723) that modified regulations for the AFA Program and CR Program participants subject to limits on the catch of specific species (sideboard limits) in the GOA. Sideboard limits are intended to prevent participants who benefit from receiving exclusive harvesting privileges in a particular fishery from shifting effort to other fisheries. Specifically, the final rule established regulations to prohibit directed fishing for most groundfish species or species groups subject to sideboard limits under the AFA Program and CR Program, rather than prohibiting directed fishing through the annual GOA harvest specifications. Since the final rule is now effective, NMFS is no longer publishing in the annual GOA harvest specifications the AFA Program and CR Program sideboard limit amounts for groundfish species or species groups subject to the final rule. Those groundfish species subject to the final rule associated with sideboard limits are now prohibited to directed fishing in regulation (§§ 679.20(d)(1)(iv)(D) and 680.22(e)(1)(i) and (iii) and Tables 54, 55, and 56 to 50 CFR part 679). NMFS will continue to publish in the annual GOA harvest specifications the AFA Program and CR Program sideboard limit amounts for groundfish species or species groups that were not subject to the final rule (see Tables 13, 14, and 15 of this action).

Proposed Revisions to the GOA Pollock Seasons and Pacific Cod Seasonal Allocations

In June 2019, the Council recommended for Secretarial review Amendment 109 to the FMP. Amendment 109 would revise pollock seasons and Pacific cod seasonal allocations. Amendment 109 would modify the existing annual pollock TAC allocation to two equal (50 percent of TAC) seasonal allocations, rather than four equal seasons (25 percent of TAC). The pollock A and B seasons would be combined into a January 20 through May 31 A season, and the pollock C and D seasons would be combined into a September 1 through November 1 B season. Additionally, Amendment 109 would revise the Pacific cod TAC seasonal apportionments to the trawl CV sector by increasing the A season allocation and decreasing the B season allocation. Further details (and public comment on Amendment 109) will be available on publication of the proposed rule to implement Amendment 109. If Amendment 109 and its implementing regulations are approved by the Secretary of Commerce, the action is anticipated to be effective in 2021.

Proposed ABC and TAC Specifications

In October 2019, the Council's Scientific and Statistical Committee (SSC), its Advisory Panel (AP), and the Council reviewed the most recent biological and harvest information about the condition of the GOA groundfish stocks. The Council's GOA Groundfish Plan Team (Plan Team) compiled and presented this information in the final 2018 SAFE report for the GOA groundfish fisheries, dated November 2018 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of the groundfish fisheries off Alaska. From these data and analyses, the Plan Team recommends, and the SSC sets, an OFL and ABC for each species or species group. The amounts proposed for the 2020 and 2021 OFLs and ABCs are based on the 2018 SAFE report. The AP and Council recommended that the proposed 2020 and 2021 TACs be set equal to proposed ABCs for all species and species groups, with the exception of the species and species groups further discussed below. The proposed OFLs, ABCs, and TACs could be changed in the final harvest specifications depending on the most recent scientific information contained in the final 2019 SAFE report. The stock assessments that will comprise, in part, the 2019 SAFE report are available at *https://www.fisheries.noaa.gov/alaska/population-assessments/north-pacific-groundfish-stock-assessment-and-fishery-evaluation*. The final 2019 SAFE report will be available from the same source.

In November 2019, the Plan Team will update the 2018 SAFE report to include new information collected during 2019, such as NMFS stock surveys, revised stock assessments, and catch data. The Plan Team will compile this information and present the draft 2019 SAFE report at the December 2019 Council meeting. At that meeting, the SSC and the Council will review the 2019 SAFE report, and the Council will approve the 2019 SAFE report. The Council will consider information in the 2019 SAFE report, recommendations from the November 2019 Plan Team meeting and December 2019 SSC and AP meetings, public testimony, and relevant written public comments in making its recommendations for the final 2020 and 2021 harvest specifications. Pursuant to § 679.20(a)(2) and (3), the Council could recommend adjusting the TACs if warranted based on the biological condition of groundfish stocks or a variety of socioeconomic considerations, or if required to cause the sum of TACs to fall within the optimum yield range.

Sablefish OFL

For sablefish, at its October 2019 meeting, the SSC discussed the Plan Team's recommendation to review the apportionment and specification of the sablefish OFL and its *status quo* apportionments in the Bering Sea (BS), Aleutian Islands (AI), and the GOA. The sablefish stock assessment currently uses an Alaska-wide model that establishes an Alaska-wide OFL, which is then apportioned to three area specific OFLs: BS, AI, and GOA. The Alaska-wide OFL is currently the measurable and objective criteria used to monitor and assess the status of the sablefish stock to prevent overfishing and to determine whether overfishing has occurred or the stock is overfished. The 2018 sablefish SAFE report highlights that, given extremely high movement rates throughout their range, sablefish are likely one Alaska-wide stock with no sub-populations in Alaska.

At its September 2019 meeting, the Plan Team discussed that there did not appear to be a conservation concern that warranted sub-area OFLs, particularly since the six sub-area ABC apportionments are designed to spread harvest across areas and prevent any localized depletion. At its October 2019 meeting, the SSC had extensive discussion about the appropriate process for considering a combined OFL, and the SSC determined that combining the OFL is a viable option to consider for the OFL specification for 2020 and 2021. The Plan Team and SSC recommended that the sablefish stock assessment include three options for apportioning and specifying sablefish OFLs for review at the November 2019 Plan Team and December 2019 SSC meetings: (1) No change in the

apportionment and specification of a BS OFL, an AI OFL, and a GOA OFL (*status quo*); (2) apportioning and specifying a Bering Sea and Aleutian Islands (BSAI) OFL, and a separate GOA OFL; and (3) specifying an Alaska-wide OFL.

The SSC will review these three options in the sablefish stock assessment to consider a possible change to the current sablefish OFL apportionment during the December Council meeting. Based on the recommendations of the SSC, NMFS may implement a change to the specification of sablefish OFL in the final 2020 and 2021 harvest specifications.

GOA Pacific Cod

For Pacific cod, at its October 2019 meeting, the SSC discussed the precipitous decline of the Pacific cod stock over recent years, which may have substantial management implications. The Steller sea lion harvest control regulations at § 679.20(d)(4) state that if a biological assessment of the Pacific cod stock projects that the spawning biomass in an area will be equal to or below 20 percent of the projected unfished spawning biomass during a fishing year, then the Regional Administrator will prohibit directed fishing within that area and the directed fishery will remain closed until a subsequent biological assessment projects that the spawning biomass will exceed 20 percent of the projected unfished spawning biomass. Also, if Pacific cod spawning biomass falls below the $B_{17.5\neq}$ level, a rebuilding plan will be required to comply with provisions of the Magnuson-Stevens Act. The SSC emphasizes that both of these scenarios are possible, given the results from the preliminary September 2019 models.

Potential Changes Between Proposed and Final Specifications

In previous years, the most significant changes (relative to the amount of assessed tonnage of fish) to the OFLs and ABCs from the proposed to the final harvest specifications have been based on the most recent NMFS stock surveys. These surveys provide updated estimates of stock biomass and spatial distribution, and inform changes to the models used for producing stock assessments. At the September 2019 Plan Team meeting, NMFS scientists presented updated and new survey results, potential changes to assessment models, and accompanying, preliminary stock estimates. At the October 2019 Council meeting, the SSC reviewed this information. The species with possible significant model changes are Pacific cod, dover sole, rex sole, flathead sole, Pacific ocean perch, and shortraker and rougheye rockfish. Model changes can result in changes to final OFLs, ABCs, and TACs.

In November 2019, the Plan Team will consider updated stock assessments for groundfish, which will be included in the draft 2019 SAFE report. If the 2019 SAFE report indicates that the stock biomass trend is increasing for a species, then the final 2020 and 2021 harvest specifications for that species may reflect an increase from the proposed harvest specifications. Conversely, if the 2019 SAFE report indicates that the stock biomass trend is decreasing for a species, then the final 2020 and 2021 harvest specifications may reflect a decrease from the proposed harvest specifications.

The proposed 2020 and 2021 OFLs, ABCs, and TACs are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMP specifies the tiers to be used to compute OFLs and ABCs. The tiers applicable to a particular stock or stock complex are determined by the level of reliable information available to the fisheries scientists. This information is categorized into a successive series of six tiers to define OFL and ABC amounts, with Tier 1 representing the highest level of information quality available and Tier 6 representing the lowest level of information quality available. The Plan Team used the FMP tier structure to calculate OFLs and ABCs for each groundfish species. The SSC adopted the proposed 2020 and 2021 OFLs and ABCs recommended by the Plan Team for all groundfish species. The Council adopted the SSC's OFL and ABC recommendations and the AP's TAC recommendations.

Specification and Apportionment of TAC Amounts

The Council recommended proposed 2020 and 2021 TACs that are equal to proposed ABCs for all species and species groups, with the exception of pollock in the combined Western and Central Regulatory Areas and the West Yakutat (WYK) District of the Eastern Regulatory Area (the W/C/WYK Regulatory Area), Pacific cod, shallow-water flatfish in the Western Regulatory Area, arrowtooth flounder, flathead sole in the Western and Central Regulatory Areas, and Atka mackerel. The W/C/WYK Regulatory Area pollock TAC and the GOA Pacific cod TACs are set to account for the State of Alaska's (State's) guideline harvest levels (GHLs) for the State water pollock and Pacific cod fisheries so that the ABCs are not exceeded. The shallow-water flatfish, arrowtooth flounder, and flathead sole TACs are set to allow for increased harvest opportunities for these target species while conserving the halibut PSC limit for use in other fisheries. The Atka mackerel TAC is set to accommodate incidental catch amounts in other fisheries. These reductions are described below.

NMFS's proposed apportionments of groundfish species are based on the distribution of biomass among the regulatory areas over which NMFS manages the species. Additional regulations govern the apportionment of pollock, Pacific cod, and sablefish. Additional detail on apportionments of pollock, Pacific cod, and sablefish are described below.

The ABC for the pollock stock in the W/C/WYK Regulatory Area accounts for the GHL established by the State for the Prince William Sound (PWS) pollock fishery. The Plan Team, SSC, AP, and Council have recommended that the sum of all State water and Federal water pollock removals from the GOA not exceed ABC recommendations. For 2020 and 2021, the Council recommended the W/C/WYK pollock ABC, including the amount to account for the State's PWS GHL. At the November 2018 Plan Team meeting, State fisheries managers recommended setting the PWS GHL at 2.5 percent of the annual W/C/WYK pollock ABC. For 2020, this yields a PWS pollock GHL of 2,722 mt, a decrease from the 2019 PWS GHL of 3,396 mt. After accounting for PWS GHL, the 2020 and 2021 pollock ABC for the combined W/C/WYK areas is then apportioned among four statistical areas (Areas 610, 620, 630, and 640) as both ABCs and TACs, as described below and detailed in Table 1. The total ABCs and TACs for the four statistical areas, plus the State GHL, do not exceed the combined W/C/WYK ABC. The proposed W/C/WYK 2020 and 2021 pollock ABC is 108,892 mt, and the proposed TAC is 106,170 mt.

Apportionments of pollock to the W/C/WYK management areas are considered to be apportionments of annual catch limit (ACLs) rather than apportionments of ABCs. This more accurately reflects that such apportionments address management concerns, rather than biological or conservation concerns. In addition, apportionments of the ACL in this manner allow NMFS to balance any transfer of TAC among Areas 610, 620, and 630 pursuant to § 679.20(a)(5)(iv)(B)

to ensure that the combined W/C/WYK ACL, ABC, and TAC are not exceeded.

NMFS proposes pollock TACs in the Western Regulatory Area (Area 610), Central Regulatory Area (Areas 620 and 630), and the West Yakutat District (Area 640) and the Southeast Outside (SEO) District (Area 650) of the Eastern Regulatory Area of the GOA (see Table 1). NMFS also proposes seasonal apportionment of the annual pollock TAC in the Western and Central Regulatory Areas of the GOA among Statistical Areas 610, 620, and 630. These apportionments are divided equally among each of the following four seasons: The A season (January 20 through March 10), the B season (March 10 through May 31), the C season (August 25 through October 1), and the D season (October 1 through November 1) (§§ 679.23(d)(2)(i) through (iv), and 679.20(a)(5)(iv)(A) and (B)). Additional detail is provided below; Table 2 lists these amounts.

The proposed 2020 and 2021 Pacific cod TACs are set to accommodate the State's GHLs for Pacific cod in State waters in the Western and Central Regulatory Areas, as well as in PWS (see Table 1). The Plan Team, SSC, AP, and Council recommended that the sum of all State water and Federal water Pacific cod removals from the GOA not exceed ABC recommendations. Accordingly, the Council set the 2020 and 2021 Pacific cod TACs in the Western, Central, and Eastern Regulatory Areas to account for State GHLs. Therefore, the proposed 2020 and 2021 Pacific cod TACs are less than the proposed ABCs by the following amounts: (1) Western GOA, 2,909 mt; (2) Central GOA, 2,435 mt; and (3) Eastern GOA, 540 mt. These amounts reflect the State's 2020 and 2021 GHLs in these areas, which are 30 percent of the Western GOA proposed ABC, and 25 percent of the Eastern and Central GOA proposed ABCs.

NMFS also proposes seasonal apportionments of the Pacific cod TACs in the Western and Central Regulatory Areas. Sixty percent of the annual TAC is apportioned to the A season for hook-and-line, pot, and jig gear from January 1 through June 10, and for trawl gear from January 20 through June 10. Forty percent of the annual TAC is apportioned to the B season for jig gear from June 10 through December 31, for hook-and-line and pot gear from September 1 through December 31, and for trawl gear from September 1 through November 1 (§§ 679.23(d)(3) and 679.20(a)(12)). The Western and Central GOA Pacific cod TACs are allocated among various gear and operational sectors. The Pacific cod sector apportionments are discussed in detail in a subsequent section and in Table 3 of this rule.

The Council's recommendation for sablefish area apportionments takes into account the prohibition on the use of trawl gear in the SEO District of the Eastern Regulatory Area (§ 679.7(b)(1)) and makes available five percent of the combined Eastern Regulatory Area TACs to vessels using trawl gear for use as incidental catch in other trawl groundfish fisheries in the WYK District (§ 679.20(a)(4)(i)). Additional detail is provided below. Tables 4 and 5 list the proposed 2020 and 2021 allocations of the sablefish TAC to fixed gear and trawl gear in the GOA.

For 2020 and 2021, the Council recommends and NMFS proposes the OFLs, ABCs, and TACs listed in Table 1. The proposed ABCs reflect harvest amounts that are less than the specified overfishing levels. These amounts are consistent with the biological condition of groundfish stocks as described in the 2018 SAFE report, and adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range. The sum of the proposed TACs for all GOA groundfish is 408,534 mt for 2020 and 2021, which is within the OY range specified by the FMP. These proposed amounts and apportionments by area, season, and sector are subject to change pending consideration of the 2019 SAFE report and the Council's recommendations for the final 2020 and 2021 harvest specifications during its December 2019 meeting.

TABLE 1—PROPOSED 2020 AND 2021 OFLS, ABCS, AND TACS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, THE WEST YAKUTAT AND SOUTHEAST OUTSIDE DISTRICTS OF THE EASTERN REGULATORY AREA, AND GULFWIDE DISTRICT OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
Pollock [2]	Shumagin (610)	n/a	19,939	19,939
	Chirikof (620)	n/a	57,279	57,279
	Kodiak (630)	n/a	24,345	24,345
	WYK (640)	n/a	4,607	4,607
	W/C/WYK (subtotal)	148,968	108,892	106,170
	SEO (650)	11,697	8,773	8,773
	Total	160,665	117,665	114,943
Pacific cod [3]	W	n/a	9,695	6,787
	C	n/a	9,738	7,304
	E	n/a	2,159	1,619
	Total	26,078	21,592	15,709
Sablefish [4]	W	n/a	2,105	2,105
	C	n/a	6,931	6,931
	WYK	n/a	2,433	2,433
	SEO	n/a	3,993	3,993
	E (WYK and SEO) (subtotal)	n/a	6,426	6,426
	Total	34,782	15,462	15,462
Shallow-water flatfish [5]	W	n/a	25,952	13,250
	C	n/a	26,065	26,065
	WYK	n/a	2,308	2,308
	SEO	n/a	1,983	1,983
	Total	69,167	56,308	43,606
Deep-water flatfish [6]	W	n/a	420	420

TABLE 1—PROPOSED 2020 AND 2021 OFLS, ABCS, AND TACS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, THE WEST YAKUTAT AND SOUTHEAST OUTSIDE DISTRICTS OF THE EASTERN REGULATORY AREA, AND GULFWIDE DISTRICT OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
	C	n/a	3,488	3,488
	WYK	n/a	3,323	3,323
	SEO	n/a	2,393	2,393
	Total	11,581	9,624	9,624
Rex sole	W	n/a	2,956	2,956
	C	n/a	8,371	8,371
	WYK	n/a	1,664	1,664
	SEO	n/a	1,734	1,734
	Total	17,942	14,725	14,725
Arrowtooth flounder	W	n/a	34,765	14,500
	C	n/a	68,575	68,575
	WYK	n/a	15,368	6,900
	SEO	n/a	22,157	6,900
	Total	168,634	140,865	96,875
Flathead sole	W	n/a	13,771	8,650
	C	n/a	21,965	15,400
	WYK	n/a	2,097	2,097
	SEO	n/a	440	440
	Total	46,666	38,273	26,587
Pacific ocean perch [7]	W	n/a	3,125	3,125
	C	n/a	19,024	19,024
	WYK	n/a	3,192	3,192
	W/C/WYK	30,128	25,341	25,341
	SEO	2,748	2,311	2,311
	Total	32,876	27,652	27,652
Northern rockfish [8]	W	n/a	1,122	1,122
	C	n/a	3,147	3,147
	E	n/a	1	.....
	Total	5,093	4,270	4,269
Shortraker rockfish [9]	W	n/a	44	44
	C	n/a	305	305
	E	n/a	514	514
	Total	1,151	863	863
Dusky rockfish [10]	W	n/a	774	774
	C	n/a	2,742	2,742
	WYK	n/a	94	94
	SEO	n/a	60	60
	Total	4,484	3,670	3,670
Rougheye and blackspotted rockfish [11]	W	n/a	172	172
	C	n/a	545	545
	E	n/a	697	697
	Total	1,699	1,414	1,414
Demersal shelf rockfish [12]	SEO	411	261	261
Thornyhead rockfish [13]	W	n/a	326	326
	C	n/a	911	911
	E	n/a	779	779
	Total	2,688	2,016	2,016
Other rockfish [14 15]	W/C combined	n/a	1,737	1,737
	WYK	n/a	368	368
	SEO	n/a	3,489	3,489
	Total	7,356	5,594	5,594
Atka mackerel	GW	6,200	4,700	3,000
Big skates [16]	W	n/a	504	504
	C	n/a	1,774	1,774
	E	n/a	570	570
	Total	3,797	2,848	2,848
Longnose skates [17]	W	n/a	149	149

TABLE 1—PROPOSED 2020 AND 2021 OFLS, ABCS, AND TACS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, THE WEST YAKUTAT AND SOUTHEAST OUTSIDE DISTRICTS OF THE EASTERN REGULATORY AREA, AND GULFWIDE DISTRICT OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
	C	n/a	2,804	2,804
	E	n/a	619	619
	Total	4,763	3,572	3,572
Other skates [18]	GW	1,845	1,384	1,384
Sculpins	GW	6,958	5,301	5,301
Sharks	GW	10,913	8,184	8,184
Octopuses	GW	1,300	975	975
Total		627,049	487,218	408,534

[1] Regulatory areas and districts are defined at § 679.2. (W = Western Gulf of Alaska; C = Central Gulf of Alaska; E = Eastern Gulf of Alaska; WYK = West Yakutat District; SEO = Southeast Outside District; GW = Gulf-wide).

[2] The total for the W/C/WYK Regulatory Areas pollock ABC is 108,892 mt. After deducting 2.5 percent (2,722 mt) of that ABC for the State's pollock GHL fishery, the remaining pollock ABC of 106,170 mt (for the W/C/WYK Regulatory Areas) is apportioned among four statistical areas (Areas 610, 620, 630, and 640). These apportionments are considered subarea ACLs, rather than ABCs, for specification and reapportionment purposes. The ACLs in Areas 610, 620, and 630 are further divided by season, as detailed in Table 2. In the West Yakutat (Area 640) and Southeast Outside (Area 650) Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to the A season and 40 percent to the B season in the Western and Central Regulatory Areas of the GOA. Pacific cod TAC in the Eastern Regulatory Area of the GOA is allocated 90 percent to vessels harvesting Pacific cod for processing by the inshore component and 10 percent to vessels harvesting Pacific cod for processing by the offshore component. Table 3 lists the proposed 2020 and 2021 Pacific cod seasonal apportionments.

[4] Sablefish is allocated to fixed and trawl gear in 2020 and trawl gear in 2021. Tables 4 and 5 list the proposed 2020 and 2021 allocations of sablefish TACs.

[5] "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[6] "Deep-water flatfish" means Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole.

[7] "Pacific ocean perch" means *Sebastes alutus.*

[8] "Northern rockfish" means *Sebastes polyspinous.* For management purposes the 1 mt apportionment of ABC to the WYK District of the Eastern Regulatory Area has been included in the other rockfish species group.

[9] "Shortraker rockfish" means *Sebastes borealis.*

[10] "Dusky rockfish" means *Sebastes variabilis.*

[11] "Rougheye and blackspotted rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[12] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[13] "Thornyhead rockfish" means *Sebastes* species.

[14] "Other rockfish means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergray), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. reedi* (yellowmouth), *S. entomelas* (widow), and *S. flavidus* (yellowtail). In the Eastern GOA only, "other rockfish" also includes northern rockfish (*S. polyspinous).*

[15] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District of the Eastern Regulatory Area means all rockfish species included in the "other rockfish" and demersal shelf rockfish categories. The "other rockfish" species group in the SEO District only includes other rockfish.

[16] "Big skates" means *Raja binoculata.*

[17] "Longnose skates" means *Raja rhina.*

[18] "Other skates" means *Bathyraja and Raja spp.*

Proposed Apportionment of Reserves

Section 679.20(b)(2) requires NMFS to set aside 20 percent of each TAC for pollock, Pacific cod, flatfish, sculpins, sharks, and octopuses in reserve for possible apportionment at a later date during the fishing year. Section 679.20(b)(3) authorizes NMFS to reapportion all or part of these reserves. In 2019, NMFS reapportioned all of the reserves in the final harvest specifications. For 2020 and 2021, NMFS proposes reapportionment of each of the reserves for pollock, Pacific cod, flatfish, sculpins, sharks, and octopuses back into the original TAC from which the reserve was derived. NMFS expects, based on recent harvest patterns, that such reserves will not be necessary and that the entire TAC for each of these species will be caught. The TACs in Table 1 reflect this proposed reapportionment of reserve amounts to the original TAC for these species and species groups, *i.e.,* each proposed TAC for the above-mentioned species or species groups contains the full TAC recommended by the Council.

Proposed Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Pursuant to § 679.20(a)(5)(iv)(B), the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent. As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 through March 10, March 10 through May 31, August 25 through October 1, and October 1 through November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA are apportioned among Statistical Areas 610, 620, and 630 in propostion to the distribution of pollock biomass, pursuant to § 679.20(a)(5)(iv)(A). In the A and B seasons, the apportionments previously were in proportion to the distribution of pollock based on the four most recent NMFS winter surveys. In the C and D seasons, the apportionments were in proportion to the distribution of pollock based on the four most recent NMFS summer surveys. For 2020 and 2021, the Council

recommends, and NMFS proposes, following the apportionment methodology for the A season that was previously used for the 2019 and 2020 harvest specifications. This methodology averages the winter and summer distribution of pollock in the Central Regulatory Area for the A season instead of using the distribution based on only the winter surveys. The average is intended to reflect the best available information about migration patterns, distribution of pollock, and the performance of the fishery in the area during the A season for the 2019 and 2020 fishing years. For the A season, the apportionment is based on the proposed adjusted estimate of the relative distribution of pollock biomass of approximately 3 percent, 86 percent, and 11 percent in Statistical Areas 610, 620, and 630, respectively. For the B season, the apportionment is based on the relative distribution of pollock biomass of approximately 3 percent, 86 percent, and 11 percent in Statistical Areas 610, 620, and 630, respectively. For the C and D seasons, the apportionment is based on the relative distribution of pollock biomass of approximately 37 percent, 27 percent, and 37 percent in Statistical Areas 610, 620, and 630, respectively. The pollock chapter of the 2018 SAFE report (see **ADDRESSES**) contains a comprehensive description of the apportionment process and reasons for the minor changes from past apportionments.

Within any fishing year, the amount by which a seasonal allowance is underharvested or overharvested may be added to, or subtracted from, subsequent seasonal allowances in a manner to be determined by the Regional Administrator (§ 679.20(a)(5)(iv)(B)). The rollover amount is limited to 20 percent of the subsequent seasonal TAC apportionment for the statistical area. Any unharvested pollock above the 20-percent limit could be further distributed to the subsequent season in the other statistical areas, in proportion to the estimated biomass to the subsequent season and in an amount no more than 20 percent of the seasonal TAC apportionment in those statistical areas (§ 679.20(a)(5)(iv)(B)). The proposed 2020 and 2021 pollock TACs in the WYK District of 4,607 mt and the SEO District of 8,773 mt are not allocated by season.

Table 2 lists the proposed 2020 and 2021 seasonal biomass distribution of pollock in the Western and Central Regulatory Areas, area apportionments, and seasonal allowances. The amounts of pollock for processing by the inshore and offshore components are not shown. Section 679.20(a)(6)(i) requires allocation of 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances to vessels catching pollock for processing by the inshore component after subtraction of amounts projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. Thus, the amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is the amount that will be taken as incidental catch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed by § 679.20(e) and (f). At this time, the incidental catch amounts of pollock are unknown and will be determined during the 2020 fishing year.

TABLE 2—PROPOSED 2020 AND 2021 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC [1]

[Values are rounded to the nearest metric ton]

Season [2]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [3]
A (Jan 20–Mar 10)	680	(2.68%)	21,888	(85.39%)	2,823	(11.12%)	25,391
B (Mar 10–May 31)	680	(2.68%)	21,888	(85.39%)	2,823	(11.12%)	25,391
C (Aug 25–Oct 1)	9,290	(36.59%)	6,752	(26.59%)	9,349	(36.82%)	25,391
D (Oct 1–Nov 1)	9,290	(36.59%)	6,752	(26.59%)	9,349	(36.82%)	25,391
Annual Total	19,939		57,279		24,345		101,564

[1] Area apportionments and seasonal allowances may not total precisely due to rounding.
[2] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 through March 10, March 10 through May 31, August 25 through October 1, and October 1 through November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.
[3] The West Yakutat and Southeast Outside District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Proposed Annual and Seasonal Apportionments of Pacific Cod TAC

Pursuant to § 679.20(a)(12)(i), NMFS proposes allocations for the 2020 and 2021 Pacific cod TACs in the Western and Central Regulatory Areas of the GOA among gear and operational sectors. NMFS also proposes allocating the 2020 and 2021 Pacific cod TACs annually between the inshore (90 percent) and offshore (10 percent) components in the Eastern Regulatory Area of the GOA (§ 679.20(a)(6)(ii)). In the Central GOA, the Pacific cod TAC is apportioned seasonally first to vessels using jig gear, and then among catcher vessels (CVs) less than 50 feet in length overall using hook-and-line gear, CVs equal to or greater than 50 feet in length overall using hook-and-line gear, catcher/processors (C/Ps) using hook-and-line gear, CVs using trawl gear, C/Ps using trawl gear, and vessels using pot gear (§ 679.20(a)(12)(i)(B)). In the Western GOA, the Pacific cod TAC is apportioned seasonally first to vessels using jig gear, and then among CVs using hook-and-line gear, C/Ps using hook-and-line gear, CVs using trawl gear, C/Ps using trawl gear, and vessels using pot gear (§ 679.20(a)(12)(i)(A)). The overall seasonal apportionments in the Western and Central GOA are 60 percent of the annual TAC to the A season and 40 percent of the annual TAC to the B season.

Under § 679.20(a)(12)(ii), any overage or underage of the Pacific cod allowance from the A season may be subtracted from, or added to, the subsequent B season allowance. In addition, any portion of the hook-and-line, trawl, pot, or jig sector allocations that is determined by NMFS as likely to go unharvested by a sector may be

reallocated to other sectors for harvest during the remainder of the fishing year.

Pursuant to § 679.20(a)(12)(i)(A) and (B), a portion of the annual Pacific cod TACs in the Western and Central GOA will be allocated to vessels with a Federal fisheries permit that use jig gear before the TACs are apportioned among other non-jig sectors. In accordance with the FMP, the annual jig sector allocations may increase to up to 6 percent of the annual Western and Central GOA Pacific cod TACs, depending on the annual performance of the jig sector (see Table 1 of Amendment 83 to the FMP for a detailed discussion of the jig sector allocation process (76 FR 74670, December 1, 2011)). Jig sector allocation increases are established for a minimum of two years.

NMFS has evaluated the historical harvest performance of the jig sector in the Western and Central GOA, and proposes 2020 and 2021 Pacific cod apportionments to this sector based on its historical harvest performance through 2018. For 2020 and 2021, NMFS proposes that the jig sector receive 2.5 percent of the annual Pacific cod TAC in the Western GOA. This includes a base allocation of 1.5 percent and an additional performance increase of 1.0 percent. NMFS also proposes that the jig sector receive 1.0 percent of the annual Pacific cod TAC in the Central GOA. This includes a base allocation of 1.0 percent and no additional performance increase. The 2014 through 2018 Pacific cod jig allocations, catch, and percent allocation changes are listed in Figure 1.

FIGURE 1—SUMMARY OF WESTERN GOA AND CENTRAL GOA PACIFIC COD CATCH BY JIG GEAR IN 2014 THROUGH 2018, AND CORRESPONDING PERCENT ALLOCATION CHANGES

Area	Year	Initial percent of TAC	Initial TAC allocation	Catch (mt)	Percent of initial allocation	>90% of initial allocation?	Change to percent allocation
WGOA	2014	2.5	573	785	137	Y	Increase 1%.
	2015	3.5	948	55	6	N	None.
	2016	3.5	992	52	5	N	Decrease 1%.
	2017	2.5	635	49	8	N	Decrease 1%.
	2018	1.5	125	121	97	Y	Increase 1%.
CGOA	2014	2.0	797	262	33	N	Decrease 1%.
	2015	1.0	460	355	77	N	None.
	2016	1.0	370	267	72	N	None.
	2017	1.0	331	18	6	N	None.
	2018	1.0	61	0	0	N	None.

NMFS will re-evaluate the annual 2019 harvest performance of the jig sector in the Western and Central GOA when the 2019 fishing year is complete to determine whether to change the jig sector allocations proposed by this action in conjunction with the final 2020 and 2021 harvest specifications. The current catch through October 2019 by the Western GOA jig sector indicates that the Pacific cod allocation percentage to this sector would probably increase by 1 percent in 2020 (from 2.5 percent to 3.5 percent). Also, the current catch by the Central GOA jig sector indicates that this sector's Pacific cod allocation percentage would not change in 2020, and would remain at 1 percent. The jig sector allocations for the Western and Central GOA are further apportioned between the A (60 percent) and B (40 percent) seasons (§§ 679.20(a)(12)(i) and 679.23(d)(3)(iii)).

Table 3 lists the seasonal apportionments and allocations of the proposed 2020 and 2021 Pacific cod TACs.

TABLE 3—PROPOSED 2020 AND 2021 SEASONAL APPORTIONMENTS AND ALLOCATIONS OF PACIFIC COD TAC AMOUNTS IN THE GOA; ALLOCATIONS IN THE WESTERN GOA AND CENTRAL GOA SECTORS, AND THE EASTERN GOA FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA					
Jig (2.5% of TAC)	170	N/A	102	N/A	68
Hook-and-line CV	93	0.70	46	0.70	46
Hook-and-line C/P	1,310	10.90	721	8.90	589
Trawl CV	2,541	27.70	1,833	10.70	708
Trawl C/P	159	0.90	60	1.50	99
Pot CV and Pot C/P	2,514	19.80	1,310	18.20	1,204
Total	6,787	60.00	4,072	40.00	2,715
Central GOA					
Jig (1.0% of TAC)	73	N/A	44	N/A	29
Hook-and-line <50 CV	1,056	9.32	674	5.29	382
Hook-and-line ≥50 CV	485	5.61	406	1.10	79

TABLE 3—PROPOSED 2020 AND 2021 SEASONAL APPORTIONMENTS AND ALLOCATIONS OF PACIFIC COD TAC AMOUNTS IN THE GOA; ALLOCATIONS IN THE WESTERN GOA AND CENTRAL GOA SECTORS, AND THE EASTERN GOA FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS—Continued

[Values are rounded to the nearest metric ton]

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Hook-and-line C/P	369	4.11	297	1.00	72
Trawl CV [1]	3,007	21.13	1,528	20.45	1,479
Trawl C/P	304	2.00	145	2.19	159
Pot CV and Pot C/P	2,010	17.83	1,289	9.97	721
Total	7,304	60.00	4,382	40.00	2,921
Eastern GOA	.....	Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	1,619		1,457		162

[1] Trawl catcher vessels participating in Rockfish Program cooperatives receive 3.81 percent, or 278 mt, of the annual Central GOA Pacific cod TAC (see Table 28c to 50 CFR part 679). This apportionment is deducted from the Trawl CV B season allowance (see Table 8: Apportionments of Rockfish Secondary Species in the Central GOA and Table 28c to 50 CFR part 679).

Proposed Allocations of the Sablefish TAC Amounts to Vessels Using Fixed Gear and Trawl Gear

Section 679.20(a)(4)(i) and (ii) requires allocations of sablefish TACs for each of the regulatory areas and districts to fixed and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to fixed gear, and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to fixed gear, and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may be used only to support incidental catch of sablefish while directed fishing for other target species using trawl gear (§ 679.20(a)(4)(i)).

In recognition of the prohibition against trawl gear in the SEO District of the Eastern Regulatory Area, the Council recommended and NMFS proposes specifying for incidental catch the allocation of 5 percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District. The remainder of the WYK sablefish TAC is allocated to vessels using fixed gear. This proposed action allocates 100 percent of the sablefish TAC in the SEO District to vessels using fixed gear. This results in a proposed 2020 allocation of 321 mt to trawl gear and 2,112 mt to fixed gear in the WYK District, a proposed 2020 allocation of 3,993 mt to fixed gear in the SEO District, and a proposed 2021 allocation of 321 mt to trawl gear in the WYK District. Table 4 lists the allocations of the proposed 2020 sablefish TACs to fixed and trawl gear. Table 5 lists the allocations of the proposed 2021 sablefish TACs to trawl gear.

The Council recommended that the trawl sablefish TAC be established for two years so that retention of incidental catch of sablefish by trawl gear could commence in January in the second year of the groundfish harvest specifications. Tables 4 and 5 list the proposed 2020 and 2021 trawl allocations, respectively.

The Council recommended that the fixed gear sablefish TAC be established annually to ensure that the sablefish IFQ fishery is conducted concurrently with the halibut IFQ fishery and is based on the most recent survey information. Since there is an annual assessment for sablefish and since the final harvest specifications are expected to be published before the IFQ season begins (typically, in early March), the Council recommended that the fixed gear sablefish TAC be set annually, rather than for 2 years, so that the best available scientific information could be considered in establishing the sablefish ABCs and TACs. Accordingly, Table 4 lists the proposed 2020 fixed gear allocations, and the 2021 fixed gear allocations will be specified in the 2021 and 2022 harvest specifications.

With the exception of the trawl allocations that are provided to the Rockfish Program (see Table 28c to 50 CFR part 679), directed fishing for sablefish with trawl gear is closed during the fishing year. Also, fishing for groundfish with trawl gear is prohibited prior to January 20 (§ 679.23(c)). Therefore, it is not likely that the sablefish allocation to trawl gear would be reached before the effective date of the final 2021 and 2022 harvest specifications.

TABLE 4—PROPOSED 2020 SABLEFISH TAC AMOUNTS IN THE GULF OF ALASKA AND ALLOCATIONS TO FIXED AND TRAWL GEAR

[Values are rounded to the nearest metric ton]

Area/district	TAC	Fixed gear allocation	Trawl allocation
Western	2,105	1,684	421
Central [1]	6,931	5,545	1,386
West Yakutat [2]	2,433	2,112	321
Southeast Outside	3,993	3,993	0

TABLE 4—PROPOSED 2020 SABLEFISH TAC AMOUNTS IN THE GULF OF ALASKA AND ALLOCATIONS TO FIXED AND TRAWL GEAR—Continued

[Values are rounded to the nearest metric ton]

Area/district	TAC	Fixed gear allocation	Trawl allocation
Total	15,462	13,334	2,129

[1] The trawl allocation of sablefish to the Central Regulatory Area is further apportioned to the Rockfish Program cooperatives (713 mt). See Table 8: Apportionments of Rockfish Secondary Species in the Central GOA. This results in 673 mt being available for the non-Rockfish Program trawl fisheries.

[2] The proposed trawl allocation is based on allocating 5 percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside Districts combined) sablefish TAC to trawl gear in the West Yakutat District.

TABLE 5—PROPOSED 2021 SABLEFISH TAC AMOUNTS IN THE GULF OF ALASKA AND ALLOCATION TO TRAWL GEAR [1]

[Values are rounded to the nearest metric ton]

Area/district	TAC	Fixed gear allocation	Trawl allocation
Western	2,105	n/a	421
Central [2]	6,931	n/a	1,386
West Yakutat [3]	2,433	n/a	321
Southeast Outside	3,993	n/a	0
Total	15,462	n/a	2,129

[1] The Council recommended that harvest specifications for the fixed gear sablefish Individual Fishing Quota fisheries be limited to 1 year.

[2] The trawl allocation of sablefish to the Central Regulatory Area is further apportioned to the Rockfish Program cooperatives (713 mt). See Table 8: Apportionments of Rockfish Secondary Species in the Central GOA. This results in 673 mt being available for the non-Rockfish Program trawl fisheries.

[3] The proposed trawl allocation is based on allocating 5 percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside Districts combined) sablefish TAC to trawl gear in the West Yakutat District.

Proposed Allocations, Apportionments, and Sideboard Limitations for the Rockfish Program

These proposed 2020 and 2021 harvest specifications for the GOA include the fishery cooperative allocations and sideboard limitations established by the Rockfish Program. Program participants are primarily trawl CVs and trawl C/Ps, with limited participation by vessels using longline gear. The Rockfish Program assigns quota share and cooperative quota to participants for primary species (Pacific ocean perch, northern rockfish, and dusky rockfish) and secondary species (Pacific cod, rougheye rockfish, sablefish, shortraker rockfish, and thornyhead rockfish), allows a participant holding a license limitation program (LLP) license with rockfish quota share to form a rockfish cooperative with other persons, and allows holders of C/P LLP licenses to opt out of the fishery. The Rockfish Program also has an entry level fishery for rockfish primary species for vessels using longline gear. Longline gear includes hook-and-line, jig, troll, and handline gear.

Under the Rockfish Program, rockfish primary species in the Central GOA are allocated to participants after deducting for incidental catch needs in other directed fisheries (§ 679.81(a)(2)). Participants in the Rockfish Program also receive a portion of the Central GOA TAC of specific secondary species. In addition to groundfish species, the Rockfish Program allocates a portion of the halibut PSC limit (191 mt) from the third season deep-water species fishery allowance for the GOA trawl fisheries to Rockfish Program participants (§ 679.81(d) and Table 28d to 50 CFR part 679). The Rockfish Program also establishes sideboard limits to restrict the ability of harvesters that operate under the Rockfish Program to increase their participation in other, non-Rockfish Program fisheries. These restrictions and halibut PSC limits are discussed in a subsequent section titled ''Rockfish Program Groundfish Sideboard and Halibut PSC Limitations.''

Section 679.81(a)(2)(ii) and Table 28e to 50 CFR part 679 require allocations of 5 mt of Pacific ocean perch, 5 mt of northern rockfish, and 50 mt of dusky rockfish to the entry level longline fishery in 2020 and 2021. The allocation for the entry level longline fishery may increase incrementally each year if the catch exceeds 90 percent of the allocation of a species. The incremental increase in the allocation would continue each year until it reaches the maximum percentage of the TAC for that species. In 2019, the catch for all three primary species did not exceed 90 percent of any allocated rockfish species. Therefore, NMFS is not proposing any increases to the entry level longline fishery 2020 and 2021 allocations in the Central GOA. The remainder of the TACs for the rockfish primary species would be allocated to the CV and C/P cooperatives (§ 679.81(a)(2)(iii)). Table 6 lists the allocations of the proposed 2020 and 2021 TACs for each rockfish primary species to the entry level longline fishery, the potential incremental increases for future years, and the maximum percentages of the TACs for the entry level longline fishery.

TABLE 6—PROPOSED 2020 AND 2021 ALLOCATIONS OF ROCKFISH PRIMARY SPECIES TO THE ENTRY LEVEL LONGLINE FISHERY IN THE CENTRAL GULF OF ALASKA

Rockfish primary species	2020 and 2021 allocations	Incremental increase in 2021 if >90 percent of 2020 allocation is harvested	Up to maximum percent of each TAC of:
Pacific ocean perch	5 metric tons	5 metric tons	1%
Northern rockfish	5 metric tons	5 metric tons	2%
Dusky rockfish	50 metric tons	20 metric tons	5%

Section 679.81 requires allocations of rockfish primary species among various sectors of the Rockfish Program. Table 7 lists the proposed 2020 and 2021 allocations of rockfish primary species in the Central GOA to the entry level longline fishery, and rockfish CV and C/P cooperatives in the Rockfish Program. NMFS also proposes setting aside incidental catch amounts (ICAs) for other directed fisheries in the Central GOA of 3,000 mt of Pacific ocean perch, 300 mt of northern rockfish, and 250 mt of dusky rockfish. These amounts are based on recent average incidental catches in the Central GOA by other groundfish fisheries.

Allocations among vessels belonging to CV or C/P cooperatives are not included in these proposed harvest specifications. Rockfish Program applications for CV cooperatives and C/P cooperatives are not due to NMFS until March 1 of each calendar year; therefore, NMFS cannot calculate 2020 and 2021 allocations in conjunction with these proposed harvest specifications. NMFS will post the 2020 allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-fisheries-management-reports#central-goa-rockfish* when they become available after March 1.

TABLE 7—PROPOSED 2020 AND 2021 ALLOCATIONS OF ROCKFISH PRIMARY SPECIES IN THE CENTRAL GULF OF ALASKA TO THE ENTRY LEVEL LONGLINE FISHERY AND ROCKFISH COOOPERATIVES IN THE ROCKFISH PROGRAM

[Values are rounded to the nearest metric ton]

Rockfish primary species	Central GOA TAC	Incidental catch allowance (ICA)	TAC minus ICA	Allocation to the entry level longline[1] fishery	Allocation to the rockfish cooperatives[2]
Pacific ocean perch	19,024	3,000	16,024	5	16,019
Northern rockfish	3,147	300	2,847	5	2,842
Dusky rockfish	2,742	250	2,492	50	2,442
Total	24,913	3,550	21,363	60	21,303

[1] Longline gear includes hook-and-line, jig, troll, and handline gear (§ 679.2).
[2] Rockfish cooperatives include vessels in CV and C/P cooperatives (§ 679.81).

Section 679.81(c) and Table 28c to 50 CFR part 679 requires allocations of rockfish secondary species to CV and C/P cooperatives in the Central GOA. CV cooperatives receive allocations of Pacific cod, sablefish from the trawl gear allocation, and thornyhead rockfish. C/P cooperatives receive allocations of sablefish from the trawl gear allocation, rougheye and blackspotted rockfish, shortraker rockfish, and thornyhead rockfish. Table 8 lists the apportionments of the proposed 2020 and 2021 TACs of rockfish secondary species in the Central GOA to CV and C/P cooperatives.

TABLE 8—PROPOSED 2020 AND 2021 APPORTIONMENTS OF ROCKFISH SECONDARY SPECIES IN THE CENTRAL GOA TO CATCHER VESSEL AND CATCHER/PROCESSOR COOPERATIVES

[Values are in metric tons]

Rockfish secondary species	Central GOA annual TAC	Catcher vessel cooperatives		Catcher/processor cooperatives	
		Percentage of TAC	Apportionment (mt)	Percentage of TAC	Apportionment (mt)
Pacific cod	7,304	3.81	278	0.0	0
Sablefish	6,931	6.78	470	3.51	243
Shortraker rockfish	305	0.0	0	40.00	122
Rougheye and blackspotted rockfish	545	0.0	0	58.87	321
Thornyhead rockfish	911	7.84	71	26.50	241

Halibut PSC Limits

Section 679.21(d) establishes annual halibut PSC limit apportionments to trawl and hook-and-line gear, and authorizes the establishment of apportionments for pot gear. In October 2019, the Council recommended, and NMFS now proposes, halibut PSC limits of 1,706 mt for trawl gear, 257 mt for hook-and-line gear, and 9 mt for the

demersal shelf rockfish (DSR) fishery in the SEO District.

The DSR fishery in the SEO District is defined at § 679.21(d)(2)(ii)(A). This fishery is apportioned 9 mt of the halibut PSC limit in recognition of its small-scale harvests of groundfish (§ 679.21(d)(2)(i)(A)). The separate halibut PSC limit for the DSR fishery is intended to prevent that fishery from being impacted from the halibut PSC incurred by other GOA fisheries. NMFS estimates low halibut bycatch in the DSR fishery because (1) the duration of the DSR fisheries and the gear soak times are short, (2) the DSR fishery occurs in the winter when there is less overlap in the distribution of DSR and halibut, and (3) the directed commercial DSR fishery has a low DSR TAC. The Alaska Department of Fish and Game sets the commercial GHL for the DSR fishery after deducting (1) estimates of DSR incidental catch in all fisheries (including halibut and subsistence); and (2) the allocation to the DSR sport fish fishery. Of the 261 mt TAC for DSR in 2019, 25 mt were available for directed fishing by the DSR commercial fishery, of which 18 mt were harvested (through September 25, 2019).

The FMP authorizes the Council to exempt specific gear from the halibut PSC limits. NMFS, after consultation with the Council, proposes to exempt pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from the non-trawl halibut PSC limit for 2020 and 2021. The Council recommended, and NMFS is proposing, these exemptions because (1) pot gear fisheries have low annual halibut bycatch mortality; (2) IFQ program regulations prohibit discard of halibut if any halibut IFQ permit holder on board a CV holds unused halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (§ 679.7(f)(11)); (3) some sablefish IFQ permit holders hold halibut IFQ permits and are therefore required to retain the halibut they catch while fishing sablefish IFQ; and (4) NMFS estimates negligible halibut mortality for the jig gear fisheries given the small amount of groundfish harvested by jig gear, the selective nature of jig gear, and the high survival rates of halibut caught and released with jig gear.

The best available information on estimated halibut bycatch consists of data collected by fisheries observers during 2019. The calculated halibut bycatch mortality through October 5, 2019 is 818 mt for trawl gear and 48 mt for hook-and-line gear for a total halibut mortality of 866 mt. This halibut mortality was calculated using groundfish and halibut catch data from the NMFS Alaska Region's catch accounting system. This accounting system contains historical and recent catch information compiled from each Alaska groundfish fishery.

Section 679.21(d)(4)(i) and (ii) authorizes NMFS to seasonally apportion the halibut PSC limits after consultation with the Council. The FMP and regulations require that the Council and NMFS consider the following information in seasonally apportioning halibut PSC limits: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry. Based on public comment, the information presented in the 2019 SAFE report, and catch data from NMFS, the State, or the International Pacific Halibut Commission (IPHC), the Council may recommend or NMFS may make changes to the seasonal, gear-type, or fishery category apportionments of halibut PSC limits for the final 2020 and 2021 harvest specifications pursuant to § 679.21(d)(1) and (d)(4).

The final 2019 and 2020 harvest specifications (84 FR 9416, March 14, 2019) summarized the Council's and NMFS's findings for these FMP and regulatory considerations with respect to halibut PSC limits. The Council's and NMFS's proposed findings for these proposed 2020 and 2021 harvest specifications are unchanged from the final 2019 and 2020 harvest specifications. Table 9 lists the proposed 2020 and 2021 Pacific halibut PSC limits, allowances, and apportionments. The halibut PSC limits in these tables reflect the halibut PSC limits set forth at § 679.21(d)(2) and (3). Section 679.21(d)(4)(iii) and (iv) specifies that any underages or overages of a seasonal apportionment of a halibut PSC limit will be added to or deducted from the next respective seasonal apportionment within the fishing year.

TABLE 9—PROPOSED 2020 AND 2021 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS

[Values are in metric tons]

Trawl gear			Hook-and-line gear [1]				
			Other than DSR			DSR	
Season	Percent	Amount	Season	Percent	Amount	Season	Amount
January 20–April 1	30.5	519	January 1–June 10	86	221	January 1–December 31	9
April 1–July 1	20	341	June 10–September 1	2	5		
July 1–August 1	27	462	September 1–December 31.	12	31		
August 1–October 1	7.5	128					
October 1–December 31	15	256					
Total		1,706			257		9

[1] The Pacific halibut prohibited species catch (PSC) limit for hook-and-line gear is allocated to the demersal shelf rockfish (DSR) fishery and fisheries other than DSR. The Council recommended and NMFS proposes that the hook-and-line sablefish fishery, and the pot and jig gear groundfish fisheries, be exempt from halibut PSC limits.

Section 679.21(d)(3)(ii) authorizes further apportionment of the trawl halibut PSC limit as bycatch allowances to trawl fishery categories listed in § 679.21(d)(3)(iii). The annual apportionments are based on each category's share of the anticipated halibut bycatch mortality during a fishing year and optimization of the total amount of groundfish harvest under the halibut PSC limit. The fishery categories for the trawl halibut PSC

limits are (1) a deep-water species fishery, composed of sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder; and (2) a shallow-water species fishery, composed of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and ''other species'' (sculpins, sharks, and octopuses) (§ 679.21(d)(3)(iii)). Halibut mortality incurred while directed fishing for skates with trawl gear accrues towards the shallow-water species fishery halibut PSC limit (69 FR 26320, May 12, 2004). Table 10 lists the proposed 2020 and 2021 seasonal apportionments of trawl halibut PSC limits between the trawl gear deep-water and the shallow-water species fisheries.

NMFS will combine available trawl halibut PSC limit apportionments in part of the second season deep-water and shallow-water species fisheries for use in either fishery from May 15 through June 30 (§ 679.21(d)(4)(iii)(D)). This is intended to maintain groundfish harvest while minimizing halibut bycatch by these sectors to the extent practicable. This provides the trawl gear deep-water and shallow-water species fisheries additional flexibility and the incentive to participate in fisheries at times of the year that may have lower halibut PSC rates relative to other times of the year.

Table 28d to 50 CFR part 679 specifies the amount of the trawl halibut PSC limit that is assigned to the CV and C/P sectors that are participating in the Central GOA Rockfish Program. This includes 117 mt of halibut PSC limit to the CV sector and 74 mt of halibut PSC limit to the C/P sector. These amounts are allocated from the trawl deep-water species fishery's halibut PSC third seasonal apportionment. After the combined CV and C/P halibut PSC limit allocation of 191 mt to the Rockfish Program, 150 mt remains for the trawl deep-water species fishery's halibut PSC third seasonal apportionment.

Section 679.21(d)(4)(iii)(B) limits the amount of the halibut PSC limit allocated to Rockfish Program participants that could be re-apportioned to the general GOA trawl fisheries to no more than 55 percent of the unused annual halibut PSC limit apportioned to Rockfish Program participants. The remainder of the unused Rockfish Program halibut PSC limit is unavailable for use by any person for the remainder of the fishing year (§ 679.21(d)(4)(iii)(C)).

TABLE 10—PROPOSED 2020 AND 2021 SEASONAL APPORTIONMENTS OF THE PACIFIC HALIBUT PSC LIMIT APPORTIONED BETWEEN THE TRAWL GEAR SHALLOW-WATER AND DEEP-WATER SPECIES FISHERIES

[Values are in metric tons]

Season	Shallow-water	Deep-water [1]	Total
January 20–April 1	384	135	519
April 1–July 1	85	256	341
July 1–August 1	121	341	462
August 1–October 1	53	75	128
Subtotal, January 20–October 1	643	807	1,450
October 1–December 31 [2]			256
Total			1,706

[1] Vessels participating in cooperatives in the Rockfish Program will receive 191 mt of the third season (July 1 through August 1) deep-water species fishery halibut PSC apportionment.

[2] There is no apportionment between trawl shallow-water and deep-water species fisheries during the fifth season (October 1 through December 31).

Section 679.21(d)(2) requires that the ''other hook-and-line fishery'' halibut PSC limit apportionment to vessels using hook-and-line gear be divided between CVs and C/Ps. NMFS must calculate the halibut PSC limit apportionments for the entire GOA to hook-and-line CVs and C/Ps in accordance with § 679.21(d)(2)(iii) and in conjunction with these harvest specifications. A comprehensive description and example of the calculations necessary to apportion the ''other hook-and-line fishery'' halibut PSC limit between the hook-and-line CV and C/P sectors were included in the proposed rule to implement Amendment 83 to the FMP (76 FR 44700, July 26, 2011) and are not repeated here.

For 2020 and 2021, NMFS proposes annual halibut PSC limit apportionments of 120 mt and 137 mt to the hook-and-line CV and hook-and-line C/P sectors, respectively. The 2020 and 2021 annual halibut PSC limits are divided into three seasonal apportionments, using seasonal percentages of 86 percent, 2 percent, and 12 percent. Table 11 lists the proposed 2020 and 2021 annual halibut PSC limits and seasonal apportionments between the hook-and-line CV and hook-and-line C/P sectors in the GOA.

No later than November 1 each year, any halibut PSC limit allocated under § 679.21(d)(2)(ii)(B) not projected by the Regional Administrator to be used by one of the hook-and-line sectors during the remainder of the fishing year will be made available to the other sector. NMFS calculates the projected unused amount of halibut PSC limit by either the CV hook-and-line or the C/P hook-and-line sectors of the ''other hook-and-line fishery'' for the remainder of the year. The projected unused amount of halibut PSC limit by either of these sectors is made available to the remaining hook-and-line sector for the remainder of that fishing year if NMFS determines that an additional amount of halibut PSC limit is necessary for that sector to continue its directed fishing operations (§ 679.21(d)(2)(iii)(C)).

TABLE 11—PROPOSED 2020 AND 2021 APPORTIONMENTS OF THE "OTHER HOOK-AND-LINE FISHERIES" HALIBUT PSC ALLOWANCE BETWEEN THE HOOK-AND-LINE GEAR CATCHER VESSEL AND CATCHER/PROCESSOR SECTORS

[Values are in metric tons]

"Other than DSR" allowance	Hook-and-line sector	Sector annual amount	Season	Seasonal percentage	Sector seasonal amount
257	Catcher Vessel	120	January 1–June 10	86	103
			June 10–September 1	2	2
			September 1–December 31	12	14
	Catcher/Processor	137	January 1–June 10	86	118
			June 10–September 1	2	3
			September 1–December 31	12	16

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut incidental catch rates, halibut discard mortality rates (DMRs), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut incidental catch rates are based on observers' estimates of halibut incidental catch in the groundfish fishery. DMRs are estimates of the proportion of incidentally caught halibut that do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual GOA stock assessment process. The DMR methodology and findings are included as an appendix to the annual GOA groundfish SAFE report.

In 2016, the DMR estimation methodology underwent revisions per the Council's directive. An interagency halibut working group (IPHC, Council, and NMFS staff) developed improved estimation methods that have undergone review by the Plan Team, the SSC, and the Council. A summary of the revised methodology is contained in the GOA proposed 2017 and 2018 harvest specifications (81 FR 87881, December 6, 2016), and the comprehensive discussion of the working group's statistical methodology is available from the Council (see **ADDRESSES**). The DMR working group's revised methodology is intended to improve estimation accuracy, transparency, and transferability in the methodology used for calculating DMRs. The working group will continue to consider improvements to the methodology used to calculate halibut mortality, including potential changes to the reference period (the period of data used for calculating the DMRs). Future DMRs may change based on additional years of observer sampling, which could provide more recent and accurate data and which could improve the accuracy of estimation and progress on methodology. The methodology will continue to ensure that NMFS is using DMRs that more accurately reflect halibut mortality, which will inform the different sectors of their estimated halibut mortality and allow specific sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

In October 2019, the Council recommended adopting the halibut DMRs derived from the revised methodology for the proposed 2020 and 2021 DMRs. The proposed 2020 and 2021 DMRs use an updated 2-year reference period of 2017 and 2018. Comparing the proposed 2020 and 2021 DMRs to the final DMRs from the 2019 and 2020 harvest specifications, the proposed DMR for Rockfish Program CVs using non-pelagic trawl gear increased to 52 percent from 49 percent, the proposed DMR for non-Rockfish Program C/Vs using non-pelagic trawl gear increased to 68 percent from 67 percent, the proposed DMR for C/Ps and motherships using non-pelagic trawl gear decreased to 75 percent from 79 percent, the proposed DMR for CVs using hook-and-line gear decreased to 13 percent from 21 percent, and the proposed DMR for C/Ps and CVs using pot gear decreased to 0 percent from 4 percent. Table 12 lists the proposed 2020 and 2021 DMRs.

TABLE 12—PROPOSED 2020 AND 2021 DISCARD MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA

[Values are percent of halibut assumed to be dead]

Gear	Sector	Groundfish fishery	Halibut discard mortality rate (percent)
Pelagic trawl	Catcher vessel	All	100
	Catcher/processor	All	100
Non-pelagic trawl	Catcher vessel	Rockfish Program	52
	Catcher vessel	All others	68
	Mothership and catcher/processor	All	75
Hook-and-line	Catcher/processor	All	11
	Catcher vessel	All	13
Pot	Catcher vessel and catcher/processor	All	0

Chinook Salmon Prohibited Species Catch Limits

Amendment 93 to the FMP (77 FR 42629, July 20, 2012) established separate Chinook salmon PSC limits in the Western and Central regulatory areas of the GOA in the pollock trawl directed fishery. These limits require that NMFS close directed fishing for pollock in the Western and Central GOA if the applicable Chinook salmon PSC limit is reached (§ 679.21(h)(8)). The annual Chinook salmon PSC limits in the pollock trawl directed fishery of 6,684 salmon in the Western GOA and 18,316 salmon in the Central GOA are set in § 679.21(h)(2)(i) and (ii).

Amendment 97 to the FMP (79 FR 71350, December 2, 2014) established an initial annual PSC limit of 7,500 Chinook salmon for the non-pollock groundfish trawl fisheries in the Western and Central GOA. This limit is apportioned among three sectors: 3,600 Chinook salmon to trawl C/Ps; 1,200 Chinook salmon to trawl CVs participating in the Rockfish Program; and 2,700 Chinook salmon to trawl CVs not participating in the Rockfish Program (§ 679.21(h)(4)). NMFS will monitor the Chinook salmon PSC in the non-pollock GOA groundfish fisheries and close an applicable sector if it reaches its Chinook salmon PSC limit.

The Chinook salmon PSC limit for two sectors, trawl C/Ps and trawl CVs not participating in the Rockfish Program, may be increased in subsequent years based on the performance of these two sectors and their ability to minimize their use of their respective Chinook salmon PSC limits. If either or both of these two sectors limit its use of Chinook salmon PSC to a certain threshold amount in 2019 (3,120 for trawl C/Ps and 2,340 for non-Rockfish Program trawl CVs), that sector will receive an increase to its 2020 Chinook salmon PSC limit (4,080 for trawl C/Ps and 3,060 for non-Rockfish Program trawl CVs) (§ 679.21(h)(4)). NMFS will evaluate the annual Chinook salmon PSC by trawl C/Ps and non-Rockfish Program trawl CVs when the 2019 fishing year is complete to determine whether to increase the Chinook salmon PSC limits for these two sectors. Based on preliminary 2019 Chinook salmon PSC data, the trawl C/P sector may receive an incremental increase of Chinook salmon PSC limit in 2020, and the non-Rockfish Program trawl CV sector may not receive an incremental increase of Chinook salmon PSC limit in 2020. This evaluation will be completed in conjunction with the final 2020 and 2021 harvest specifications.

AFA C/P and CV Groundfish Sideboard Limits

Section 679.64 establishes groundfish harvesting and processing sideboard limits on AFA C/Ps and CVs in the GOA. These sideboard limits are necessary to protect the interests of fishermen and processors who do not directly benefit from the AFA from those fishermen and processors who receive exclusive harvesting and processing privileges under the AFA. Section 679.7(k)(1)(ii) prohibits listed AFA C/Ps and C/Ps designated on a listed AFA C/P permit from harvesting any species of fish in the GOA. Additionally, § 679.7(k)(1)(iv) prohibits listed AFA C/Ps and C/Ps designated on a listed AFA C/P permit from processing any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

AFA CVs that are less than 125 ft (38.1 meters) length overall, have annual landings of pollock in the Bering Sea and Aleutian Islands of less than 5,100 mt, and have made at least 40 landings of GOA groundfish from 1995 through 1997 are exempt from GOA CV groundfish sideboard limits under § 679.64(b)(2)(ii). Sideboard limits for non-exempt AFA CVs in the GOA are based on their traditional harvest levels of TAC in groundfish fisheries covered by the FMP. Section 679.64(b)(3)(iv) establishes for CVs the groundfish sideboard limits in the GOA based on the aggregate retained catch of non-exempt AFA CVs of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period.

NMFS published a final rule (84 FR 2723, February 8, 2019) that implemented regulations to prohibit non-exempt AFA CVs from directed fishing for specific groundfish species or species groups subject to sideboard limits (§ 679.20(d)(1)(iv)(D) and Table 56 to 50 CFR part 679). Sideboard limits not subject to the final rule continue to be calculated and included in the GOA annual harvest specifications.

Table 13 lists the proposed 2020 and 2021 groundfish sideboard limits for non-exempt AFA CVs. NMFS will deduct all targeted or incidental catch of sideboard species made by non-exempt AFA CVs from the sideboard limits listed in Table 13.

TABLE 13—PROPOSED 2020 AND 2021 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH SIDEBOARD LIMITS

[Values are rounded to the nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	Proposed 2020 and 2021 TACs [3]	Proposed 2020 and 2021 non-exempt AFA CV sideboard limit
Pollock	A Season	Shumagin (610)	0.6047	680	411
	January 20–March 10	Chirikof (620)	0.1167	21,888	2,554
		Kodiak (630)	0.2028	2,823	573
	B Season	Shumagin (610)	0.6047	680	411
	March 10–May 31	Chirikof (620)	0.1167	21,888	2,554
		Kodiak (630)	0.2028	2,823	573
	C Season	Shumagin (610)	0.6047	9,290	5,617
	August 25–October 1	Chirikof (620)	0.1167	6,752	788
		Kodiak (630)	0.2028	9,349	1,896
	D Season	Shumagin (610)	0.6047	9,290	5,617
	October 1–November 1	Chirikof (620)	0.1167	6,752	788
		Kodiak (630)	0.2028	9,349	1,896
	Annual	WYK (640)	0.3495	4,607	1,610
		SEO (650)	0.3495	8,773	3,066
Pacific cod	A Season [1]	W	0.1331	4,072	542

TABLE 13—PROPOSED 2020 AND 2021 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH SIDEBOARD LIMITS—Continued

[Values are rounded to the nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	Proposed 2020 and 2021 TACs [3]	Proposed 2020 and 2021 non-exempt AFA CV sideboard limit
	January 1–June 10	C	0.0692	4,382	303
	B Season [2]	W	0.1331	2,715	361
	September 1–December 31	C	0.0692	2,921	202
Flatfish, shallow-water	Annual	W	0.0156	13,250	207
		C	0.0587	26,065	1,530
Flatfish, deep-water	Annual	C	0.0647	3,488	226
		E	0.0128	5,716	73
Rex sole	Annual	C	0.0384	8,371	321
Arrowtooth flounder	Annual	C	0.0280	68,575	1,920
Flathead sole	Annual	C	0.0213	15,400	328
Pacific ocean perch	Annual	C	0.0748	19,024	1,423
		E	0.0466	5,503	256
Northern rockfish	Annual	C	0.0277	3,147	87

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.
[3] The Western and Central GOA and WYK District area apportionments of pollock are considered ACLs.

Non-Exempt AFA Catcher Vessel Halibut PSC Sideboard Limits

The halibut PSC sideboard limits for non-exempt AFA CVs in the GOA are based on the aggregate retained groundfish catch by non-exempt AFA CVs in each PSC target category from 1995 through 1997 divided by the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.64(b)(4)(ii)). Table 14 lists the proposed 2020 and 2021 non-exempt AFA CV halibut PSC sideboard limits for vessels using trawl gear in the GOA.

TABLE 14—PROPOSED 2020 AND 2021 NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL HALIBUT PSC SIDEBOARD LIMITS FOR VESSELS USING TRAWL GEAR IN THE GOA

[PSC limits are rounded to the nearest metric ton]

Season	Season dates	Fishery category	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	Proposed 2020 and 2021 PSC limit	Proposed 2020 and 2021 non-exempt AFA CV PSC limit
1	January 20–April 1	shallow-water	0.340	384	131
		deep-water	0.070	135	9
2	April 1–July 1	shallow-water	0.340	85	29
		deep-water	0.070	256	18
3	July 1—August 1	shallow-water	0.340	121	41
		deep-water	0.070	341	24
4	August 1—October 1	shallow-water	0.340	53	18
		deep-water	0.070	75	5
5	October 1—December 31	all targets	0.205	256	52
Annual		Total shallow-water			219
		Total deep-water			56
		Grand Total, all seasons and categories		1,706	327

Non-AFA Crab Vessel Groundfish Sideboard Limits

Section 680.22 establishes groundfish sideboard limits for vessels with a history of participation in the Bering Sea snow crab fishery to prevent these vessels from using the increased flexibility provided by the CR Program to expand their level of participation in the GOA groundfish fisheries. Sideboard harvest limits restrict these vessels' catch to their collective historical landings in each GOA groundfish fishery (except the fixed-gear sablefish fishery). Sideboard limits also apply to landings made using an LLP license derived from the history of a restricted vessel, even if that LLP license is used on another vessel.

The basis for these sideboard harvest limits is described in detail in the final rules implementing the major provisions of the CR Program, including Amendments 18 and 19 to the Fishery

Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) (70 FR 10174, March 2, 2005), Amendment 34 to the Crab FMP (76 FR 35772, June 20, 2011), Amendment 83 to the GOA FMP (76 FR 74670, December 1, 2011), and Amendment 45 to the Crab FMP (80 FR 28539, May 19, 2015). Also, NMFS published a final rule (84 FR 2723, February 8, 2019) that implemented regulations to prohibit non-AFA crab vessels from directed fishing for all groundfish species or species groups subject to sideboard limits, except for Pacific cod apportioned to CVs using pot gear in the Western and Central Regulatory Areas (§ 680.22(e)(1)(iii)).

Table 15 lists the proposed 2020 and 2021 groundfish sideboard limits for non-AFA crab vessels not subject to the directed fishing prohibition under § 680.22(e)(1)(iii). All targeted or incidental catch of sideboard species made by non-AFA crab vessels or associated LLP licenses will be deducted from these sideboard limits.

TABLE 15—PROPOSED 2020 AND 2021 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH SIDEBOARD LIMITS

[Values are rounded to the nearest metric ton]

Species	Season/gear	Area/component/gear	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	Proposed 2020 and 2021 TACs	Proposed 2020 and 2021 non-AFA crab vessel sideboard limit
Pacific cod	A Season: January 1–June 10	Western Pot CV	0.0997	4,072	406
	Central Pot CV	0.0474	4,382	208	
	B Season: September 1–December 31	Western Pot CV	0.0997	2,715	271
	Central Pot CV	0.0474	2,921	138	

Rockfish Program Groundfish Sideboard and Halibut PSC Limitations

The Rockfish Program establishes three classes of sideboard provisions: CV groundfish sideboard restrictions, C/P rockfish sideboard restrictions, and C/P opt-out vessel sideboard restrictions (§ 679.82(c)(1)). These sideboards are intended to limit the ability of rockfish harvesters to expand into other fisheries.

CVs participating in the Rockfish Program may not participate in directed fishing for dusky rockfish, Pacific ocean perch, and northern rockfish in the Western GOA and West Yakutat District from July 1 through July 31. Also, CVs may not participate in directed fishing for arrowtooth flounder, deep-water flatfish, and rex sole in the GOA from July 1 through July 31 (§ 679.82(d)).

C/Ps participating in Rockfish Program cooperatives are restricted by rockfish and halibut PSC sideboard limits. These C/Ps are prohibited from directed fishing for dusky rockfish, Pacific ocean perch, and northern rockfish in the Western GOA and West Yakutat District from July 1 through July 31 (§ 679.82(e)(2)). Holders of C/P-designated LLP licenses that opt out of participating in a Rockfish Program cooperative will be able to access that portion of each rockfish sideboard limits that is not assigned to Rockfish Program cooperatives (§ 679.82(e)(7)). The sideboard ratio for each rockfish fishery in the Western GOA and West Yakutat District is set forth in § 679.82(e)(4). Table 16 lists the proposed 2020 and 2021 Rockfish Program C/P rockfish sideboard limits in the Western GOA and West Yakutat District. Due to confidentiality requirements associated with fisheries data, the sideboard limits for the West Yakutat District are not displayed.

TABLE 16—PROPOSED 2020 AND 2021 ROCKFISH PROGRAM SIDEBOARD LIMITS FOR THE WESTERN GOA AND WEST YAKUTAT DISTRICT BY FISHERY FOR THE CATCHER/PROCESSOR (C/P) SECTOR

[Values are rounded to the nearest metric ton]

Area	Fishery	C/P sector (% of TAC)	Proposed 2020 and 2021 TACs	Proposed 2020 and 2021 C/P sideboard limit
Western GOA	Dusky rockfish	72.3	774	560.
	Pacific ocean perch	50.6	3,125	1,581.
	Northern rockfish	74.3	1,122	834.
West Yakutat District	Dusky rockfish	Confidential [1]	94	Confidential. [1]
	Pacific ocean perch	Confidential [1]	3,192	Confidential. [1]

[1] Not released due to confidentiality requirements associated with fish ticket data, as established by NMFS and the State of Alaska.

Under the Rockfish Program, the C/P sector is subject to halibut PSC sideboard limits for the trawl deep-water and shallow-water species fisheries from July 1 through July 31 (§ 679.82(e)(3) and (e)(5)). Halibut PSC sideboard ratios by fishery are set forth in § 679.82(e)(5). No halibut PSC sideboard limits apply to the CV sector, as vessels participating in a rockfish cooperative receive a portion of the annual halibut PSC limit. C/Ps that opt out of the Rockfish Program would be able to access that portion of the deep-water and shallow-water halibut PSC sideboard limit not assigned to C/P rockfish cooperatives. The sideboard provisions for C/Ps that elect to opt out of participating in a rockfish cooperative are described in § 679.82(c), (e), and (f). Sideboard limits are linked to the catch history of specific vessels that may choose to opt out. After March 1, NMFS will determine which C/Ps have opted-out of the Rockfish Program in 2020, and will know the ratios and amounts used to calculate opt-out sideboard

ratios. NMFS will then calculate any applicable opt-out sideboard limits for 2020 and post these limits on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-fisheries-management-reports#central-goa-rockfish.* Table 17 lists the proposed 2020 and 2021 Rockfish Program halibut PSC limits for the C/P sector.

TABLE 17—PROPOSED 2020 AND 2021 ROCKFISH PROGRAM HALIBUT PSC LIMITS FOR THE CATCHER/PROCESSOR SECTOR

[Values are rounded to the nearest metric ton]

Sector	Shallow-water species fishery halibut PSC sideboard ratio (percent)	Deep-water species fishery halibut PSC sideboard ratio (percent)	Annual halibut PSC limit (mt)	Annual shallow-water species fishery halibut PSC sideboard limit (mt)	Annual deep-water species fishery halibut PSC sideboard limit (mt)
Catcher/processor	0.10	2.50	1,706	2	43

Amendment 80 Program Groundfish and PSC Sideboard Limits

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (Amendment 80 Program) established a limited access privilege program for the non-AFA trawl C/P sector. The Amendment 80 Program established groundfish and halibut PSC limits for Amendment 80 Program participants to limit the ability of participants eligible for the Amendment 80 Program to expand their harvest efforts in the GOA.

Section 679.92 establishes groundfish harvesting sideboard limits on all Amendment 80 Program vessels, other than the F/V *Golden Fleece,* to amounts no greater than the limits shown in Table 37 to 50 CFR part 679. Under § 679.92(d), the F/V *Golden Fleece* is prohibited from directed fishing for pollock, Pacific cod, Pacific ocean perch, dusky rockfish, and northern rockfish in the GOA.

Groundfish sideboard limits for Amendment 80 Program vessels operating in the GOA are based on their average aggregate harvests from 1998 through 2004 (72 FR 52668, September 14, 2007). Table 18 lists the proposed 2020 and 2021 groundfish sideboard limits for Amendment 80 Program vessels. NMFS will deduct all targeted or incidental catch of sideboard species made by Amendment 80 Program vessels from the sideboard limits in Table 18.

TABLE 18—PROPOSED 2020 AND 2021 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to the nearest metric ton]

Species	Season	Area	Ratio of Amendment 80 sector vessels 1998–2004 catch to TAC	Proposed 2020 and 2021 TAC (mt)	Proposed 2020 and 2021 Amendment 80 vessel sideboard limits (mt)
Pollock	A Season: January 20–March 10	Shumagin (610)	0.003	680	2
		Chirikof (620)	0.002	21,888	44
		Kodiak (630)	0.002	2,823	6
	B Season: March 10–May 31	Shumagin (610)	0.003	680	2
		Chirikof (620)	0.002	21,888	44
		Kodiak (630)	0.002	2,823	6
	C Season: August 25–October 1	Shumagin (610)	0.003	9,290	28
		Chirikof (620)	0.002	6,752	14
		Kodiak (630)	0.002	9,349	19
	D Season: October 1–November 1	Shumagin (610)	0.003	9,290	28
		Chirikof (620)	0.002	6,752	14
		Kodiak (630)	0.002	9,349	19
	Annual	WYK (640)	0.002	4,607	9
Pacific cod	A Season[1] January 1–June 10	W	0.020	4,072	81
		C	0.044	4,382	193
	B Season[2] September 1–December 31.	W	0.020	2,715	54
		C	0.044	2,921	129
	Annual	WYK	0.034	1,619	55
Pacific ocean perch	Annual	W	0.994	3,125	3,106
		WYK	0.961	3,192	3,068
Northern rockfish	Annual	W	1.000	1,122	1,122
Dusky rockfish	Annual	W	0.764	774	591
		WYK	0.896	94	84

[1] The Pacific cod A season for trawl gear does not open until January 20.

[2] The Pacific cod B season for trawl gear closes November 1.

The halibut PSC sideboard limits for Amendment 80 Program vessels in the GOA are based on the historical use of halibut PSC by Amendment 80 Program vessels in each PSC target category from 1998 through 2004. These values are slightly lower than the average historical use to accommodate two factors: Allocation of halibut PSC cooperative quota under the Rockfish Program and the exemption of the F/V *Golden Fleece* from this restriction (§ 679.92(b)(2)). Table 19 lists the proposed 2020 and 2021 halibut PSC sideboard limits for Amendment 80 Program vessels. These tables incorporate the maximum percentages of the halibut PSC sideboard limits that may be used by Amendment 80 Program vessels as contained in Table 38 to 50 CFR part 679. Any residual amount of a seasonal Amendment 80 halibut PSC sideboard limit may carry forward to the next season limit (§ 679.92(b)(2)).

TABLE 19—PROPOSED 2020 AND 2021 HALIBUT PSC SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS IN THE GOA

[Values are rounded to the nearest metric ton]

Season	Season dates	Fishery category	Historic Amendment 80 use of the annual halibut PSC limit (ratio)	Proposed 2020 and 2021 annual PSC limit (mt)	Proposed 2020 and 2021 Amendment 80 vessel PSC sideboard limit (mt)
1	January 20–April 1	shallow-water	0.0048	1,706	8
		deep-water	0.0115	1,706	20
2	April 1–July 1	shallow-water	0.0189	1,706	32
		deep-water	0.1072	1,706	183
3	July 1–August 1	shallow-water	0.0146	1,706	25
		deep-water	0.0521	1,706	89
4	August 1–October 1	shallow-water	0.0074	1,706	13
		deep-water	0.0014	1,706	2
5	October 1–December 31	shallow-water	0.0227	1,706	39
		deep-water	0.0371	1,706	63
Annual		Total shallow-water			117
		Total deep-water			357
		Grand Total, all seasons and categories			474

Classification

NMFS has determined that the proposed harvest specifications are consistent with the FMP and preliminarily determined that the proposed harvest specifications are consistent with the Magnuson-Stevens Act and other applicable laws, subject to further review after public comment.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

NMFS prepared an EIS for the Alaska groundfish harvest specifications and alternative harvest strategies and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the ROD for the Final EIS. A SIR that assesses the need to prepare a Supplemental EIS is being prepared for the final 2020 and 2021 harvest specifications. Copies of the Final EIS, ROD, and annual SIRs for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental, social, and economic consequences of the proposed groundfish harvest specifications and alternative harvest strategies on resources in the action area. Based on the analysis in the Final EIS, NMFS concluded that the preferred Alternative (Alternative 2) provides the best balance among relevant environmental, social, and economic considerations and allows for continued management of the groundfish fisheries based on the most recent, best scientific information.

NMFS prepared an IRFA as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), analyzing the methodology for establishing the relevant TACs. The IRFA evaluated the economic impacts on small entities of alternative harvest strategies for the groundfish fisheries in the EEZ off Alaska. As described in the methodology, TACs are set to a level that falls within the range of ABCs recommended by the SSC; the sum of the TACs must achieve the OY specified in the FMP. While the specific numbers that the methodology produces may vary from year to year, the methodology itself remains constant.

A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained in the preamble above. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The action under consideration is a harvest strategy to govern the catch of groundfish in the GOA. The preferred alternative (Alternative 2) is the existing harvest strategy in which TACs fall within the range of ABCs recommended by the SSC. However, as discussed below, NMFS also considered other alternatives. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The entities directly regulated by this action are those that harvest groundfish in the EEZ of the GOA and in parallel fisheries within State of Alaska waters. These include entities operating CVs and C/Ps within the action area and entities receiving direct allocations of groundfish.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411)

is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $11 million for all its affiliated operations worldwide. In addition, under the RFA, the aggregate gross receipts of all participating members of a cooperative must meet the ''under $11 million'' threshold to be considered a small entity.

The IRFA shows that, in 2018, there were 756 individual CVs with gross revenues less than or equal to $11 million. This estimate accounts for corporate affiliations among vessels, and for cooperative affiliations among fishing entities, since some of the fishing vessels operating in the GOA are members of AFA inshore pollock cooperatives, GOA rockfish cooperatives, or BSAI CR Program cooperatives. Vessels that participate in these cooperatives are considered to be large entities within the meaning of the RFA because the aggregate gross receipts of all participating members exceed the $11 million threshold. After accounting for membership in these cooperatives, there are an estimated 756 small CV entities remaining in the GOA groundfish sector. However, the estimate of 756 CVs may be an overstatement of the number of small entities. This latter group of vessels had average gross revenues that varied by gear type. Average gross revenues for hook-and-line CVs, pot gear CVs, and trawl gear CVs are estimated to be $390,000, $870,000, and $2 million, respectively. Revenue data for the three C/Ps considered to be small entities are confidential.

The preferred alternative (Alternative 2) was compared to four other alternatives. Alternative 1 would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the GOA OY, in which case TACs would be limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent 5-year average fishing rates. Alternative 4 would have set TACs to equal the lower limit of the GOA OY range. Alternative 5, the ''no action alternative,'' would have set TACs equal to zero.

The TACs associated with Alternative 2, the preferred harvest strategy, are those recommended by the Council in October 2019. OFLs and ABCs for the species were based on recommendations prepared by the Council's Plan Team in September 2019, and reviewed by the Council's SSC in October 2019. The Council based its TAC recommendations on those of its AP, which were consistent with the SSC's OFL and ABC recommendations.

Alternative 1 selects harvest rates that would allow fishermen to harvest stocks at the level of ABCs, unless total harvests were constrained by the upper bound of the GOA OY of 800,000 mt. As shown in Table 1 of the preamble, the sum of ABCs in 2020 and 2021 would be 487,218 mt, which is below the upper bound of the OY range. The sum of TACs is 408,534 mt, which is less than the sum of ABCs. In this instance, Alternative 1 is consistent with the preferred alternative (Alternative 2), meets the objectives of that action, and has small entity impacts that may be equivalent to the preferred alternative. However, it is not likely that Alternative 1 would result in reduced adverse economic impacts to directly-regulated small entities relative to Alternative 2. The selection of Alternative 1, which could increase all TACs up to the sum of ABCs, would not take into account the fact that that increased TACs for some species probably would not be fully harvested. This could be due to a variety of reasons, including the lack of commercial or market interest in some species. Additionally, an underharvest of flatfish TACs could result due to other factors, such as the fixed, and therefore constraining, PSC limits associated with the harvest of the GOA groundfish species. Furthermore, TACs may be set lower than ABC for conservation purposes, as is the case with other rockfish in the Eastern GOA. Finally, the TACs for two species (pollock and Pacific cod) cannot be set equal to ABC, as the TAC must be reduced to account for the State's GHLs in these fisheries.

Alternative 3 selects harvest rates based on the most recent 5 years of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years of harvests (for species in Tiers 4 through 6). This alternative is inconsistent with the objectives of this action because it does not take account of the most recent biological information for this fishery, as required by the Magnuson-Stevens Act. NMFS annually conducts at-sea stock surveys for different species, as well as statistical modeling, to estimate stock sizes and permissible harvest levels. Actual harvest rates or harvest amounts are a component of these estimates, but in and of themselves may not accurately portray stock sizes and conditions. Harvest rates are listed for each species or species group for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all groundfish species and would reduce the TACs from the upper end of the OY range in the GOA to its lower end of 116,000 mt. Overall, this alternative would reduce 2020 TACs by about 72 percent and would lead to significant reductions in harvests of species harvested by small entities. While production declines in the GOA would be associated with offsetting price increases in the GOA, the size of these increases is uncertain and would still be constrained by production of substitutes. There are close substitutes for GOA groundfish species available in significant quantities from the Bering Sea and Aleutian Islands management area. Thus, price increases associated with reduced production are not likely to fully offset revenue declines from reduced production, and this alternative would have a detrimental impact on small entities.

Alternative 5, which sets all harvests equal to zero, would have a significant adverse economic impact on small entities and would be contrary to obligations to achieve OY on a continuing basis, as mandated by the Magnuson-Stevens Act. Under Alternative 5, all individual CVs impacted by this rule would have gross revenues of $0. Additionally, the small C/Ps impacted by this rule also would have gross revenues of $0.

The proposed harvest specifications (Alternative 2) extend the current 2020 OFLs, ABCs, and TACs to 2020 and 2021. As noted in the IRFA and this preamble, the Council may modify its recommendations for final OFLs, ABCs, and TACs in December 2019, when it reviews the November 2019 SAFE report from its Groundfish Plan Team, and the December 2019 Council meeting reports of its SSC and AP. Because the 2020 TACs in these proposed 2020 and 2021 harvest specifications are unchanged from the 2020 TACs in the final 2019 and 2020 harvest specifications (84 FR 9416; March 14, 2019), and because the sum of all TACs remains within OY for the GOA, NMFS does not expect adverse impacts on small entities. Also, NMFS does not expect any changes made by the Council in December 2019 to have significant adverse impacts on small entities.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals or endangered or threatened species resulting from fishing activities conducted under these harvest specifications are discussed in the Final EIS and its accompanying annual SIRs (see **ADDRESSES**).

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: November 26, 2019.

Samuel D. Rauch, III,

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

[FR Doc. 2019–26088 Filed 12–2–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 191126–0093]

RIN 0648–XH080

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Proposed 2020 and 2021 Harvest Specifications for Groundfish

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

ACTION: Proposed rule; harvest specifications and request for comments.

SUMMARY: NMFS proposes 2020 and 2021 harvest specifications, apportionments, and prohibited species catch allowances for the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to establish harvest limits for groundfish during the 2020 and 2021 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The 2020 harvest specifications supersede those previously set in the final 2019 and 2020 harvest specifications, and the 2021 harvest specifications will be superseded in early 2021 when the final 2021 and 2022 harvest specifications are published. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received by January 2, 2020.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2019–0074, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0074,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD) for the Final EIS, the annual Supplementary Information Reports (SIRs) to the Final EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available from *https://www.regulations.gov.* An updated 2020 SIR for the final 2020 and 2021 harvest specifications will be available from the same source. The final 2018 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2018, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252, phone 907–271–2809, or from the Council's website at *https://www.npfmc.org/.* The 2019 SAFE report for the BSAI will be available from the same source.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require that NMFS, after consultation with the Council, specify annually the total allowable catch (TAC) for each target species category. The sum of TACs for all groundfish species in the BSAI must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)(A)). Section 679.20(c)(1) further requires that NMFS publish proposed harvest specifications in the **Federal Register** and solicit public comments on proposed annual TACs and apportionments thereof, prohibited species catch (PSC) allowances, prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, American Fisheries Act allocations, Amendment 80 allocations, Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii), and acceptable biological catch (ABC) surpluses and reserves for CDQ groups and Amendment 80 cooperatives for flathead sole, rock sole, and yellowfin sole. The proposed harvest specifications set forth in Tables 1 through 15 of this action satisfy these requirements.

Under § 679.20(c)(3), NMFS will publish the final 2020 and 2021 harvest specifications after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its December 2019 meeting, (3) considering information presented in the 2020 SIR to the Final EIS that assesses the need to prepare a Supplemental EIS (see **ADDRESSES**), and (4) considering information presented in the final 2019 SAFE reports prepared for the 2020 and 2021 groundfish fisheries.

Other Actions Affecting or Potentially Affecting the 2020 and 2021 Harvest Specifications

Reclassify Sculpins as an Ecosystem Component Species

In October 2019, the Council recommended that sculpins be reclassified in the FMP as an ''ecosystem component'' species, which is a category of non-target species that are not in need of conservation and management. Currently, NMFS annually sets an overfishing level (OFL), ABC, and TAC for sculpins in the BSAI groundfish harvest specifications. Under the Council's recommended action, OFL, ABC, and TAC specifications for sculpins would no longer be required. NMFS intends to develop rulemaking to implement the Council's recommendation for sculpins. Such a rulemaking would prohibit directed

fishing for sculpins, maintain recordkeeping and reporting requirements, and establish a sculpin maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. Further details (and public comment on the sculpin action) will be available on publication of the proposed rule to implement an FMP amendment that would reclassify sculpins as an ecosystem component species in the FMP. If the FMP amendment and its implementing regulations are approved by the Secretary of Commerce, the action is anticipated to be effective in 2021. Until effective, NMFS will continue to publish OFLs, ABCs, and TACs for sculpins in the BSAI groundfish harvest specifications.

Final Rulemaking To Prohibit Directed Fishing for American Fisheries Act (AFA) Program Sideboard Limits

On February 8, 2019, NMFS published a final rule (84 FR 2723) that modified regulations for the AFA Program participants subject to limits on the catch of specific species (sideboard limits) in the BSAI. Sideboard limits are intended to prevent participants who benefit from receiving exclusive harvesting privileges in a particular fishery from shifting effort to other fisheries. Specifically, the final rule established regulations to prohibit directed fishing for most groundfish species or species groups subject to sideboard limits under the AFA Program, rather than prohibiting directed fishing through the annual BSAI harvest specifications. Since the final rule is now effective, NMFS is no longer publishing in the annual BSAI harvest specifications the AFA Program sideboard limit amounts for groundfish species or species groups subject to the final rule. Those groundfish species subject to the final rule associated with sideboard limits are now prohibited from directed fishing in regulation (§ 679.20(d)(1)(iv)(D) and Tables 54, 55, and 56 to 50 CFR part 679). NMFS will continue to publish in the annual BSAI harvest specifications the AFA Program sideboard limit amounts for groundfish species or species groups that were not subject to the final rule (see Tables 13–15 of this action).

State of Alaska Guideline Harvest Levels

For 2020 and 2021, the Board of Fisheries (BOF) for the State of Alaska (State) established the guideline harvest level (GHL) for vessels using pot gear in State waters in the Bering Sea subarea (BS) equal to 9 percent of the Pacific cod ABC in the BS. The State's pot gear BS GHL will increase one percent annually up to 15 percent of the BS ABC, if 90 percent of the GHL is harvested by November 15 of the preceding year. If 90 percent of the 2020 BS GHL is not harvested by November 15, 2020, then the 2021 BS GHL will remain at the same percent as the 2020 BS GHL. If 90 percent of the 2020 BS GHL is harvested by November 15, 2020, then the 2021 BS GHL will increase by one percent and the 2020 BS TAC will be set to account for the increased BS GHL. Also, for 2020 and 2021, the BOF established an additional GHL for vessels using jig gear in State waters in the BS equal to 45 mt of Pacific cod in the BS. The Council and its BSAI Groundfish Plan Team (Plan Team), Scientific and Statistical Committee (SSC), and Advisory Panel (AP) recommended that the sum of all State and Federal water Pacific cod removals from the BS not exceed the ABC recommendations for Pacific cod in the BS. Accordingly, the Council recommended, and NMFS proposes, that the 2020 and 2021 Pacific cod TACs in the BS account for the State's GHLs for Pacific cod caught in State waters in the BS.

For 2020 and 2021, the BOF for the State established the GHL in State waters in the Aleutian Islands subarea (AI). The 2019 AI GHL was set at 31 percent of the 2019 AI ABC (84 FR 9000; March 13, 2019). The AI GHL will increase annually by 4 percent of the AI ABC, if 90 percent of the GHL is harvested by November 15 of the preceding year, but may not exceed 39 percent of the AI ABC or 15 million pounds (6,804 mt). In 2019, 90 percent of the GHL has been harvested by November 15, 2019, which triggers a 4 percent increase in the GHL; however, 35 percent of the proposed AI ABC is 7,210 mt, which exceeds the AI GHL limit of 6,804 mt. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal water Pacific cod removals from the AI not exceed the proposed ABC recommendations for Pacific cod in the AI. Accordingly, the Council recommended, and NMFS proposes, that the 2020 and 2021 Pacific cod TACs in the AI account for the State's GHL of 6,804 mt for Pacific cod caught in State waters in the AI.

Proposed ABC and TAC Harvest Specifications

In October 2019, the Council's SSC, its AP, and the Council reviewed the most recent biological and harvest information on the condition of the BSAI groundfish stocks. This information was compiled by the Plan Team and presented in the final 2018 SAFE report for the BSAI groundfish fisheries, dated November 2018 (see **ADDRESSES**). The final 2019 SAFE report will be available from the same source.

The proposed 2020 and 2021 harvest specifications are based on the final 2020 harvest specifications published in March 2019 (84 FR 9000; March 13, 2019), which were set after consideration of the most recent 2018 SAFE report, and are based on the initial survey data that were presented at the September 2019 Plan Team meeting. The proposed 2020 and 2021 harvest specifications in this action are subject to change in the final harvest specifications to be published by NMFS following the Council's December 2019 meeting.

In November 2019, the Plan Team will update the 2018 SAFE report to include new information collected during 2019, such as NMFS stock surveys, revised stock assessments, and catch data. The Plan Team will compile this information and present the draft 2019 SAFE report at the December 2019 Council meeting. At that meeting, the SSC and the Council will review the 2019 SAFE report, and the Council will approve the 2019 SAFE report. The Council will consider information contained in the 2019 SAFE report, recommendations from the November 2019 Plan Team meeting and December 2019 SSC and AP meetings, public testimony, and relevant written comments in making its recommendations for the final 2020 and 2021 harvest specifications.

Sablefish OFL

For sablefish, at its October 2019 meeting, the SSC discussed the Plan Team's recommendation to review the apportionment and specification of the sablefish OFL and its status quo apportionments in the BS, AI, and the Gulf of Alaska (GOA). The sablefish stock assessment currently uses an Alaska-wide model that establishes an Alaska-wide OFL, which is then apportioned to three area specific OFLs: BS, AI, and GOA. The Alaska-wide OFL is currently the measurable and objective criteria used to monitor and assess the status of the sablefish stock to prevent overfishing and to determine whether overfishing has occurred or the stock is overfished. The 2018 sablefish SAFE highlights that, given extremely high movement rates throughout their range, sablefish are likely one Alaska-wide stock with no sub-populations in Alaska.

At its September 2019 meeting, the Plan Team discussed that there did not appear to be a conservation concern that

warranted subarea OFLs, particularly since the six sub-area ABC apportionments are designed to spread harvest across areas and prevent any localized depletion. At its October 2019 meeting, the SSC had extensive discussion about the appropriate process for considering a combined OFL, and the SSC determined that combining the OFL is a viable option to consider for the OFL specification for 2020 and 2021. The Plan Team and SSC recommended that the sablefish stock assessment include three options for apportioning and specifying sablefish OFLs for review at the November 2019 Plan Team and December 2019 SSC meetings: (1) No change in the apportionment and specification of a BS OFL, an AI OFL, and a GOA OFL (status quo); (2) apportioning and specifying a BSAI OFL, and a separate GOA OFL; and (3) specifying an Alaska-wide OFL.

The SSC will review these three options in the sablefish stock assessment to consider a possible change to the current sablefish OFL apportionment during the December Council meeting. Based on the recommendations of the SSC, NMFS may implement a change to the specification of sablefish OFL in the final 2020 and 2021 harvest specifications.

Potential Changes Between Proposed and Final Specifications

In previous years, the most significant changes (relative to the amount of assessed tonnage of fish) to the OFLs and ABCs from the proposed to the final harvest specifications have been based on the most recent NMFS stock surveys. These surveys provide updated estimates of stock biomass and spatial distribution, and inform changes to the models or the models' results used for producing stock assessments. Any changes to models used in stock assessments will be recommended by the Plan Team in November 2019 and then included in the final 2019 SAFE report. Model changes can result in changes to final OFLs, ABCs, and TACs. The final 2019 SAFE report will include the most recent information, such as catch data.

The final harvest specification amounts for these stocks are not expected to vary greatly from these proposed harvest specification amounts. If the 2019 SAFE report indicates that the stock biomass trend is increasing for a species, then the final 2020 and 2021 harvest specifications may reflect an increase from the proposed harvest specifications. Conversely, if the 2019 SAFE report indicates that the stock biomass trend is decreasing for a species, then the final 2020 and 2021 harvest specifications may reflect a decrease from the proposed harvest specifications. In addition to changes driven by biomass trends, there may be changes in TACs due to the sum of ABCs exceeding 2 million mt. Since the regulations require TACs to be set to an OY between 1.4 and 2 million mt, the Council may be required to recommend TACs that are lower than the ABCs recommended by the Plan Team and the SSC, if setting TACs equal to ABCs would cause total TACs to exceed an OY of 2 million mt. Generally, total ABCs greatly exceed 2 million mt in years with a large pollock biomass. For both 2020 and 2021, NMFS anticipates that the sum of the final ABCs will exceed 2 million mt. NMFS expects that the final total TAC for the BSAI for both 2020 and 2021 will equal 2 million mt each year.

The proposed OFLs, ABCs, and TACs are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMP specifies a series of six tiers to define OFLs and ABCs based on the level of reliable information available to fishery scientists. Tier 1 represents the highest level of information quality available, while Tier 6 represents the lowest.

In October 2019, the SSC adopted the proposed 2020 and 2021 OFLs and ABCs recommended by the Plan Team for all groundfish species. The Council adopted the SSC's OFL and ABC recommendations. These amounts are, for the most part, unchanged from the final 2020 harvest specifications published in the **Federal Register** on March 13, 2019 (84 FR 9000), with the exception of the removal 824 metric tons (mt) from the AI Pacific cod TAC to account for an increase in the AI GHL fishery, and a corresponding increase of 824 mt to the BS pollock TAC, so that the sum of the proposed TACs is within the OY of up to 2 million mt. For 2020 and 2021, the Council recommended, and NMFS proposes, the OFLs, ABCs, and TACs listed in Table 1. The proposed ABCs reflect harvest amounts that are less than the specified OFLs. The sum of the proposed 2020 and 2021 ABCs for all assessed groundfish is 2,967,269 mt. The sum of the proposed TACs is 2,000,000 mt.

Specification and Apportionment of TAC Amounts

The Council recommended proposed TACs that are equal to the proposed ABCs for 2020 and 2021 AI sablefish, BS sablefish, Central AI Atka mackerel, BS and Eastern AI Atka mackerel, BS Pacific ocean perch, Central AI Pacific ocean perch, Eastern AI Pacific ocean perch, and AI ''other rockfish.'' The Council recommended proposed TACs less than the respective proposed ABCs for all other species. Section 679.20(a)(5)(iii)(B)(*1*) requires the AI pollock TAC to be set at 19,000 mt when the AI pollock ABC equals or exceeds 19,000 mt. The Bogoslof pollock TAC is set to accommodate incidental catch amounts. TACs are set so that the sum of the overall TAC does not exceed the BSAI OY.

The proposed groundfish OFLs, ABCs, and TACs are subject to change pending the completion of the final 2019 SAFE report and the Council's recommendations for the final 2020 and 2021 harvest specifications during its December 2019 meeting. These proposed amounts are consistent with the biological condition of groundfish stocks as described in the 2018 SAFE report, and have been adjusted for other biological and socioeconomic considerations. Pursuant to Section 3.2.3.4.1 of the FMP, the Council could recommend adjusting the final TACs if ''warranted on the basis of bycatch considerations, management uncertainty, or socioeconomic considerations; or if required in order to cause the sum of the TACs to fall within the OY range.'' Table 1 lists the proposed 2020 and 2021 OFL, ABC, TAC, initial TAC (ITAC), and CDQ amounts for groundfish for the BSAI. The proposed apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1—PROPOSED 2020 AND 2021 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	Proposed 2020 and 2021				
		OFL	ABC	TAC	ITAC [2]	CDQ [3 4]
Pollock [4]	BS	3,082,000	1,792,000	1,420,824	1,278,742	142,082
	AI	66,981	55,125	19,000	17,100	1,900
	Bogoslof	183,080	137,310	75	75	.....
Pacific cod [5]	BS	183,000	137,000	124,625	111,290	13,335
	AI	27,400	20,600	13,390	11,957	1,433
Sablefish	BS	4,441	1,994	1,994	847	75
	AI	5,997	2,688	2,688	571	50
Yellowfin sole	BSAI	284,000	257,800	166,425	148,618	17,807
Greenland turbot	BSAI	10,476	8,908	5,294	4,500	n/a
	BS	n/a	7,777	5,125	4,356	548
	AI	n/a	1,131	169	144	-
Arrowtooth flounder	BSAI	83,814	71,411	8,000	6,800	856
Kamchatka flounder	BSAI	11,260	9,509	5,000	4,250	.....
Rock sole [6]	BSAI	147,500	143,700	57,100	50,990	6,110
Flathead sole [7]	BSAI	83,190	68,448	14,500	12,949	1,552
Alaska plaice	BSAI	37,860	31,900	18,000	15,300	.....
Other flatfish [8]	BSAI	21,824	16,368	6,500	5,525	.....
Pacific Ocean perch	BSAI	59,396	49,211	43,625	38,343	n/a
	BS	n/a	14,274	14,274	12,133	.....
	EAI	n/a	11,146	11,146	9,953	1,193
	CAI	n/a	8,205	8,205	7,327	878
	WAI	n/a	15,586	10,000	8,930	1,070
Northern rockfish	BSAI	15,180	12,396	6,500	5,525	.....
Blackspotted/Rougheye rockfish [9]	BSAI	868	715	279	237	.....
	EBS/EAI	n/a	448	75	64	.....
	CAI/WAI	n/a	267	204	173	.....
Shortraker rockfish	BSAI	722	541	358	304	.....
Other rockfish [10]	BSAI	1,793	1,344	663	564	.....
	BS	n/a	956	275	234	.....
	AI	n/a	388	388	330	.....
Atka mackerel	BSAI	73,400	63,400	53,635	47,896	5,739
	EAI/BS	n/a	22,190	22,190	19,816	2,374
	CAI	n/a	13,310	13,310	11,886	1,424
	WAI	n/a	27,900	18,135	16,195	1,940
Skates	BSAI	48,944	40,813	26,000	22,100	.....
Sculpins	BSAI	53,201	39,995	5,000	4,250	.....
Sharks	BSAI	689	517	125	106	.....
Octopuses	BSAI	4,769	3,576	400	340	.....
Total		4,491,785	2,967,269	2,000,000	1,789,605	194,628

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 15 percent of each TAC is put into a non-specified reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnote 3 and 4).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and BSAI arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). The 2020 hook-and-line or pot gear portion of the sablefish ITAC and CDQ reserve will not be specified until the final 2020 and 2021 harvest specifications. Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, Kamchatka flounder, northern rockfish, shortraker rockfish, blackspotted and rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, and octopuses are not allocated to the CDQ Program.

[4] Under § 679.20(a)(5)(i)(A), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.9 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships–10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is set to account for the 9 percent, plus 45 mt, of the BS ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set to account for 35 percent of the AI ABC for the State guideline harvest level in State waters of the AI, unless the State guideline harvest level would exceed 15 million pounds (6,804 mt), in which case the TAC is set to account for the maximum authorized State guideline harvest level.

[6] ''Rock sole'' includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[7] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[8] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

[9] ''Blackspotted/Rougheye rockfish'' includes Sebastes melanostictus (blackspotted) and *Sebastes aleutianus* (rougheye).

[10] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BSAI = Bering Sea and Aleutian Islands management area, BS = Bering Sea subarea, AI = Aleutian Islands subarea, EAI = Eastern Aleutian district, CAI = Central Aleutian district, WAI = Western Aleutian district).

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and AI Pacific Ocean Perch

Section 679.20(b)(1)(i) requires NMFS to reserve 15 percent of the TAC for each target species category (except for pollock, hook-and-line and pot gear allocation of sablefish, and Amendment 80 species) in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that NMFS allocate 20 percent of the hook-and-line or pot gear allocation of sablefish to the fixed gear sablefish CDQ reserve for each subarea. Section 679.20(b)(1)(ii)(D) requires that NMFS allocate 7.5 percent of the trawl gear allocation of sablefish and 10.7 percent of BS Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that NMFS allocate 10.7 percent of the TACs for Atka mackerel, AI Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the respective CDQ reserves.

Sections 679.20(a)(5)(i)(A) and 679.31(a) require allocation of 10 percent of the BS pollock TAC to the pollock CDQ directed fishing allowance (DFA). Sections 679.20(a)(5)(iii)(B)(*2*)(*i*) and 679.31(a) require 10 percent of the AI pollock TAC be allocated to the pollock CDQ DFA. The entire Bogoslof District pollock TAC is allocated as an ICA pursuant to § 679.20(a)(5)(ii) because the Bogoslof District is closed to directed fishing for pollock by regulation (§ 679.22(a)(7)(B)). With the exception of the hook-and-line or pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS proposes a pollock ICA of 3.9 percent or 49,871 mt of the BS pollock TAC after subtracting the 10 percent CDQ DFA. This allowance is based on NMFS's examination of the pollock incidentally retained and discarded catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2000 through 2019. During this 20-year period, the pollock incidental catch ranged from a low of 2.2 percent in 2006 to a high of 4.6 percent in 2014, with a 20-year average of 3 percent. Pursuant to §§ 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS proposes a pollock ICA of 14 percent or 2,400 mt of the AI pollock TAC after subtracting the 10 percent CDQ DFA. This allowance is based on NMFS's examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2019. During this 17-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 17 percent in 2014, with a 17-year average of 9 percent.

Pursuant to §§ 679.20(a)(8) and (10), NMFS proposes ICAs of 3,000 mt of flathead sole, 6,000 mt of rock sole, 4,000 mt of yellowfin sole, 10 mt of Western Aleutian District Pacific ocean perch, 60 mt of Central Aleutian District Pacific ocean perch, 100 mt of Eastern Aleutian District Pacific ocean perch, 20 mt of Western Aleutian District Atka mackerel, 75 mt of Central Aleutian District Atka mackerel, and 800 mt of Eastern Aleutian District and BS Atka mackerel, after subtracting the 10.7 percent CDQ reserve. These ICAs are based on NMFS's examination of the average incidental catch in other target fisheries from 2003 through 2019.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species that contributed to the non-specified reserve during the year, provided that such apportionments are consistent with § 679.20(a)(3) and do not result in overfishing (see § 679.20(b)(1)(i)).

Allocations of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that BS pollock TAC be apportioned as a DFA, after subtracting 10 percent for the CDQ Program and 3.9 percent for the ICA, as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS, 45 percent of the DFA is allocated to the A season (January 20 to June 10), and 55 percent of the DFA is allocated to the B season (June 10 to November 1) (§§ 679.20(a)(5)(i)(B)(*1*) and 679.23(e)(2)). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock TAC remaining in the AI after subtracting 1,900 mt for the CDQ DFA (10 percent), and 2,400 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)). In the AI, the total A season apportionment of the pollock TAC (including the AI directed fishery allocation, the CDQ DFA, and the ICA) may equal up to 40 percent of the ABC for AI pollock, and the remainder of the pollock TAC is allocated to the B season (§ 679.20(a)(5)(iii)(B)(*3*)). Table 2 lists these proposed 2020 and 2021 amounts.

Section 679.20(a)(5)(iii)(B)(*6*) sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541. In Area 543, the A season pollock harvest limit is no more than 5 percent of the AI pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the AI pollock ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the AI pollock ABC.

Section 679.20(a)(5)(i)(A)(*4*) includes several specific requirements regarding BS pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the C/P sector be available for harvest by AFA catcher vessels (CV) with C/P sector endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the C/P sector. Table 2 lists the proposed 2020 and 2021 allocations of pollock TAC. Tables 13, 14, and 15 list the AFA C/P and CV harvesting sideboard limits. The BS inshore pollock cooperative and open access sector allocations are based on the submission of AFA inshore cooperative applications due to NMFS on December 1 of each calendar year. Because AFA inshore cooperative applications for 2020 have not been submitted to NMFS, and NMFS therefore cannot calculate 2020 allocations, NMFS has not included inshore cooperative tables in these proposed harvest specifications. NMFS will post 2020 AFA inshore pollock cooperative and open access sector allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-fisheries-management-reports* prior to the start of the fishing year on January 1, 2020, based on the harvest specifications effective on that date.

Table 2 also lists proposed seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest of pollock within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the annual pollock DFA before 12:00 noon, April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit will be

apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 2 lists these proposed 2020 and 2021 amounts by sector.

TABLE 2—PROPOSED 2020 AND 2021 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2020 and 2021 allocations	A season [1]		B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC	1,420,824	n/a	n/a	n/a
CDQ DFA	142,082	63,937	39,783	78,145
ICA [1]	49,871	n/a	n/a	n/a
Total Bering Sea DFA (non-CDQ)	1,228,871	552,992	344,084	675,879
AFA Inshore	614,435	276,496	172,042	337,939
AFA Catcher/Processors [3]	491,548	221,197	137,634	270,352
Catch by C/Ps	449,767	202,395	n/a	247,372
Catch by C/Vs [3]	41,782	18,802	n/a	22,980
Unlisted C/P Limit [4]	2,458	1,106	n/a	1,352
AFA Motherships	122,887	55,299	34,408	67,588
Excessive Harvesting Limit [5]	215,052	n/a	n/a	n/a
Excessive Processing Limit [6]	368,661	n/a	n/a	n/a
Aleutian Islands subarea ABC	55,125	n/a	n/a	n/a
Aleutian Islands subarea TAC	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	10,361	n/a	4,339
Area harvest limit [7]	n/a	n/a	n/a	n/a
Area 541 harvest limit [7]	16,538	n/a	n/a	n/a
Area 542 harvest limit [7]	8,269	n/a	n/a	n/a
Area 543 harvest limit [7]	2,756	n/a	n/a	n/a
Bogoslof District ICA [8]	75	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the annual Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/Ps)—40 percent, and mothership sector–10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(i) through (iii), the annual AI pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,400 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated up to 40 percent of the AI pollock ABC.

[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), 8.5 percent of the DFA allocated to listed C/Ps shall be available for harvest only by eligible catcher vessels with C/P endorsement delivering to listed C/Ps, unless there is a C/P sector cooperative for the year.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted C/Ps are limited to harvesting not more than 0.5 percent of the C/Ps sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] Pursuant to § 679.22(a)(7)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for incidental catch only and are not apportioned by season or sector.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, ICAs for the BSAI trawl limited access sector and non-trawl gear sectors, and the jig gear allocation (Table 3). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to 50 CFR part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS proposes, a 0.5 percent allocation of the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea to jig gear in 2020 and 2021.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC into two equal seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through December 31 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to trawl CDQ Atka mackerel fishing. The ICA and jig gear allocations are not apportioned by season.

Section 679.20(a)(8)(ii)(C)(*1*)(*i*) and (*ii*) limits Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543, and equally divides the annual TAC between the A and B seasons as defined at § 679.23(e)(3). Section 679.20(a)(8)(ii)(C)(*2*) requires that the annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543. Section 679.20(a)(8)(ii)(D) requires that any unharvested Atka mackerel A season allowance that is added to the B season be prohibited from being

harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located in Areas 541, 542, and 543.

Table 3 lists the proposed 2020 and 2021 Atka mackerel season allowances, area allowances, and the sector allocations. One Amendment 80 cooperative has formed for the 2020 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required for 2020. The 2021 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2020. NMFS will post 2021 Amendment 80 cooperatives and Amendment 80 limited access sector allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/sustainable-fisheries-alaska* prior to the start of the fishing year on January 1, 2021, based on the harvest specifications effective on that date.

TABLE 3—PROPOSED 2020 AND 2021 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE (ICA), AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2020 and 2021 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	22,190	13,310	18,135
CDQ reserve	Total	2,374	1,424	1,940
	A	1,187	712	970
	Critical habitat [5]	n/a	427	582
	B	1,187	712	970
	Critical habitat [5]	n/a	427	582
non-CDQ TAC	n/a	19,816	11,886	16,195
ICA	Total	800	75	20
Jig [6]	Total	95		
BSAI trawl limited access	Total	1,892	1,181	
	A	946	591	
	Critical habitat [5]	n/a	354	
	B	946	591	
	Critical habitat [5]	n/a	354	
Amendment 80	Total	17,029	10,630	16,175
	A	8,514	5,315	8,087
	Critical habitat [5]	n/a	3,189	4,852
	B	8,514	5,315	8,087
	Critical habitat [5]	n/a	3,189	4,852

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, ICAs, and the jig gear allocation, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10, and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; § 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and § 679.20(a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The proposed amount of this allocation for 2020 and 2021 is 0.5 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

The Council separated BS and AI subarea OFLs, ABCs, and TACs for Pacific cod in 2014 (79 FR 12108; March 4, 2014). Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the BS TAC and the AI TAC to the CDQ Program. After CDQ allocations have been deducted from the respective BS and AI Pacific cod TACs, the remaining BS and AI Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations. If the non-CDQ Pacific cod TAC is or will be reached in either the BS or the AI subareas, NMFS will prohibit directed fishing for non-CDQ Pacific cod in that subarea, as provided in § 679.20(d)(1)(iii).

Section 679.20(a)(7)(i) and (ii) allocates to the non-CDQ sectors the combined BSAI Pacific cod TAC, after subtracting 10.7 percent for the CDQ Program, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line or pot CVs less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line C/Ps, 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot C/Ps, 2.3 percent to AFA trawl C/Ps, 13.4 percent to the Amendment 80 sector, and 22.1 percent to trawl CVs. The BSAI ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of BSAI Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2020 and 2021, the Regional Administrator proposes a BSAI ICA of 400 mt, based on anticipated incidental catch by these sectors in other fisheries.

The BSAI ITAC allocation of Pacific cod to the Amendment 80 sector is established in Table 33 to 50 CFR part 679 and § 679.91. One Amendment 80 cooperative has formed for the 2020 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required for 2020. The 2021 allocations for Amendment 80 species between Amendment 80

cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2020. NMFS will post 2021 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/sustainable-fisheries-alaska* prior to the start of the fishing year on January 1, 2021, based on the harvest specifications effective on that date.

The sector allocations of Pacific cod are apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7)(i)(B), 679.20 (a)(7)(iv)(A), and 679.23(e)(5)). In accordance with §§ 679.20(a)(7)(iv)(B) and (C), any unused portion of a Pacific cod seasonal allowance for any sector, except the jig sector, will become available at the beginning of that sector's next seasonal allowance.

Section 679.20(a)(7)(vii) requires that the Regional Administrator establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543. Based on the 2018 stock assessment, the Regional Administrator determined for 2020 and 2021 that the estimated amount of Pacific cod abundance in Area 543 is 15.7 percent of total AI abundance. NMFS will first subtract the State GHL Pacific cod amount from the AI Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 (15.7 percent) by the remaining ABC for AI Pacific cod. Based on these calculations, which rely on the 2018 stock assessment, the proposed Area 543 harvest limit is 2,102 mt. However, the final Area 543 harvest limit could change if the Pacific cod abundance in Area 543 changes based on the stock assessment in the final 2019 SAFE report.

On March 21, 2019, the final rule adopting Amendment 113 to the FMP (81 FR 84434; November 23, 2016) was vacated by the U.S. District Court for the District of Columbia (*Groundfish Forum* v. *Ross,* No. 16–2495 (D.D.C. March 21, 2019)), and the corresponding regulations implementing Amendment 113 are no longer in effect. Therefore, this proposed rule is not specifying amounts for the AI Pacific Cod Catcher Vessel Harvest Set-Aside Program (see § 679.20(a)(7)(viii)).

Table 4 lists the CDQ and non-CDQ seasonal allowances by gear based on the proposed 2020 and 2021 Pacific cod TACs; the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and (a)(7)(iv)(A); and the seasons set forth at § 679.23(e)(5).

TABLE 4—PROPOSED 2020 AND 2021 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI [1] PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2020 and 2021 share of gear sector total	2020 and 2021 share of sector total	2020 and 2021 seasonal apportionment	
				Season	Amount
Total Bering Sea TAC	n/a	124,625	n/a	n/a	n/a
Bering Sea CDQ	n/a	13,335	n/a	See § 679.20(a)(7)(i)(B)	n/a
Bering Sea non-CDQ TAC	n/a	111,290	n/a	n/a	n/a
Total Aleutian Islands TAC	n/a	13,390	n/a	n/a	n/a
Aleutian Islands CDQ	n/a	1,433	n/a	See § 679.20(a)(7)(i)(B)	n/a
Aleutian Islands non-CDQ TAC	n/a	11,957	n/a	n/a	n/a
Western Aleutians Islands Limit	n/a	2,102	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	123,247	n/a	n/a	n/a
Total hook-and-line/pot gear	61	74,934	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	n/a	400	n/a	n/a
Hook-and-line/pot sub-total	n/a	74,534	n/a	n/a	n/a
Hook-and-line catcher/processors	49	n/a	59,701	Jan-1–Jun 10	30,448
				Jun 10–Dec 31	29,254
Hook-and-line catcher vessels ≥60 ft LOA	0	n/a	245	Jan 1–Jun 10	125
				Jun 10–Dec 31	120
Pot catcher/processors	2	n/a	1,839	Jan 1–Jun 10	938
				Sept 1–Dec 31	901
Pot catcher vessels ≥60 ft LOA	8	n/a	10,298	Jan 1–Jun 10	5,252
				Sept-1–Dec 31	5,046
Catcher vessels <60 ft LOA using hook-and-line or pot gear.	2	n/a	2,452	n/a	n/a
Trawl catcher vessels	22	27,238	n/a	Jan 20–Apr 1	20,156
				Apr 1–Jun 10	2,996
				Jun 10–Nov 1	4,086
AFA trawl catcher/processors	2	2,835	n/a	Jan 20–Apr 1	2,126
				Apr 1–Jun 10	709
				Jun 10–Nov 1	.....
Amendment 80	13	16,515	n/a	Jan 20–Apr 1	12,386
				Apr 1–Jun 10	4,129
				Jun 10–Nov 1	.....
Jig	1	1,725	n/a	Jan 1–Apr 30	1,035
				Apr 30–Aug 31	345
				Aug 31–Dec 31	345

[1] The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after subtraction of the reserve for the CDQ Program. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing will be prohibited for Pacific cod in that subarea, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator proposes an ICA of 400 mt for 2020 and 2021 based on anticipated incidental catch in these fisheries.

Sablefish Gear Allocation

Section 679.20(a)(4)(iii) and (iv) require allocation of sablefish TAC for the BS and AI between trawl gear and hook-and-line or pot gear. Gear allocations of the sablefish TAC for the BS are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations of the TAC for the AI are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires that NMFS apportion 20 percent of the hook-and-line or pot gear allocation of sablefish TAC to the CDQ reserve for each subarea. Also, § 679.20(b)(1)(ii)(D)(*1*) requires that 7.5 percent of the trawl gear allocation of sablefish TAC from the non-specified reserve, established under § 679.20(b)(1)(i), be apportioned to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line or pot gear sablefish Individual Fishing Quota (IFQ) fisheries are limited to the 2020 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 5 lists the proposed 2020 and 2021 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 5—PROPOSED 2020 AND 2021 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2020 Share of TAC	2020 ITAC [1]	2020 CDQ reserve	2021 Share of TAC	2021 ITAC	2021 CDQ reserve
Bering Sea							
Trawl	50	997	847	75	997	847	75
Hook-and-line gear/pot [2]	50	997	n/a	199	n/a	n/a	n/a
Total	100	1,994	847	274	997	847	75
Aleutian Islands							
Trawl	25	672	571	50	672	571	50
Hook-and-line gear/pot [2]	75	2,016	n/a	403	n/a	n/a	n/a
Total	100	2,688	571	454	672	571	50

[1] Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to the non-specified reserve (§ 679.20(b)(1)(i)). The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(B)). The Council recommended that specifications for the hook-and-line or pot gear sablefish IFQ fisheries be limited to one year.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the AI Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Section 679.20(a)(10)(i) and (ii) require that NMFS allocate AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs between the Amendment 80 sector and the BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserves and amounts for ICAs for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to 50 CFR part 679 and in § 679.91.

One Amendment 80 cooperative has formed for the 2020 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required for 2020. The 2021 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2020. NMFS will post 2021 Amendment 80 cooperatives and Amendment 80 limited access sector allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/sustainable-fisheries-alaska* prior to the start of the fishing year on January 1, 2021, based on the harvest specifications effective on that date. Section 679.91(i)(2) establishes each Amendment 80 cooperative ABC reserve to be the ratio of each cooperatives' quota share units and the total Amendment 80 quota share units, multiplied by the Amendment 80 ABC reserve for each respective species. Table 6 lists the proposed 2020 and 2021 allocations of the AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 6—PROPOSED 2020 AND 2021 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	2020 and 2021 allocations					
	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	11,146	8,205	10,000	14,500	57,100	166,425
CDQ	1,193	878	1,070	1,552	6,110	17,807
ICA	100	60	10	3,000	6,000	4,000
BSAI trawl limited access	985	727	178	.....	.....	22,789
Amendment 80	8,868	6,540	8,742	9,949	44,990	121,828

Section 679.2 defines the ABC surplus for flathead sole, rock sole, and yellowfin sole as the difference between the annual ABC and TAC for each species. Section 679.20(b)(1)(iii) establishes ABC reserves for flathead sole, rock sole, and yellowfin sole. The ABC surpluses and the ABC reserves are necessary to mitigate the operational variability, environmental conditions, and economic factors that may constrain the CDQ groups and the Amendment 80 cooperatives from achieving, on a continuing basis, the optimum yield in the BSAI groundfish fisheries. NMFS, after consultation with the Council, may set the ABC reserve at or below the ABC surplus for each species, thus maintaining the TAC below ABC limits. An amount equal to 10.7 percent of the ABC reserves will be allocated as CDQ ABC reserves for flathead sole, rock sole, and yellowfin sole. Section 679.31(b)(4) establishes the annual allocations of CDQ ABC reserves among the CDQ groups. The Amendment 80 ABC reserves are the ABC reserves minus the CDQ ABC reserves and are allocated to each Amendment 80 cooperative pursuant to § 679.91(i)(2). Table 7 lists the proposed 2020 and 2021 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole.

TABLE 7—PROPOSED 2020 AND 2021 ABC SURPLUS, ABC RESERVES, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	Flathead sole	Rock sole	Yellowfin sole
ABC	68,448	143,700	257,800
TAC	14,500	57,100	166,425
ABC surplus	53,948	86,600	91,375
ABC reserve	53,948	86,600	91,375
CDQ ABC reserve	5,772	9,266	9,777
Amendment 80 ABC reserve	48,176	77,334	81,598

Proposed PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(b), (e), (f), and (g) set forth the BSAI PSC limits. Pursuant to § 679.21(b)(1), the annual BSAI halibut PSC limits total 3,515 mt. Section 679.21(b)(1) allocates 315 mt of the halibut PSC limit as the PSQ reserve for use by the groundfish CDQ Program, 1,745 mt of the halibut PSC limit for the Amendment 80 sector, 745 mt of the halibut PSC limit for the BSAI trawl limited access sector, and 710 mt of the halibut PSC limit for the BSAI non-trawl sector.

Section 679.21(b)(1)(iii)(A) and (B) authorize apportionment of the BSAI non-trawl halibut PSC limit into PSC allowances among six fishery categories, and § 679.21(b)(1)(ii)(A) and (B), (e)(3)(i)(B), and (e)(3)(iv) require apportionment of the BSAI trawl limited access sector's halibut and crab PSC limits into PSC allowances among seven fishery categories. Table 10 lists the proposed fishery PSC allowances for the BSAI trawl limited access sector fisheries, and Table 11 lists the proposed fishery PSC allowances for the non-trawl fisheries.

Pursuant to Section 3.6 of the FMP, the Council recommends, and NMFS proposes, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consultation with the Council, NMFS proposes to exempt the pot gear fishery, the jig gear fishery, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) The pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ Program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (§ 679.7(f)(11)).

As of November 2019, total groundfish catch for the pot gear fishery in the BSAI was 45,567 mt, with an associated halibut bycatch mortality of 3.7 mt. The 2019 jig gear fishery harvested about 190 mt of groundfish. Most vessels in the jig gear fleet are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in

the jig gear fishery. As mentioned above, NMFS estimates a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Under § 679.21(f)(2), NMFS annually allocates portions of either 33,318, 45,000, 47,591, or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past bycatch performance, on whether Chinook salmon bycatch incentive plan agreements (IPAs) are formed, and on whether NMFS determines it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. The State provides to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska, based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping.

If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6), and if it is not a low Chinook salmon abundance year, then NMFS will allocate a portion of the 60,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and if it is not a low abundance year, then NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(C). If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6) in a low abundance year, then NMFS will allocate a portion of the 45,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(B). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and if in a low abundance year, then NMFS will allocate a portion of the 33,318 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(D).

As of October 1, 2019, NMFS has determined that 2019 was not a low Chinook salmon abundance year, based on the State's estimate that Chinook salmon abundance in western Alaska is greater than 250,000 Chinook salmon. Therefore, in 2020, the Chinook salmon PSC limit is 60,000 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(A). The AFA sector Chinook salmon allocations are also seasonally apportioned with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery (§§ 679.21(f)(3)(i) and 679.23(e)(2)). In 2020, the Chinook salmon bycatch performance standard under § 679.21(f)(6) is 47,591 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(C).

NMFS publishes the approved IPAs, allocations, and reports at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/sustainable-fisheries-alaska.*

Section 679.21(g)(2)(i) specifies 700 fish as the 2020 and 2021 Chinook salmon PSC limit for the AI pollock fishery. Section 679.21(g)(2)(ii) allocates 7.5 percent, or 53 Chinook salmon, as the AI PSQ reserve for the CDQ Program, and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(f)(14)(i) specifies 42,000 fish as the 2020 and 2021 non-Chinook salmon PSC limit for vessels using trawl gear from August 15 through October 14 in the Catcher Vessel Operational Area (CVOA). Section 679.21(f)(14)(ii) allocates 10.7 percent, or 4,494 non-Chinook salmon, in the CVOA as the PSQ reserve for the CDQ Program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Due to the lack of new information as of October 2019 regarding herring PSC limits and apportionments, the Council recommended, and NMFS proposes, basing the herring 2020 and 2021 PSC limits and apportionments on the 2018 survey data. The Council will reconsider these amounts in December 2019. Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent of each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ Program.

Based on 2019 survey data, the red king crab mature female abundance is estimated at 10.613 million red king crabs, and the effective spawning biomass is estimated at 28.009 million lbs (12,705 mt). Based on the criteria set out at § 679.21(e)(1)(i), the proposed 2020 and 2021 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance estimate of more than 8.4 million red king crab and the effective spawning biomass estimate of more than 14.5 million lbs (6,577 mt) but less than 55 million lbs (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS) if the State has established a GHL fishery for red king crab in the Bristol Bay area in the previous year. The regulations limit the bycatch in the RKCSS to up to 25 percent of the red king crab PSC allowance, based on the need to optimize the groundfish harvest relative to red king crab bycatch. NMFS proposes the Council's recommendation that the red king crab bycatch limit for 2020 and 2021 be equal to 25 percent of the red king crab PSC allowance within the RKCSS (Table 9).

Based on 2019 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 2,574 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2020 and 2021 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1, and 2,970,000 animals in Zone 2. The limit in Zone 1 is based on the abundance of *C. bairdi* (estimated at 2,574 million animals), which is greater than 400 million animals. The limit in Zone 2 is based on the abundance of *C. bairdi* (estimated at 2,574 million animals), which is greater than 400 million animals.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for trawl gear for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit in the *C. opilio* bycatch limitation zone (COBLZ) is set at 0.1133 percent of the Bering Sea abundance index minus 150,000 crabs. Based on the 2019 survey estimate of 7.706 billion animals, the calculated *C. opilio* crab PSC limit is 8,580,898 animals, which is above the minimum PSC limit of 4.5 million and below the maximum PSC limit of 13 million animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2020 and 2021 herring biomass is 254,709 mt. This amount was developed by the Alaska Department of Fish and Game based on biomass for spawning aggregations. Therefore, the herring PSC limit proposed for 2020 and 2021 is 2,547 mt for all trawl gear as listed in Tables 8 and 9.

Section 679.21(e)(3)(i)(A) requires that PSQ reserves be subtracted from the total trawl PSC limits. The 2020 crab and halibut PSC limits assigned to the Amendment 80 and BSAI trawl limited access sectors are listed in Table 35 to 50 CFR part 679. The resulting proposed allocations of PSC limits to CDQ PSQ, the Amendment 80 sector, and the BSAI trawl limited access sector are listed in

Table 8. Pursuant to §§ 679.21(b)(1)(i), 679.21(e)(3)(vi), and 679.91(d) through (f), crab and halibut trawl PSC limits assigned to the Amendment 80 sector are then further allocated to Amendment 80 cooperatives as cooperative quota. Crab and halibut PSC cooperative quota assigned to Amendment 80 cooperatives is not allocated to specific fishery categories.

One Amendment 80 cooperative has formed for the 2020 fishing year. Because all Amendment 80 vessels are part of the cooperative, no PSC limit allocation to the Amendment 80 limited access sector is required for 2020. The 2021 PSC limit allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2020. NMFS will post 2021 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/sustainable-fisheries-alaska* prior to the start of the fishing year on January 1, 2021, based on the harvest specifications effective on that date.

Section 679.21(b)(2) and (e)(5) authorize NMFS, after consulting with the Council, to establish seasonal apportionments of halibut and crab PSC amounts for the BSAI non-trawl, BSAI trawl limited access, and Amendment 80 limited access sectors to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species relative to prohibited species distribution, (3) prohibited species bycatch needs on a seasonal basis relevant to prohibited species biomass and expected catches of target groundfish species, (4) expected variations in bycatch rates throughout the year, (5) expected changes in directed groundfish fishing seasons, (6) expected start of fishing effort, and (7) economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry. Based on this criteria, the Council recommended, and NMFS proposes, the seasonal PSC apportionments in Tables 10 and 11 to maximize harvest among gear types, fisheries, and seasons, while minimizing bycatch of PSC.

TABLE 8—PROPOSED 2020 AND 2021 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area [1]	Total PSC	Non-trawl PSC	CDQ PSQ reserve [2]	Trawl PSC remaining after CDQ PSQ	Amendment 80 sector [3]	BSAI trawl limited access sector
Halibut mortality (mt) BSAI	3,515	710	315	n/a	1,745	745
Herring (mt) BSAI	2,547	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	97,000	n/a	10,379	86,621	43,293	26,489
C. opilio (animals) COBLZ	8,580,898	n/a	918,156	7,662,742	3,766,238	2,462,805
C. bairdi crab (animals) Zone 1	980,000	n/a	104,860	875,140	368,521	411,228
C. bairdi crab (animals) Zone 2	2,970,000	n/a	317,790	2,652,210	627,778	1,241,500

[1] Refer to § 679.2 for definitions of areas and zones.
[2] The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.
[3] The Amendment 80 program reduced apportionment of the trawl PSC limits for crab below the total PSC limit. These reductions are not apportioned to other gear types or sectors.

TABLE 9—PROPOSED 2020 AND 2021 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	111	n/a
Rock sole/flathead sole/other flatfish [1]	54	n/a
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	7	n/a
Rockfish	7	n/a
Pacific cod	13	n/a
Midwater trawl pollock	2,313	n/a
Pollock/Atka mackerel/other species [2] [3]	42	n/a
Red king crab savings subarea non-pelagic trawl gear [4]	n/a	24,250
Total trawl PSC	2,547	97,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[2] Pollock other than midwater trawl pollock, Atka mackerel, and "other species" fishery category.
[3] "Other species" for PSC monitoring includes skates, sculpins, sharks, and octopuses.
[4] In October 2019, the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).
Note: Species allowances may not total precisely due to rounding.

TABLE 10—PROPOSED 2020 AND 2021 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access sector fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	C. opilio (animals) COBLZ	C. bairdi (animals)	
				Zone 1	Zone 2
Yellowfin sole	150	23,338	2,321,656	346,228	1,185,500
Rock sole/flathead sole/other flatfish [2]					
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish					
Rockfish April 15–December 31	4		3,835		1,000
Pacific cod	391	2,954	98,959	60,000	49,999
Pollock/Atka mackerel/other species [3]	200	197	38,356	5,000	5,000
Total BSAI trawl limited access sector PSC	745	26,489	2,462,805	411,228	1,241,500

[1] Refer to § 679.2 for definitions of areas and zones.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[3] "Other species" for PSC monitoring includes skates, sculpins, sharks, and octopuses.
Note: Species allowances may not total precisely due to rounding.

TABLE 11—PROPOSED 2020 AND 2021 HALIBUT PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON-TRAWL FISHERIES

Non-trawl fisheries	Halibut mortality (mt) BSAI			
	Seasons	Catcher/processor	Catcher vessel	All non-trawl
Pacific cod	Annual Pacific cod	648	13	n/a
	January 1–June 10	388	9	n/a
	June 10–August 15	162	2	n/a
	August 15–December 31	98	2	n/a
Non-Pacific cod non-trawl-Total	May 1–December 31	n/a	n/a	49
Groundfish pot and jig	n/a	n/a	n/a	Exempt
Sablefish hook-and-line	n/a	n/a	n/a	Exempt
Total for all non-trawl PSC	n/a	n/a	n/a	710

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut incidental catch rates, halibut discard mortality rates (DMRs), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut incidental catch rates are based on observers' estimates of halibut incidental catch in the groundfish fishery. DMRs are estimates of the proportion of incidentally caught halibut that do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual BSAI stock assessment process. The DMR methodology and findings are included as an appendix to the annual BSAI groundfish SAFE report.

In 2016, the DMR estimation methodology underwent revisions per the Council's directive. An interagency halibut working group (International Pacific Halibut Commission, Council, and NMFS staff) developed improved estimation methods that have undergone review by the Plan Team, SSC, and the Council. A summary of the revised methodology is included in the BSAI proposed 2017 and 2018 harvest specifications (81 FR 87863; December 6, 2016), and the comprehensive discussion of the working group's statistical methodology is available from the Council (see **ADDRESSES**). The DMR working group's revised methodology is intended to improve estimation accuracy, transparency, and transferability in the methodology used for calculating DMRs. The working group will continue to consider improvements to the methodology used to calculate halibut mortality, including potential changes to the reference period (the period of data used for calculating the DMRs). Future DMRs may change based on additional years of observer sampling, which could provide more recent and accurate data and which could improve the accuracy of estimation and progress on methodology. The methodology will continue to ensure that NMFS is using DMRs that more accurately reflect halibut mortality, which will inform the different sectors of their estimated halibut mortality and allow specific sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

In October 2019, the Council recommended adopting the halibut DMRs derived from the revised methodology for the proposed 2020 and 2021 DMRs. The proposed 2020 and 2021 DMRs use an updated 2-year reference period of 2017 and 2018. Comparing the proposed 2020 and 2021 DMRs to the final DMRs from the 2019 and 2020 harvest specifications, the proposed DMR for C/Ps and

motherships using non-pelagic trawl gear decreased to 75 percent from 78 percent, the proposed DMR for C/Vs using non-pelagic trawl gear decreased to 58 percent from 59 percent, the proposed DMR for C/Ps using hook-and-line gear increased to 9 percent from 8 percent, the proposed DMR for CVs using hook-and-line gear increased to 9 percent from 4 percent, and the proposed DMR for C/Ps and CVs using pot gear increased to 27 percent from 19 percent. Table 12 lists the proposed 2020 and 2021 DMRs.

TABLE 12—PROPOSED 2020 AND 2021 PACIFIC HALIBUT DISCARD MORTALITY RATES (DMR) FOR THE BSAI

Gear	Sector	Halibut discard mortality rate (percent)
Pelagic trawl	All	100
Non-pelagic trawl	Catcher/processor and motherships	75
Non-pelagic trawl	Catcher vessel	58
Hook-and-line	Catcher/processor	9
Hook-and-line	Catcher vessel	9
Pot	All	27

Listed AFA C/P Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA C/Ps to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA fishery and from fishery cooperatives in the directed pollock fishery. These restrictions are set out as sideboard limits on catch. On February 8, 2019, NMFS published a final rule (84 FR 2723) that implemented regulations to prohibit non-exempt AFA C/Ps from directed fishing for groundfish species or species groups subject to sideboard limits (see § 679.20(d)(1)(iv)(D) and Table 54 to 50 CFR part 679). Section 679.64(a)(1)(v) exempts AFA C/Ps from a yellowfin sole sideboard limit because the proposed 2020 and 2021 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 to 50 CFR part 679 establish a formula for calculating PSC sideboard limits for halibut and crab caught by listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692; December 30, 2002) and Amendment 80 (72 FR 52668; September 14, 2007). PSC species listed in Table 13 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the proposed 2020 and 2021 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7) authorize NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a proposed 2020 or 2021 PSC sideboard limit listed in Table 13 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC by listed AFA C/Ps while fishing for pollock will accrue against the PSC allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories, according to §§ 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 13—PROPOSED 2020 AND 2021 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area [1]	Ratio of PSC to total PSC	Proposed 2020 and 2021 PSC available to trawl vessels after subtraction of PSQ [2]	Proposed 2020 and 2021 C/P sideboard limit [2]
BSAI Halibut mortality	n/a	n/a	286
Red king crab Zone 1	0.007	86,621	606
C. opilio (COBLZ)	0.153	7,662,742	1,172,400
C. bairdi Zone 1	0.140	875,140	122,520
C. bairdi Zone 2	0.050	2,652,210	132,611

[1] Refer to § 679.2 for definitions of areas.
[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA CV Sideboard Limits

Pursuant to § 679.64(b), the Regional Administrator is responsible for restricting the ability of AFA CVs to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. On February 8, 2019, NMFS published a final rule (84 FR 2723) that implemented regulations to prohibit non-exempt AFA C/Vs from directed fishing for a majority of the groundfish species or species groups subject to sideboard limits (see § 679.20(d)(1)(iv)(D) and Table 55 to 50 CFR part 679). The remainder of the sideboard limits for non-exempt AFA C/Vs are proposed in Table 14.

Section 679.64(b)(3) and (b)(4) establish formulas for setting AFA CV groundfish and halibut and crab PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692; December 30, 2002) and Amendment 80 (72 FR 52668; September 14, 2007). Section 679.64(b)(6) exempts AFA CVs from a

yellowfin sole sideboard limit because the proposed 2020 and 2021 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt. Table 14 lists the proposed 2020 and 2021 AFA CV sideboard limits.

TABLE 14—PROPOSED 2020 AND 2021 BSAI PACIFIC COD SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT CATCHER VESSELS (CVS)

[Amounts are in metric tons]

Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2020 and 2021 initial TAC	2020 and 2021 AFA catcher vessel sideboard limits
BSAI	n/a	n/a	n/a
Trawl gear CV:	n/a	n/a	n/a
Jan 20–Apr 1	0.8609	20,156	17,352
Apr 1–Jun 10	0.8609	2,996	2,579
Jun 10–Nov 1	0.8609	4,086	3,518

Note: Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2020 and 2021 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

Halibut and crab PSC limits listed in Table 15 that are caught by AFA CVs participating in any groundfish fishery other than pollock will accrue against the 2020 and 2021 PSC sideboard limits for the AFA CVs. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7) authorize NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a proposed 2020 and 2021 PSC sideboard limit listed in Table 15 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC by AFA CVs while fishing for pollock in the BS will accrue against the PSC allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories under § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 15—PROPOSED 2020 AND 2021 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

PSC species and area [1]	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	Proposed 2020 and 2021 PSC limit after subtraction of PSQ reserves [3]	Proposed 2020 and 2021 AFA catcher vessel PSC sideboard limit [3]
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish [4]	n/a	n/a	228
	Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish.	n/a	n/a	
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species [5]	n/a	n/a	5
Red king crab Zone 1	n/a	0.2990	86,621	25,900
C. opilio COBLZ	n/a	0.1680	7,662,742	1,287,341
C. bairdi Zone 1	n/a	0.3300	875,140	288,796
C. bairdi Zone 2	n/a	0.1860	2,652,210	493,311

[1] Refer to § 679.2 for definitions of areas.
[2] Target fishery categories are defined at § 679.21(b)(1)(ii)(B) and (e)(3)(iv).
[3] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[4] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, Kamchatka flounder, flathead sole, Greenland turbot, rock sole, and yellowfin sole.
[5] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, and octopuses.

Classification

NMFS has determined that the proposed harvest specifications are consistent with the FMP and preliminarily determined that the proposed harvest specifications are consistent with the Magnuson-Stevens Act and other applicable laws, subject to further review after public comment.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

NMFS prepared an EIS for the Alaska groundfish harvest specifications and alternative harvest strategies and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the ROD for the Final EIS. A SIR that assesses the need to prepare a Supplemental EIS is being prepared for the final 2020 and 2021 harvest specifications. Copies of the Final EIS, ROD, and annual SIRs for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental, social, and economic consequences of the proposed groundfish harvest specifications and alternative harvest strategies on resources in the action area. Based on the analysis in the Final EIS, NMFS concluded that the preferred alternative (Alternative 2) provides the best balance

among relevant environmental, social, and economic considerations and allows for continued management of the groundfish fisheries based on the most recent, best scientific information.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), analyzing the methodology for establishing the relevant TACs. The IRFA evaluated the economic impacts on small entities of alternative harvest strategies for the groundfish fisheries in the exclusive economic zone off Alaska. As described in the methodology, TACs are set to a level that falls within the range of ABCs recommended by the SSC; the sum of the TACs must achieve the OY specified in the FMP. While the specific numbers that the methodology produces may vary from year to year, the methodology itself remains constant.

A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained in the preamble above. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The action under consideration is a harvest strategy to govern the catch of groundfish in the BSAI. The preferred alternative (Alternative 2) is the existing harvest strategy in which TACs fall within the range of ABCs recommended by the SSC, but, as discussed below, NMFS also considered other alternatives. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The entities directly regulated by this action are those that harvest groundfish in the exclusive economic zone of the BSAI and in parallel fisheries within State waters. These include entities operating CVs and C/Ps within the action area and entities receiving direct allocations of groundfish.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $11 million for all its affiliated operations worldwide. In addition, under the RFA, the aggregate gross receipts of all participating members of a cooperative must meet the ''under $11 million'' threshold to be considered a small entity.

The IRFA shows that, in 2018, the estimated number of directly regulated small entities include approximately 182 CVs, 3 C/Ps, and six CDQ groups. Some of these vessels are members of AFA inshore pollock cooperatives, Gulf of Alaska rockfish cooperatives, or BSAI Crab Rationalization Program cooperatives, which are considered to be large entities within the meaning of the RFA because the aggregate gross receipts of all participating members exceed the $11 million threshold. Thus, the estimate of 182 CVs may be an overstatement of the number of small entities. Average gross revenues were $520,000 for small hook-and-line vessels, $1.2 million for small pot vessels, and $2.6 million for small trawl vessels. The average gross revenue for C/Ps are not reported, due to confidentiality considerations.

The preferred alternative (Alternative 2) was compared to four other alternatives. Alternative 1 would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the BSAI OY, in which case TACs would have been limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent 5-year average fishing rates. Alternative 4 would have set TACs equal to the lower limit of the BSAI OY range. Alternative 5, the ''no action'' alternative, would have set TACs equal to zero.

The TACs associated with Alternative 2, the preferred harvest strategy, are those recommended by the Council in October 2019. OFLs and ABCs for the species were based on recommendations prepared by the Council's BSAI Groundfish Plan Team in September 2019, and reviewed and modified by the Council's SSC in October 2019. The Council based its TAC recommendations on those of its AP, which were consistent with the SSC's OFL and ABC recommendations.

Alternative 1 selects harvest rates that would allow fishermen to harvest stocks at the level of ABCs, unless total harvests were constrained by the upper bound of the BSAI OY of two million mt. As shown in Table 1 of the preamble, the sum of ABCs in 2020 and 2021 would be 2,967,269 mt, which is above the upper bound of the OY range. Under Alternative 1, the sum of TACs is equal to the sum of ABCs. In this instance, Alternative 1 is consistent with the preferred alternative (Alternative 2), meets the objectives of that action, and has small entity impacts that are equivalent to small entity impacts of the preferred alternative. However, NMFS cannot set TACs equal to the sum of ABCs in the BSAI due to the constraining OY limit of two million mt, which Alternative 1 would exceed.

Alternative 3 selects harvest rates based on the most recent 5 years of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years of harvests (for species in Tiers 4 through 6). This alternative is inconsistent with the objectives of this action (as reflected in Alternative 2, the Council's preferred harvest strategy) because it does not take account of the most recent biological information for this fishery, as required by the Magnuson-Stevens Act. NMFS annually conducts at-sea stock surveys for different species, as well as statistical modeling, to estimate stock sizes and permissible harvest levels. Actual harvest rates or harvest amounts are a component of these estimates, but in and of themselves harvest rates or harvest amounts may not accurately portray stock sizes and conditions. Harvest rates are listed for each species and species group for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all groundfish species and would reduce TACs from the upper end of the OY range in the BSAI to its lower end of 1.4 million mt. Overall, this would reduce 2020 TACs by about 30 percent, which would lead to significant reductions in harvests of species harvested by small entities. While reductions of this size would alter the supply, and, therefore, would be associated with offsetting price increases, the size of these associated price increases is uncertain. While production declines in the BSAI would undoubtedly be associated with price increases in the BSAI, these increases still would be constrained by production of substitutes, and are unlikely to completely offset revenue declines resulting from reductions in harvests of these species by small entities. Thus, this alternative would have a detrimental impact on small entities.

Alternative 5, which sets all harvests equal to zero, would have a significant adverse impact on small entities and would be contrary to the requirement for achieving OY on a continuing basis, as mandated by the Magnuson-Stevens Act. Under Alternative 5, all individual CVs and C/Ps, as well as CDQ groups, impacted by this rule would have gross revenues of $0.

The proposed harvest specifications (Alternative 2) extend the current 2020 OFLs, ABCs, and TACs to 2020 and 2021, except for the decreases of the Pacific cod AI TAC to account for the State's AI Pacific cod GHL and a

corresponding increase in BS pollock TAC to ensure that the sum of the proposed TACs is within the OY of up to 2 million mt. As noted in the IRFA and this preamble, the Council may modify its recommendations for final OFLs, ABCs, and TACs in December 2019, when it reviews the November 2019 SAFE report from its Plan Team, and the reports of the SSC and AP, at the 2019 December Council meeting. NMFS does not expect adverse impacts on small entities, because most of the TACs in these proposed 2020 and 2021 harvest specifications are unchanged from the 2020 harvest specification TACs in the final 2019 and 2020 harvest specifications (84 FR 9000; March 13, 2019), and because the sum of all TACs remains within the upper limit of OY for the BSAI of 2.0 million mt. Also, NMFS does not expect any changes that might be made by the Council in December 2019 to be large enough to have an impact on small entities.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals or endangered or threatened species resulting from fishing activities conducted under these harvest specifications are discussed in the Final EIS and its accompanying annual SIRs (see **ADDRESSES**).

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: November 26, 2019.

Samuel D. Rauch III,

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

[FR Doc. 2019–26090 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 84, No. 232

Tuesday, December 3, 2019

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Submission for Review

AGENCY: U.S. Agency for International Development.

ACTION: 30-Day notice and request for comments.

SUMMARY: U.S. Agency for International Development (USAID), 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 the following new information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning (1) Whether the proposed collection of information is necessary for the sustaining USAID-funded programming beyond USAID funding; (2) the accuracy of USAID's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed information collection to Elena Walls, USAID, Bureau of Economic Growth, Education and Environment (E3)/Office of Education at *ewalls@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: Elena Walls, USAID, Bureau of Economic Growth, Education and Environment (E3)/Office of Education at *ewalls@usaid.gov* or 202–468–3810.

SUPPLEMENTARY INFORMATION:

Title: Forms for reporting on contributions to USAID-funded education activities by host country governments, non-governmental entities and implementing partners.

Analysis: Data from these forms are required for measuring costs of USAID-funded education interventions. The results of the cost analysis will be used to inform scale and sustainability of USAID-funded interventions, for improving planning, budgeting and management of activities, and for reporting to Congress and other stakeholders.

OMB Number: N/A, new data collection.

Agency Form No.: 1420–17.

Agency: U.S. Agency for International Development.

Federal Register: This information was previously published in the **Federal Register** on July 18, 2019 allowing for a 60-day public comment period, under Document #2019–15228.

Affected Public: Organizations that are awarded USAID awards (contracts and cooperative agreements) to implement education activities.

Number of Respondents: 120.

Frequency: Once per year.

Estimated number of hours: 960 hours.

Dated: November 26, 2019.

Benjamin Sylla,

Evidence Team Lead, Engagement, Policy and Planning Division, Office of Education, U.S. Agency for International Development.

[FR Doc. 2019–26133 Filed 12–2–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0074]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the current regulations for the interstate movement of sheep and goats and an indemnity program to control the spread of scrapie. This notice is separate from any new rulemaking.

DATES: We will consider all comments that we receive on or before February 3, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0074.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0074* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the current domestic regulations to control the spread of scrapie, contact Dr. Diane Sutton, Assistant Director Ruminant Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 851–3509. For more detailed information on the information collection, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program.

OMB Control Number: 0579–0101.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection

Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and diseases of livestock.

Scrapie is a progressive, degenerative, and eventually fatal disease affecting the nervous system of sheep and goats. Its control is complicated because the disease has an extremely long incubation period without clinical signs of disease and no known treatment.

APHIS regulations in 9 CFR part 79 restrict the interstate movement of certain sheep and goats to control the spread of scrapie, and 9 CFR part 54 contains regulations for an indemnity program, flock cleanup, testing, and a Scrapie Free Flock Certification Program (SFCP).

The scrapie disease control program information collection activities include cooperative agreements; grants; memoranda of understanding; APHIS forms for inspection and epidemiology data; applications to participate in the SFCP; flock plans; post-exposure management and monitoring plans; record suspect/dead animals; scrapie test records; applications for indemnity payments; certificates, permits, and owner statements for the interstate movement of certain sheep and goats; applications for premises identification numbers; applications for official APHIS identification; designated scrapie epidemiologist training; and other program-related activities.

In addition, APHIS is adding new information collection activities to the current domestic scrapie program that include State burden from interstate certificates of veterinary inspection, private laboratory approval requests, contributions of breed registry associations, epidemiology and identification compliance reporting, declination to respond, epidemiology training, and disposal cost information. As a consequence, we have adjusted the estimates of burden accordingly. In addition, the adjusted estimates also reflect increases in identification tag orders and the number of specimen submissions per laboratory to better represent our current activities.

The information collection activities above are currently approved by the Office of Management and Budget (OMB) under OMB control numbers 0579–0101 (Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program), and 0579–0469 (Scrapie in Sheep and Goats; Flock Certification, Interstate Movement and Indemnity Revisions). After OMB approves this combined information collection package (0579–0101), APHIS will retire OMB control number 0579–0469.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.66 hours per response.

Respondents: Flock owners; market owners, operators, or managers; dealers; slaughter plant owners, operators, or managers; feedlot owners, operators, or managers; tag manufacturers; managers of producer organizations; accredited veterinarians; and State animal health authorities.

Estimated annual number of respondents: 100,050.

Estimated annual number of responses per respondent: 13.55.

Estimated annual number of responses: 1,355,937.

Estimated total annual burden on respondents: 898,574 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 26th day of November 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–26115 Filed 12–2–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0064]

Availability of an Environmental Assessment and Finding of No Significant Impact; Southwestern Willow Flycatcher Conservation Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the United States Department of Agriculture and its sub-agency, the Animal and Plant Health Inspection Service, have prepared an environmental assessment and finding of no significant impact for a conservation program pursuant to the Endangered Species Act to benefit the southwestern willow flycatcher, a small, neotropical migrant bird found in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Kai Caraher, Biological Scientist, PHP, PPQ, APHIS, 4700 River Road, Unit 150, Riverdale, MD 20737–1231; (301) 851–2345; *Kai.Caraher@usda.gov.*

SUPPLEMENTARY INFORMATION:

Saltcedar, also known as tamarisk (*Tamarix* species), is an invasive plant widely established in riparian areas in the western United States. This non-native weed, which can take the form of a shrub or small tree, was introduced into the United States in the latter part of the 19th century. Although saltcedar is an invasive plant, native animals have adapted to its presence.

In 1986, the U.S. Department of Agriculture's (USDA's) Agricultural Research Service (ARS) began research into the potential for biological control of saltcedar. From 1998 to 2000, ARS conducted open field release trials of tamarisk leaf beetles (*Diorhabda* species) to determine the conditions under which releases could succeed. These field trials took place after ARS consulted with the U.S. Fish and Wildlife Service (USFWS) to ensure

compliance with the Endangered Species Act (ESA). USDA's Animal and Plant Health Inspection Service (APHIS) permitted the releases after it completed additional environmental risk analyses and provided the public an opportunity to comment on the documents.

In 2005, APHIS initiated a biological control program for saltcedar defoliation in the northern United States using the tamarisk leaf beetle as the biological control agent in limited locations outside of the habitat of the southwestern willow flycatcher (SWFL, *Empidonax traillii extimus*). Greater than anticipated natural dispersion and intentional human-assisted movement of the beetle into SWFL habitat caused defoliation of saltcedar trees, hampering the flycatcher's nesting success.

After tamarisk leaf beetles were discovered in SWFL habitat, APHIS terminated its saltcedar biological control program in 2010 and canceled release permits because of concern about the potential adverse effects on SWFL. APHIS reinitiated consultation with USFWS on these actions, in compliance with section 7(a)(2) of the ESA and 16 U.S.C. 1536(a)(2), and USFWS concurred with APHIS' determination that these actions were not likely to adversely affect the SWFL.

On September 30, 2013, the Center for Biological Diversity filed a lawsuit against USDA, APHIS, ARS, the Department of the Interior (DOI), and USFWS alleging that the APHIS saltcedar biological control program violated the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*) and the ESA. On May 3, 2016, the Court granted the plaintiff's second of five claims, finding that APHIS did not comply with the ESA section 7(a)(1), which requires Federal agencies to consult with DOI and ''utilize their authorities in furtherance of the purposes of [the ESA] by carrying out programs for the conservation of endangered species and threatened species listed pursuant to [16 U.S.C. 1533]'' 16 U.S.C. 1536(a)(1). On June 19, 2018, the Court ordered USDA and APHIS to publish proposed conservation program alternatives in compliance with ESA section 7(a)(1), solicit public comments on the proposed alternatives, then publish a draft environmental assessment (EA) for public comment, and complete review of all public comments, and issue final decision and final EA, or an environmental impact statement (EIS) should it be appropriate.

On October 26, 2018, APHIS published in the **Federal Register** (83 FR 54080–54082, Docket No. APHIS–2018–0064) a notice [1] informing the public of APHIS' intent to conduct a scoping process and prepare an EA. We solicited comments for 30 days ending on November 26, 2018. We received 23 comments by that date.

After taking into consideration the comments that we received, on July 9, 2019, we published in the **Federal Register** (84 FR 32701–32702, Docket No. APHIS–2018–0064) a notice in which we announced the availability, for public review and comment, of an EA that examined the environmental effects of possible SWFL conservation measures available to USDA and APHIS, as well as a ''no action'' alternative.

We solicited comments on the EA for 30 days ending August 8, 2019. We received 22 comments by that date. Four commenters were supportive of the preferred alternative in the EA without further comment, and one expressed general opposition to all APHIS biocontrol efforts. Additionally, several commenters asked for changes in nomenclature or phrasing within the draft EA in order to clarify its provisions without changing its meaning; we have incorporated the requested changes to the extent possible within the final EA. The remaining comments are addressed in the final EA itself.

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding our preferred alternative for SWFL conservation measures. The finding, which is based on the EA, reflects our determination that the preferred alternative will not have significant impact on the quality of the human environment.

The EA and FONSI may be viewed on the *Regulations.gov* website (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 26th day of November 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–26110 Filed 12–2–19; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice of intent and the comments that we received on that document, or the subsequent notice of availability of the environmental assessment, its supporting documents, and the comments that we received on that document, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0064.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0075]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Phytosanitary Export Certification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the issuance of phytosanitary certificates for plants or plant products being exported to foreign countries.

DATES: We will consider all comments that we receive on or before February 3, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0075.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0075, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0075* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for phytosanitary export certification for plants and plant products being exported to foreign countries, contact Mr. Christian Dellis, Export Specialist North America and U.S. Territories, PHP, PPQ, APHIS, 4700 River Road Unit 131, Riverdale, MD 20737; (301) 851–2154. For more detailed information on the information collection, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Phytosanitary Export Certification.

OMB Control Number: 0579–0052.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to certify as to the freedom of plants, plant products, or biological control organisms from plant pests or noxious weeds, or the exposure of plants, plant products, or biological control organisms to plant pests or noxious weeds, according to the phytosanitary or other requirements of the countries to which the plants, plant products, or biological control organisms may be exported.

The Animal and Plant Health Inspection Service (APHIS), among other things, provides export certification services to assure other countries that the plants and plant products they are receiving from the United States are free of plant pests specified by the receiving country. Our regulations do not require that we engage in export certification activities. However, we perform this work as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry.

The export certification regulations in 7 CFR part 353 describe the procedures for obtaining certification for plants and plant products offered for export or re-export. To request that we perform a phytosanitary inspection, an exporter must complete and submit an Application for Inspection and Certification of Plants and Plant Products for Export.

After assessing the condition of the plants or plant products intended for export (*i.e.,* after conducting a phytosanitary inspection), an inspector (who may be an APHIS employee or a State or county plant regulatory official) will issue an internationally recognized phytosanitary certificate, a phytosanitary certificate for re-export, or an export certificate for processed plant products. These forms are critical to our ability to certify plants and plant products for export. Without them, we would be unable to conduct an export certification program.

In addition, APHIS requires information collection activities such as the recordkeeping, a memorandum of understanding for State inspectors, request for APHIS to negotiate with national plant protection organizations for industry-issued certificates or documentation, memorandum of understanding with industry for inspection and use of International Standards for Phytosanitary Measures Guidelines for Regulating Wood Packaging Material in International Trade (ISPM 15), and the application of an ISPM 15 mark.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0074 hours per response.

Respondents: State, local, and county plant regulatory officials, U.S. growers, shippers, and exporters.

Estimated annual number of respondents: 9,101.

Estimated annual number of responses per respondent: 6,155.3.

Estimated annual number of responses: 56,019,465.

Estimated total annual burden on respondents: 412,985 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 26th day of November 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–26111 Filed 12–2–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–185–2019]

Approval of Subzone Status; Pueblo, Inc.; Guaynabo, Puerto Rico

On September 19, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Department of Economic Development and Commerce, grantee of FTZ 61, requesting subzone status subject to the existing activation limit of FTZ 61, on behalf of Pueblo, Inc., in Guaynabo, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 50374, September 25, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 61X was approved on November 26, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 61's 1,821.07-acre activation limit.

Dated: November 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26154 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–72–2019]

Foreign-Trade Zone 122—Corpus Christi, Texas; Application for Subzone Cheniere Energy, Inc., Portland, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Corpus Christi Authority,

grantee of FTZ 122, requesting subzone status for the facility of Cheniere Energy, Inc., located in Portland, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–s81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 25, 2019.

The proposed subzone (1,636.109 acres) is located at 2822 La Quinta Road in Portland, Texas. A notification of proposed production activity has been submitted and is being processed under 15 CFR 400.37 (Doc. B–66–2019).

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 13, 2020. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 27, 2020.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: November 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26150 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–173–2019]

Approval of Subzone Status; Café Oro de Puerto Rico, Inc., Lares, Puerto Rico

On August 22, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on behalf of Café Oro de Puerto Rico, Inc., in Lares, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 45123, August 28, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 7R was approved on November 26, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: November 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26152 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–186–2019]

Approval of Subzone Expansion; Hitachi Automotive Systems America, Inc., Harrodsburg, Kentucky

On September 19, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, requesting an expansion of Subzone 29F subject to the existing activation limit of FTZ 29, on behalf of Hitachi Automotive Systems America, Inc., in Harrodsburg, Kentucky.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 50375–50376, September 25, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 29F was approved on November 27, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 29's 2,000-acre activation limit.

Dated: November 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26151 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–164–2019]

Approval of Subzone Status; Motorambar, Inc., Cataño, Puerto Rico

On August 15, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on behalf of Motorambar, Inc., in Cataño, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 43579, August 21, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 7Q was approved on November 26, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: November 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26153 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–48–2019]

Foreign-Trade Zone (FTZ) 29—Louisville, Kentucky; Authorization of Production Activity; Amcor Flexibles L.L.C. (Flexible Packaging); Shelbyville, Kentucky

On July 29, 2019, Amcor Flexibles L.L.C. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 29, in Shelbyville, Kentucky.

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 37987, August 5, 2019). On November 26, 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: November 26, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–26149 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–867, A–560–833, A–580–902, A–552–825]

Utility Scale Wind Towers From Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable December 3, 2019.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney at (202) 482–4475 (Canada); Brittany Bauer at (202) 482–3860 (Indonesia); Rebecca Janz at (202) 482–2972 (Republic of Korea (Korea)); and Joshua DeMoss at (202) 482–3362 (Socialist Republic of Vietnam (Vietnam)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 2019, the U.S. Department of Commerce (Commerce) initiated less-than-fair-value (LFTV) investigations of imports of utility scale wind towers from Canada, Indonesia, Korea, and Vietnam.[1] Currently, the preliminary determinations are due no later than December 16, 2019.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Pursuant to 19 CFR 351.205(e), the petitioner must submit a request to postpone 25 days or more before the scheduled date of the preliminary determination and must state the reasons for postponement. Commerce will grant the request unless it finds compelling reasons to deny the request. *See* 19 CFR 351.205(e).

On November 19, 2019, the petitioner[2] submitted timely requests that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioner stated that the purpose of its requests is to provide Commerce with adequate time to solicit information from the respondents and to allow Commerce sufficient time to analyze the respondents' questionnaire responses.[4] In accordance with 19 CFR 351.205(e), there are no compelling reasons to deny the request. Therefore, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), we are postponing the preliminary determinations in these LTFV investigations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). Accordingly, Commerce is postponing the deadline for the preliminary determinations to February 4, 2020. Pursuant to section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 26, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–26139 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 84 FR 37992 (August 5, 2019).

[2] The petitioner in these LTFV investigations is the Wind Tower Trade Coalition.

[3] *See* Petitioner's Letters, ''Utility Scale Wind Towers from Canada: Request to Postpone Preliminary Determination,'' ''Utility Scale Wind Towers from Indonesia: Request to Postpone Preliminary Determination,'' ''Utility Scale Wind Towers from the Republic of Korea: Request to Postpone Preliminary Determination,'' and ''Utility Scale Wind Towers from the Socialist Republic Vietnam: Request to Postpone Preliminary Determination,'' dated November 19, 2019.

[4] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty order on certain steel nails (nails) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the antidumping duty order.

DATES: Applicable December 3, 2019.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, 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) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2008, Commerce published the notice of the antidumping duty order on nails from China.[1] On December 3, 2018, the ITC instituted its review of the *Order.*[2] On December 3, 2018, Commerce published the notice of initiation of the second sunset review of the antidumping duty order on nails from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[3] On December 4, 2018, Commerce received a timely notice of intent to participate in this review from Mid Continent Steel & Wire, Inc. (the petitioner) as a domestic producer of nails within the deadline specified in 19 CFR 351.218(d)(1)(i).[4] On January 2, 2019, Commerce received a complete substantive response for the review from the petitioner within the 30-day deadline specified in 19 CFR

[1] *See Notice of Antidumping Duty Order: Certain Steel Nails from the People's Republic of China,* 73 FR 44961 (August 1, 2008) (*Order*).

[2] *See Steel Nails from China; Institution of a Five-Year Review,* 83 FR 62342 (December 3, 2018).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 83 FR 62296 (December 3, 2018).

[4] *See* Petitioner's Letter, ''Entry of Appearance, Notice of Intent to Participate in Review, and APO Application,'' dated January 2, 2019.

351.218(d)(3)(i).[5] Commerce received no substantive responses from respondent interested parties. Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of this order.[6]

As a result of its review, Commerce determined that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping. Commerce, therefore, notified the ITC of the magnitude of the margins likely to prevail should the antidumping duty order be revoked.[7]

On June 6, 2019, the ITC published its notice to conduct an expedited five-year review of the *Order*.[8] On July 18, 2019, the ITC published its determination that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to section 751(c) of the Act.[9]

Scope of the Order [10]

The merchandise covered by this order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this order are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[11]

Excluded from the scope are steel roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails, inclusive of the following modifications: (1) Non-collated (*i.e.,* hand-driven or bulk), steel nails as described in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails, as modified by the following description: Having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500'' to 4'', inclusive; an actual shank diameter of 0.1015'' to 0.166'', inclusive; and an actual head diameter of 0.3375'' to 0.500'', inclusive; (2) Wire collated steel nails, in coils, as described in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails, as modified by the following description: Having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500'' to 1.75'', inclusive, an actual shank diameter of 0.116'' to 0.166'', inclusive; and an actual head diameter of 0.3375'' to 0.500'', inclusive; and (3) Non-collated (*i.e.,* hand-driven or bulk), as described in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails, as modified by the following description: Steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75'' to 3'', inclusive; an actual shank diameter of 0.131'' to 0.152'', inclusive; and an actual head diameter of 0.450'' to 0.813'', inclusive.

Also excluded from the scope are the following steel nails: Non-collated (*i.e.,* hand-driven or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500'' to 8'', inclusive; and an actual shank diameter of 0.1015'' to 0.166'', inclusive; and an actual washer or cap diameter of 0.900'' to 1.10'', inclusive.

Also excluded from the scope of this order are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this order are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this order are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

Also excluded from the scope of this order are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this order are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Continuation of the Order

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Order* on nails from China. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(a), Commerce intends to initiate the next sunset review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

[5] *See* Petitioner's Letter, ''Certain Steel Nails from the People's Republic of China: Substantive Response to Notice of Initiation,'' dated January 2, 2019.

[6] *See Certain Steel Nails from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 84 FR 22449 (May 17, 2019) and accompanying Issues and Decision Memorandum.

[7] *See Certain Steel Nails from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 84 FR 22449 (May 17, 2019) and accompanying Issues and Decision Memorandum.

[8] *See Steel Nails from China; Scheduling of an Expedited Five-Year Review,* 84 FR 26445 (June 6, 2019).

[9] *See Steel Nails from China,* 84 FR 34409 (July 18, 2019).

[10] *See Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 49508 (September 20, 2019).

[11] Commerce added the Harmonized Tariff Schedule category 7907.00.6000, ''Other articles of zinc: Other,'' to the language of the AD order on Nails from China. *See Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 18816, 18816 n.5 (April 5, 2018).

Notification to Interested Parties

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: November 25, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–26140 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–820]

Biodiesel From Argentina: Rescission of Antidumping Duty Administrative Review; 2017–2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on biodiesel from Argentina for the period October 31, 2017, through March 31, 2019.

DATES: Applicable December 3, 2019.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, 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) 482–4880.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2019, Commerce published a notice of opportunity to request an administrative review of the AD order on biodiesel from Argentina for the period October 31, 2017, through March 31, 2019.[1] On April 26, 2019, the petitioner[2] filed a timely request for review of 18 exporters and importers, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[3] Pursuant to this request, and in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order.[4] On July 18, 2019, Commerce placed entry data on the record for purposes of respondent selection.[5] On July 25, 2019, the petitioner, LDC Argentina S.A. (LDC), and Vicentin S.A.I.C. (Vicentin), submitted comments on the respondent selection data.[6] On July 30, 2019, the petitioner, LDC, and Vicentin submitted rebuttal comments regarding the respondent selection data.[7] On September 10, 2019, the petitioner filed a timely withdrawal of request for the administrative review with respect to all entities for which it had requested a review.[8]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, the petitioner, who was the only party to file a request for review, withdrew its request by the 90-day deadline. Accordingly, we are rescinding the administrative review of the AD order on biodiesel from Argentina for the period August 28, 2017, through December 31, 2018, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of biodiesel from Argentina. AD duties shall be assessed at rates equal to the cash deposit of estimated AD duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of AD or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of duties occurred and the subsequent assessment of doubled duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: November 26, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–26141 Filed 12–2–19; 8:45 am]

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[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 12207 (April 1, 2019).

[2] The petitioner is the National Biodiesel Board Fair Trade Coalition, which includes the National Biodiesel Board; American GreenFuels, LLC; Archer Daniels Midland Company; Ag Processing Inc a cooperative; Crimson Renewable Energy LP; High Plains Bioenergy; Integrity Biofuels, LLC; Iowa Renewable Energy, LLC; Lake Erie Biofuels dba HERO BX; Minnesota Soybean Processors; New Leaf Biofuel, LLC; Newport Biodiesel, LLC; Renewable Biofuels, LLC; Renewable Energy Group, Inc.; Western Dubuque Biodiesel, LLC; Western Iowa Energy, LLC; and World Management Group LLC dba World Energy.

[3] *See* Petitioner's Letter, ''Biodiesel from Argentina: Request for Administrative Review of Antidumping Duty Order,'' dated April 26, 2019.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 27587 (June 13, 2019).

[5] *See* Memorandum, ''Administrative Review of the Antidumping Duty Order on Biodiesel from Argentina; 2017–2019; Customs Entry Data for Respondent Selection,'' dated July 18, 2019.

[6] *See* Petitioner's Letter, ''Biodiesel from Argentina: Comments on CBP Data and Respondent Selection,'' dated July 25, 2019; *see also* LDC's and Vicentin's Letter, ''Biodiesel from Argentina: Certification of No Shipments and Comments on U.S. Customs Entry Data for Respondent Selection,'' dated July 25, 2019.

[7] *See* Petitioner's Letter, ''Biodiesel from Argentina: Coalition Rebuttal Comments on CBP Data and Respondent Selection,'' dated July 30, 2019; *see also* LDC's and Vicentin's Letter, ''Biodiesel from Argentina: Rebuttal Comments on U.S. Customs Entry Data for Respondent Selection,'' dated July 30, 2019.

[8] *See* Petitioner's Letter, ''Biodiesel from Argentina: Withdrawal of Request for Administrative Review of Antidumping Duty Order,'' dated September 10, 2019.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Review; Correction

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

SUMMARY: On November 1, 2019, the Department of Commerce (Commerce) published a notice of initiation of five-year reviews (sunset reviews). This document serves to correct that notice.

DATES: Applicable November 29, 2019.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs and Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION: On November 1, 2019, the Department of Commerce (Commerce) published a notice of initiation of five-year reviews (sunset reviews). *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 58687 (November 1, 2019) (*November 2019 Sunset Reviews Initiation Notice*). In that notice, Commerce inadvertently omitted the antidumping and countervailing duty suspension agreements on Sugar from Mexico (A–201–845 and C–201–846) from the list of cases for which sunset reviews initiate in November 2019. This document serves to correct the *November 2019 Sunset Reviews Initiation Notice* for the aforementioned items.

This correction document for the initiation of sunset reviews is being published in accordance with section 751(c) of the Tariff Act of 1930, as amended, and 19 CFR 351.218(c).

Dated: November 20, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–25653 Filed 11–29–19; 11:15 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–815, A–549–830, A–552–816]

Welded Stainless Steel Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on welded stainless steel pressure pipe (WSSPP) from Malaysia, Thailand, and the Socialist Republic of Vietnam (Vietnam) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD orders.

DATES: Applicable December 3, 2019.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett or Magd Zalok, 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) 482–3609 and (202) 482–4162, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2014, Commerce published in the **Federal Register** the notices of the antidumping duty orders on WSSPP from Malaysia, Thailand, and Vietnam.[1] Between June 3, 2019 and June 4, 2019, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), Commerce published the initiation of the first sunset reviews of the *Orders* and the ITC instituted its review of the *Orders.*[2]

Between June 13, 2019 and June 18, 2019, Commerce received timely and complete notices of intent to participate in these sunset reviews from Bristol Metals, LLC, Felker Brothers Corporation, and Webco Industries, Inc. (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as manufacturers in the United States of the domestic like product.[4]

Between July 1, 2019 and July 5, 2019, the domestic interested parties filed timely and adequate substantive responses, within the deadline specified in 19 CFR 351.218(d)(3)(i).[5] Commerce received no substantive response from respondent interested parties. Pursuant to section 751(c)(3)(B) of the Act, Commerce conducted expedited (120-day) sunset reviews of the *Orders.*[6] On October 15, 2019, the ITC exercised its discretion to extend its review period by up to 90 days to conduct expedited five-year reviews of the *Orders.*[7]

As a result of its reviews, Commerce determined, pursuant to sections 751(c)(1) and 752(c) of the Act, that revocation of the *Orders* on WSSPP from Malaysia, Thailand, and Vietnam would likely lead to continuation or recurrence of dumping. Commerce, therefore, notified the ITC of the magnitude of the margins of dumping rates likely to prevail should these *Orders* be revoked, in accordance with sections 752(c)(3) of the Act.[8]

On November 25, 2019 the ITC published its determination that revocation of the *Orders* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to sections 751(c) and 752(a) of the Act.[9]

Scope of the Orders

The merchandise covered by these orders are circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of these orders, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited

[1] *See Welded Stainless Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 79 FR 42289 (July 21, 2014) (*Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 25741 (June 4, 2019); *see also Welded Stainless Pressure Pipe from China, Malaysia, Thailand, and Vietnam; Institution of Five-Year Reviews,* 84 FR 25567 (June 3, 2019).

[3] *See* Domestic Interested Parties' Letters, ''Welded Stainless Steel Pressure Pipe from Malaysia: Notice of Intent to Participate,'' dated June 13, 2019 (Malaysia Intent to Participate); ''Welded Stainless Steel Pressure Pipe from Thailand: Notice of Intent to Participate,'' dated June 13, 2019 (Thailand Intent to Participate); and ''Welded Stainless Steel Pressure Pipe from Vietnam: Notice of Intent to Participate,'' dated June 13, 2019 (Vietnam Intent to Participate). Also, Commerce received a timely and complete notice of intent to participate in these sunset reviews from domestic interested party Primus Pipe & Tube, Inc. (Primus). *See* Primus' Letter, ''Welded Stainless Steel Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Notice of Intent to Participate,'' dated June 18, 2019.

[4] *See* Malaysia Intent to Participate at 2; *see also* Thailand Intent to Participate at 2; Vietnam Intent to Participate at 2; Primus Intent to Participate at 2.

[5] *See* Domestic Interested Parties' Letter ''Welded Stainless Steel Pressure Pipe from Malaysia: Substantive Response to Notice of Initiation,'' dated July 1, 2019; *see also* Domestic Interested Parties' Letters, ''Welded Stainless Steel Pressure Pipe from Thailand: Substantive Response to Notice of Initiation,'' dated July 1, 2019; and ''Welded Stainless Steel Pressure Pipe from Vietnam: Substantive Response to Notice of Initiation,'' dated July 1, 2019. Also, Primus submitted a response, in which it agreed with the substantive responses of the other domestic interested parties. *See* Primus' Letter, ''Welded Stainless Steel Pipe Sunset Review: 2nd Review for China AD/CVD; 1st Review for Vietnam, Thailand and Malaysia; Substantive Response to Notice of Initiation,'' dated July 5, 2019.

[6] *See* Commerce's Letter, ''Sunset Reviews Initiated on June 1, 2019,'' dated July 29, 2019.

[7] *See Welded Stainless Steel Pressure Pipe from China, Malaysia, Thailand, and Vietnam; Scheduling of Expedited Five-Year Reviews,* 84 FR 55171 (October 15, 2019).

[8] *See Welded Stainless Steel Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Final Results of Expedited First Sunset Reviews of Antidumping Duty Orders,* 84 FR 52458 (October 2, 2019).

[9] *See Welded Stainless Steel Pressure Pipe from China, Malaysia, Thailand, and Vietnam; Determination,* 84 FR 64922 (November 25, 2019); *see also Welded Stainless Steel Pressure Pipe from China, Malaysia, Thailand, and Vietnam* (Inv. Nos. 701–TA–454 and 731–TA–1144 (Second Review) and 731–TA–1210–1212 (Review), USITC Publication 4994, November 2019).

to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders* on WSSPP from Malaysia, Thailand, and Vietnam. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year (sunset) reviews of these *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return, destruction, or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: November 25, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–26038 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates From Spain: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) determines that Ercros S.A. (Ercros) did not make sales of subject merchandise at less than fair value during the period of review (POR), June 1, 2017 through May 31, 2018.

DATES: Applicable December 3, 2019.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, 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) 482–4261.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 2019, Commerce published the *Preliminary Results.*[1] No party submitted case briefs on the *Preliminary Results.*

Scope of the Order

The products covered by the order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) Trichloroisocyanuric acid (Cl3(NCO)3), (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 2H2O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(NCO)3). Chlorinated isocyanurates are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates. Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Changes Since the Preliminary Results

No parties submitted comments on the *Preliminary Results;* therefore we have made no changes to our calculations, and the final results do not differ from the *Preliminary Results.*

Final Results of Review

As a result of this review, we determine that, for the period June 1, 2017 through May 31, 2018, the following dumping margin exists:

Manufacturer/exporter	Weight-average dumping margin (percent)
Ercros	0.00

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of these final results of review. Since Ercros' weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of

[1] *See Chlorinated Isocyanurates from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 42898 (August 19, 2019).

this administrative review, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for Ercros will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for other manufacturers and exporters 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 that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.83 percent, the all-others rate established in the LTFV investigation.[2] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred, which will result in the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: November 25, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–26142 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Chlorinated Isocyanurates from Spain: Notice of Final Determination of Sales at Less Than Fair Value,* 70 FR 24506 (May 10, 2005).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR032]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off of Delaware and Maryland

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: ''In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Skipjack Offshore Energy, LLC (Skipjack) to incidentally harass, by Level B harassment only, marine mammals during marine site characterization surveys offshore of Delaware in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0519) and along potential submarine cable routes to a landfall location in Delaware or Maryland.

DATES: This authorization is valid for one year from the date of issuance.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the internet at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On July 31, 2019, NMFS received a request from Skipjack for an IHA to take marine mammals incidental to marine site characterization surveys offshore of Delaware in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0519) and along potential submarine cable routes to a landfall location in Delaware or Maryland. A revised application was received on August 15, 2019. NMFS deemed that request to be adequate and complete. Skipjack's request is for the take of 17 marine mammal species by Level B harassment that would occur over the course of 200 survey days. Neither Skipjack nor NMFS expects serious injury or mortality to result from this activity and the activity is expected to last no more than one year, therefore, an IHA is appropriate.

Description of the Proposed Activity

Skipjack proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) and geotechnical surveys, in the area of OCS–A 0519 (Lease Area) and along potential submarine cable routes to landfall locations in either Delaware or Maryland. The purpose of the surveys is to obtain a baseline assessment of seabed/sub-surface soil conditions in the Lease Area and cable route corridors to support the siting of potential future offshore wind projects. Underwater sound resulting from Skipjack's surveys has the potential to result in incidental take of marine mammals in the form of behavioral harassment (*i.e.,* Level B harassment only).

Skipjack's survey activities are anticipated to be supported by as many as five total vessels, with as many as three vessels operating concurrently. Survey vessels would maintain a speed of approximately 4 knots (kn) while transiting survey lines. A maximum of 200 total survey days are expected to be required to complete the surveys. Skipjack's geotechnical survey activities are described in detail in the notice of proposed IHA (84 FR 51118; September 27, 2019). As described in that notice, the geotechnical survey activities not expected to result in the take of marine mammals and are therefore not analyzed further in this document. The HRG survey activities proposed by Skipjack are also described in detail in the notice of proposed IHA (84 FR 51118; September 27, 2019). The HRG equipment that may be used by Skipjack are shown in Table 1.

TABLE 1—SUMMARY OF GEOPHYSICAL SURVEY EQUIPMENT PROPOSED FOR USE BY SKIPJACK

Equipment	Source type	Operating frequency (kHz)	Sound level (SL_{rms} dB re 1 μPa m)	Sound level (SL_{pk} dB re 1 μPa m)	Pulse duration (width) (millisecond)	Repetition rate (Hz)	Beamwidth (degrees)
Shallow Sub-bottom Profilers (Chirps)							
Teledyne Benthos Chirp III—TTV 170.	Non-impulsive, mobile, intermittent.	2 to 7	197	—	5 to 60	15	100.
EdgeTech SB 216 (2000DS or 3200 top unit).	Non-impulsive, mobile, intermittent.	2 to 16 2 to 8	195	—	20	6	24.
EdgeTech 424	Non-impulsive, mobile, intermittent.	4 to 24	176	—	3.4	2	71.
EdgeTech 512	Non-impulsive, mobile, intermittent.	0.7 to 12	179	—	9	8	80.
GeoPulse 5430A	Non-impulsive, mobile, intermittent.	2 to 17	196		50	10	55.
Parametric Sub-bottom Profilers							
Innomar SES-2000 Medium 100 SBP.	Non-impulsive, mobile, intermittent.	85 to 115	247	—	0.07 to 2	40–100	1–3.5.
Innomar SES-2000 Standard & Plus.	Non-impulsive, mobile, intermittent.	85 to 115	236	—	0.07 to 2	60	1–3.5.
Innomar SES-2000 Medium 70.	Non-impulsive, mobile, intermittent.	60 to 80	241	—	0.1 to 2.5	40	1–3.5.
Innomar SES-2000 Quattro.	Non-impulsive, mobile, intermittent.	85 to 115	245	—	0.07 to 1	60	1–3.5.
Medium Sub-bottom Profilers (Sparkers & Boomers)							
GeoMarine Geo-Source 800J Sparker.	Impulsive, Mobile	0.05 to 5	203	213	3.4	0.41	Omni.
GeoMarine Geo-Source 600J Sparker.	Impulsive, Mobile	0.2 to 5	201	212	5.0	0.41	Omni.
GeoMarine Geo-Source 400J Sparker.	Impulsive, Mobile	0.2 to 5	195	208	7.2	0.41	Omni.
GeoResource 800J Sparker System.	Impulsive, Mobile	0.05 to 5	203	213	3.4	0.41	Omni.
Applied Acoustics Duraspark 400.	Impulsive, Mobile	0.3 to 1.2	203	211	1.1	0.4	Omni.
Applied Acoustics triple plate S-Boom (700–1000 Joules) [1].	Impulsive, Mobile	0.1 to 5	205	211	0.6	3	80.
Acoustic Corers							
PanGeo (LF Chirp)	Non-impulsive, stationary, intermittent.	2 to 6.5	177.5	—	4.5	0.06	73.

TABLE 1—SUMMARY OF GEOPHYSICAL SURVEY EQUIPMENT PROPOSED FOR USE BY SKIPJACK—Continued

Equipment	Source type	Operating frequency (kHz)	Sound level (SL_{rms} dB re 1 μPa m)	Sound level (SL_{pk} dB re 1 μPa m)	Pulse duration (width) (millisecond)	Repetition rate (Hz)	Beamwidth (degrees)
PanGeo (HF Chirp)	Non-impulsive, stationary, intermittent.	4.5 to 12.5	177.5	—	4.5	0.06	73.
Pangeo Parametric Sonar [5].	Non-impulsive, stationary, intermittent.	90 to 115	239	—	0.25	40	3.5.
Positioning Systems							
Sonardyne Ranger 2—Transponder.	Non-impulsive, mobile, intermittent.	19 to 34	194	—	5	1	Omni.
Sonardyne Ranger 2 USBL HPT 3000/5/7000 Transceiver.	Non-impulsive, mobile, intermittent.	19 to 34	194	—	5	1	Not Reported.
Sonardyne Scout Pro Transponder.	Non-impulsive, mobile, intermittent.	35 to 50	188	—	5	3	Not Reported.
IxSea GAPS Beacon System.	Non-impulsive, mobile, intermittent.	8–16	188		12	1	Omni.
Easytrak Nexus 2 USBL Transceiver.	Non-impulsive, mobile, intermittent.	18 to 32	192		5	2	Omni.
Kongsberg HiPAP 501/502 USBL Tranceiver.	Non-impulsive, mobile, intermittent.	27–30.5	190		2	1	15.
EdgeTech BATS II Transponder.	Non-impulsive, mobile, intermittent.	17 to 30	Not Reported		5	3	Not Reported.
Multi-beam Echosounders and Side Scan Sonar							
Reson SeaBat 7125 Multibeam Echosounder.	Non-impulsive, mobile, intermittent.	200 or 400	220	—	0.03 to 0.3	—	—
RESON 700	Non-impulsive, mobile, intermittent.	200 or 400	162	—	0.33	—	—
R2SONIC	Non-impulsive, mobile, intermittent.	200 or 400	162	—	0.11	—	—
Klein 3900 SSS	Non-impulsive, mobile, intermittent.	>445 kHz	242	—	0.025	—	—
EdgeTech 4000 & 4125 SSS.	Non-impulsive, mobile, intermittent.	410 kHz	225	—	10	—	—
EdgeTech 4200 SSS.	Non-impulsive, mobile, intermittent.	>300 kHz	215	—	0.025	—	—

— = not applicable or reportable; dB re 1 μPa m = decibel reference to 1 micropascal meter; GAPS = Global Acoustic Positioning System; HF = high-frequency; LF = low-frequency; omni = omnidirectional source; SL = source level; SL_{pk} = peak source level (expressed as dB re 1 μPa m); SL_{rms} = root-mean-square source level (expressed as dB re 1 μPa m); SSS = side scan sonar; USBL = ultra-short baseline.

[4] Crocker and Fratantonio (2016) provide S-boom measurements using two different power sources (CSP–D700 and CSP–N). The CSP–D700 power source was used in the 700J measurements but not in the 1000J measurements. The CSP–N source was measured for both 700J and 1000J operations but resulted in a lower source levels; therefore the single maximum source level value was used for both operational levels of the S-boom.

[5] The Pangeo acoustic corer parametric sonar was scanned out of further analysis due to high frequency content, operational beam width of less than eight degrees, and stationary operational position of less than 3.5 m above the seabed (Pangeo, 2018).

Of the potential HRG survey equipment planned for use, NMFS determined the multi-beam echosounders, side-scan sonars, and acoustic corers do not have the potential to result in the harassment of marine mammals because these sources are either outside the functional hearing ranges of marine mammals or do not result in sound that is expected to propagate to distances that would result in harassment. Therefore, these equipment types are not analyzed further in this document. All other HRG equipment types planned for use by Skipjack as shown in Table 1 are expected to have the potential to result in the harassment of marine mammals and are therefore carried forward in the analysis.

As described above, detailed description of Skipjack's planned surveys is provided in the notice of proposed IHA (84 FR 51118; September 27, 2019). Since that time, no changes have been made to the activities. Therefore, a detailed description is not provided here. Please refer to that notice for the detailed description of the specified activity. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Mitigation'' and ''Monitoring and Reporting'').

Comments and Responses

A notice of proposed IHA was published in the **Federal Register** on September 27, 2019 (84 FR 51118). During the 30-day public comment period, NMFS received comment letters from: (1) The Marine Mammal

Commission (Commission); (2) a group of environmental non-governmental organizations (ENGOs) including the Natural Resources Defense Council, Conservation Law Foundation, National Wildlife Federation, Defenders of Wildlife, WDC North America, NY4WHALES, Surfrider Foundation, Mass Audubon, International Marine Mammal Project of the Earth Island Institute, and Wildlife Conservation Society; and (3) a member of the general public. NMFS has posted the comments online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* The comment we received from the general public was supportive of issuance of the IHA. A summary of the public comments received from the Commission and the ENGOs and NMFS' responses to those comments are below.

Comment 1: The Commission recommended that NMFS engage in various efforts to ensure consistency in aspects of the MMPA incidental take authorization process associated with this and similar specified activities (*e.g.,* site characterization surveys in service of placement of wind energy facilities), including guidance related to methodological and signal processing standards, guidance and tools regarding sound propagation modeling for use by action proponents that conduct HRG surveys.

Response: NMFS appreciates the Commission's interest in these issues and will evaluate the need for and appropriate development of guidance and tools.

Comment 2: The Commission recommended that NMFS include the relevant inputs (*i.e.,* source level, weighting factor adjustment, source velocity, pulse duration, and repetition rate) used to estimate the Level A harassment zones for all sources proposed for use by the action proponents in **Federal Register** notices.

Response: NMFS strives to provide all information relevant to modeling isopleth distances associated with sound sources used to estimate marine mammal exposures. In this instance there were numerous potential sound sources which NMFS determined are unlikely to have the potential to result in Level A harassment and were not ultimately relevant to marine mammal exposure modeling, therefore we provided the inputs that were potentially relevant to the exposure modeling and that were used for the take estimate.

Comment 3: The Commission recommended that NMFS implement a 50-m Level B harassment zone for Skipjack's proposed survey based on an assumption that in-situ measurements and resulting data collected for sparkers is accurate and should be relied upon for modeling HRG sources. The Commission also recommended that NMFS deem sound sources de minimus in a consistent manner for all proposed IHAs and rulemakings, and that, given the relatively small sizes of Level B harassment zones, NMFS consider whether IHAs are necessary for HRG surveys given proposed shutdown requirements and the added protection afforded by lease-stipulated exclusion zones.

Response: NMFS supports the collection of sound field verification data on HRG sources and will consider using these data in exposure estimates when it is deemed reliable. At this time, NMFS has determined the available data from sound field verification studies on directional HRG sources is not reliable, but we will review sound field verification data collected from omni-directional sources on a case by case basis. However, NMFS has concerns with the reliability of some of the sound field verification data that has been submitted previously for omni-directional sources, therefore we are not willing to make categorical assumptions about sound propagation distances associated with these equipment types based on this previously submitted data. NMFS has developed an interim method for determining the rms sound pressure level (SPL_{rms}) at the 160-dB isopleth HRG survey equipment that incorporates frequency and some directionality to refine estimated ensonified zones (this method is described in greater detail in the Take Estimate section, below). NMFS provided this method to Skipjack and Skipjack used this method to model isopleth distances to the Level B harassment threshold for HRG sources (both directional and omni-directional). NMFS believes this remains a sound and conservative approach until data from sound field verification studies for HRG sources can be relied upon consistently. NMFS will continue to base its analyses of modeling of HRG sound sources on the best available information.

NMFS agrees that sound sources should be analyzed in a consistent manner and agrees that sources determined to result in de minimis impact should generally be considered unlikely to result in take under the MMPA. As an example, NMFS has determined that most types of geotechnical survey equipment are generally unlikely to result in the incidental take of marine mammals (in the absence of site-specific or species-specific circumstances that may warrant additional analysis). NMFS has not made such a determination with respect to HRG sources. As NMFS has not made a determination that sound from all HRG sources would be considered de minimis we cannot rule out the potential for these sources to result in the incidental take of marine mammals.

Comment 4: The Commission recommended that NMFS include a requirement for Skipjack to provide marine mammal observational datasheets or raw sightings data in its draft and final monitoring report.

Response: NMFS agrees with the Commission's recommendation and has incorporated this requirement in the IHA.

Comment 5: The Commission recommended that NMFS refrain from using the proposed IHA renewal process and that, if NMFS intends to use the renewal process frequently or for authorizations that require a more complex review or for which much new information has been generated, that NMFS provide the Commission and other reviewers 30 days to comment.

Response: As described in the **Federal Register** notice for the proposed IHA and on NMFS' website where information on all MMPA incidental take authorization processes is provided, requests for IHA renewals are appropriate only in limited and well-defined circumstances. NMFS does not anticipate many projects that would meet all the criteria for a renewal. Nonetheless, information about the renewal process and the opportunity to comment on a potential renewal is included in every notice of a proposed IHA because NMFS cannot predetermine who may seek or qualify for a renewal. Under section 101(a)(5)(D), it is up to an applicant to request incidental harassment authorization; NMFS includes information about the potential renewal process in all proposed IHAs because it is at least initially up to the applicant to decide whether they want to seek qualification for a renewal IHA. NMFS has also explained that the possibility of a renewal must be included in the notice of the initial proposed IHA for the agency to consider a renewal request, for the purpose of providing adequate opportunity for public comment on the project during the 30-day comment period on the appropriateness of, and any information pertinent to, a renewal. Where the commenter has likely already reviewed and commented on the initial proposed IHA and a potential renewal for these same activities, activities by the same

IHA holder in the same geographic area, the abbreviated additional comment period is sufficient for consideration of the results of the preliminary monitoring report and new information (if any) from the past months.

NMFS' purpose in providing for renewal is two-fold. First and foremost, the efficiencies in dealing with these simple, low-impact projects (which have already been fully described and analyzed in the initial IHA) frees up limited staff resources to increase focus on more complex and impactful projects and improves our ability to conserve and protect marine mammals by even better evaluating and utilizing new science, evolving technologies, and potential new mitigation measures. In addition, while the agency has always striven for efficiency in regulatory processes, recent directives have called for agencies to put processes in place that reduce regulatory timelines and the regulatory burden on the public. The renewal process reduces the effort needed by both applicants and NMFS staff for simple, relatively low impact projects with little to no uncertainty regarding effects that have already been fully analyzed by the agency and considered by the public—with no reduction in protection to marine mammals.

NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on renewal IHAs. **Federal Register** notices for proposed initial IHAs identify the conditions under which a one-year renewal IHA could be appropriate. This information would have been presented in the *Request for Public Comments* section, which encouraged submission of comments on a potential one-year Renewal in addition to the initial IHA during the initial 30-day comment period. With renewal limited to another year of identical or nearly identical activity in the same location or a subset of the initial activity that was not completed, this information about the renewal process and the project-specific information provided in the **Federal Register** notice provides reviewers with the information needed to provide information and comment on both the initial IHA and a potential renewal for the project. Thus reviewers interested in submitting comments on a proposed renewal during the additional 15-day comment period will have already reviewed the activities, the species and stocks affected, and the mitigation and monitoring measures, which will not change from the IHA issued, and the anticipated effects of those activities on marine mammals and provided their comments and any information pertinent to a possible renewal during the initial 30-day comment period. When we receive a request for a renewal IHA, if the project is appropriate for a renewal we will publish notice of the proposed IHA renewal in the **Federal Register** and provide the additional 15 days for public comment to allow review of the additional documents (preliminary monitoring report, renewal request, and proposed renewal), which should just confirm that the activities have not changed (or only minor changes), commit to continue the same mitigation and monitoring measures, and document that monitoring does not indicate any impacts of a scale or nature not previously analyzed.

In addition, to minimize any burden on reviewers, NMFS will directly contact all commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them direct notice about the opportunity to submit any additional comments.

Comment 6: The ENGOs expressed concern that the IHA renewal process discussed in the notice of proposed IHA is inconsistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA. The ENGOs asserted that IHAs can be valid for not more than one year and both commenters stated that 30 days for comment, including on Renewal IHAs, is required.

Response: NMFS' IHA Renewal process meets all statutory requirements. All IHAs issued, whether an initial IHA or a renewal IHA, are valid for a period of not more than one year, and the public has at least 30 days to comment on all proposed IHAs, with a cumulative total of 45 days for IHA renewals. One commenter characterized the agency's request for comments as seeking comment on the renewal process and the proposed IHA, but the request for comments was not so limited. While there will be additional documents submitted with a renewal request, for a qualifying renewal these will be limited to documentation that NMFS will make available and use to verify that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS will also confirm, among other things, that the activities will occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information has been received that would alter the prior analysis. The renewal request will also contain a preliminary monitoring report, but that is to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. The additional 15-day public comment period provides the public an opportunity to review these few documents, provide any additional pertinent information and comment on whether they think the criteria for a renewal have been met. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a renewal is 45 days.

In addition to the IHA renewal process being consistent with all requirements under section 101(a)(5)(D), it is also consistent with Congress' intent for issuance of IHAs to the extent reflected in statements in the legislative history of the MMPA. Through the provision for renewal in the regulations, description of the process and express invitation to comment on specific potential renewal in the *Request for Public Comments* section of each proposed IHA, the description of the process on NMFS' website, further elaboration on the process through responses to comments such as these, posting of substantive documents on the agency's website, and provision of 30 or 45 days for public review and comment on all proposed initial IHAs and renewal respectively, NMFS has ensured that the public is invited and encouraged to participate fully in the agency decision-making process.

Comment 7: The ENGOs recommended that a minimum of four PSOs should be required, following a two-on/two-off rotation, each responsible for scanning no more than 180° of the EZ at any given time, and that observation must begin at least 30 minutes prior to the commencement of geophysical survey activity and shall be conducted throughout the time of geophysical survey activity.

Response: NMFS does not agree with the commenters that a minimum of four PSOs should be required, following a two-on/two-off rotation, to meet the MMPA requirement that mitigation must effect the least practicable adverse impact upon the affected species or stocks and their habitat. Previous IHAs issued for HRG surveys have required that a single PSO must be stationed at the highest vantage point and engaged in general 360-degree scanning during daylight hours. A number of marine mammal monitoring reports submitted

to NMFS have demonstrated that project proponents have effectively employed this approach. However, we note that Skipjack is required by BOEM lease stipulations to have two PSOs on duty at all times during surveys that occur during daylight hours. The IHA already requires 30 minutes of pre-clearance observation prior to the commencement of survey activities.

Comment 8: The ENGOs recommended that NMFS consider any initial data from State monitoring efforts, passive acoustic monitoring data, opportunistic marine mammal sightings data, and other data sources, and to take steps now to develop a dataset that reflects marine mammal presence so that it is in hand for future IHA authorizations.

Response: NMFS has used the best available scientific information in this IHA to inform our determinations. We will review any recommended data sources and will continue to use the best available information. We welcome general input on data sources, even outside the comment period for a particular IHA, may be of use in analyzing the potential presence and movement patterns of marine mammals, including North Atlantic right whales, in Mid-Atlantic waters.

Comment 9: The ENGOs recommended that NMFS include more information on the geographic location and timing of surveys and factor this information in the take analysis.

Response: NMFS includes as much information in take analyses and in notices of proposed IHAs on location and seasonality of activities as is available to us, and has done so in this case.

Comment 10: The ENGOs recommended that all vessels operating within the survey area, including support vessels, should maintain a speed of 10 knots or less during the entire survey period including those vessels transiting to/from the survey area.

Response: NMFS has analyzed the potential for ship strike resulting from Skipjack's activity and has determined that the mitigation measures specific to ship strike avoidance are sufficient to avoid the potential for ship strike. These include: A requirement that all vessel operators comply with 10 knot or less speed restrictions in any Seasonal Management Area (SMA) or Dynamic Management Area (DMA); a requirement that all vessel operators reduce vessel speed to 10 knots or less when any large whale, any mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed within 100-m of an underway vessel; a requirement that all survey vessels maintain a separation distance of 500-m or greater from any sighted North Atlantic right whale; a requirement that, if underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots or less until the 500-m minimum separation distance has been established; and a requirement that, if a North Atlantic right whale is sighted in a vessel's path, or within 500-m of an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. We have determined that these ship strike avoidance measures are sufficient to ensure the least practicable adverse impact on species or stocks and their habitat.

Comment 11: The ENGOs recommended that indirect ship strike risk resulting from habitat displacement should be accounted for in NMFS' analysis.

Response: NMFS determined that habitat displacement was not an expected outcome of the specified activity. As discussed in the notice of proposed IHA (84 FR 51118; September 27, 2019) we anticipate marine mammals may temporarily avoid the area of disturbing noise, but this would be a relatively small area even when multiple vessels are operating concurrently. The Level B harassment zone was conservatively estimated to be only 141 m, as described in the Estimated Take section. Additionally, any potential effects are expected to be short-term, given the movement of both whales and project vessels and the small overall area of potential overlap and response. Therefore, habitat displacement is not reasonably likely to occur.

Comment 12: The ENGOs recommended that NMFS impose a seasonal restriction on geophysical surveys in the Lease Area from November 1 to April 30 to reduce potential impacts to North Atlantic right whales.

Response: NMFS appreciates the value of seasonal restrictions under certain circumstances. However, in this case, we have determined seasonal restrictions are not warranted. Impacts to right whales from HRG surveys would be limited to behavioral harassment (*i.e.,* Level B harassment) in the form of temporary avoidance of the area, responses that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Ellison *et al.,* 2012). Based on the best available information, the highest densities of right whales in the survey area would be expected from December through March (Roberts *et al.,* 2018). However, even in those months, densities are relatively low compared to densities in other areas such as New England (Roberts et al., 2018). In baseline studies conducted in wind energy areas in the Mid-Atlantic Outer Continental Shelf from 2012–2014, which included both aerial and vessel-based surveys, only nine right whales were observed, all of them south of Skipjack's survey area (Williams *et al.,* 2015).

In addition, Skipjack has committed to adhering to an agreement with the ENGOs that stipulates certain mitigation measures. This written agreement was finalized in 2013 and includes a seasonal restriction on HRG survey activities during what is referred to as the ''red period'' from November 23 through March 21. Thus, from November 23 through March 21, an effective seasonal closure will be in effect. For HRG surveys that would occur from November 1 through November 22 and from March 22 through April 30 (referred to as the ''yellow period'') the agreement also requires that Skipjack submit a risk assessment report to NMFS and BOEM that analyzes the risk to right whales from planned survey activities during these periods. This risk assessment report includes an assessment of the potential for right whale activity during the planned survey, an acoustic assessment of the specific equipment to be used, and a site specific Marine Mammal Harassment Avoidance Plan. As of the writing of this document, Skipjack has submitted the risk assessment for the period November 1 through November 22, and would submit a risk assessment report for the period March 22 through April 30 at a later date, should surveys during that period be required. NMFS has reviewed the risk assessment report for the period November 1 through November 22, which includes additional mitigation measures to those required in the IHA, including enhanced exclusion zones and pre-clearance times for right whales.

Based on the relatively low densities of right whales in the survey area from November 1 through April 30, the low risk to right whales from HRG surveys, the voluntary seasonal closure from November 23 through March 21 that Skipjack has committed to, and the mitigation measures required in the IHA and the additional mitigation measures Skipjack has committed to in the NGO agreement, NMFS has determined the seasonal closures recommended by the commenters are not warranted.

Comment 13: The ENGOs recommended that geophysical surveys should commence, with ramp up, during daylight hours only to maximize

the probability that marine mammals are detected and confirmed clear of the exclusion zone and that if a right whale is detected in the EZ at night and the survey shuts down, the survey should not resume until daylight hours.

Response: We acknowledge the limitations inherent in detection of marine mammals at night. However, similar to the discussion above regarding time-area closures, restricting the ability of the applicant to ramp-up surveys only during daylight hours would have the potential to result in lengthy shutdowns of the survey equipment, which could result in the applicant failing to collect the data they have determined is necessary, which could result in the need to conduct additional surveys the following year. This would result in significantly increased costs incurred by the applicant. Thus the restriction suggested by the commenters would not be practicable for the applicant to implement. In addition, potential impacts to marine mammals from this survey will be limited to short-term behavioral responses. Restricting surveys in the manner suggested by the commenters may reduce marine mammal exposures by some degree in the short term, but would not result in any significant reduction in either intensity or duration of noise exposure. No injury is expected to result even in the absence of mitigation, given the very small estimated Level A harassment zones. In the event that NMFS imposed the restriction suggested by the commenters, vessels would potentially be on the water for a longer period of time. Therefore, in addition to practicability concerns for the applicant, the restrictions recommended by the commenters could result in greater overall exposure to sound by marine mammals. We also note that Skipjack must have at least one PSO on duty at night per BOEM lease requirements. Thus, the commenters have not demonstrated that such a requirement would result in a net benefit. In consideration of potential effectiveness of the recommended measure and its practicability for the applicant, NMFS has determined that restricting survey start-ups to daylight hours is not warranted in this case.

Comment 14: The ENGOs stated that is incumbent upon the agency to address potential impacts to other endangered and protected whale species, particularly in light of the UMEs declared for right whales, humpback whales and minke whales, as well as the several strategic and/or depleted stocks of small cetaceans that inhabit the region.

Response: NMFS acknowledges the ongoing UMEs for minke whales, north Atlantic right whales, humpback whales and pinnipeds and we discuss the potential impacts of Skipjack's surveys on species for which UMEs have been declared and for which take is authorized in the *Negligible Impact Determination* section. Please refer to that discussion.

Comment 15: The ENGOs recommended that the minimum radii of EZs should be increased to ensure a 500-m EZ for all marine mammals and an extended 1,000 m-EZ for North Atlantic right whales. Additionally, the ENGOs recommended that survey activity should be shut down upon the visual or acoustic detection of a North Atlantic right whale.

Response: Regarding the recommendation for a 1,000 m EZ specifically for North Atlantic right whales, we have determined that the 500-m EZ, as required in the IHA, is sufficiently protective. We note that the 500-m EZ exceeds—by more than three times—the modeled distance to the largest Level B harassment isopleth distance (141 m). Thus, for North Atlantic right whales detected by PSOs, all forms of incidental take would be avoided. For the same reason, we are not requiring shutdown if a right whale is observed beyond 500-m. Similarly, the recommended 500-m EZ for other species is overly conservative given the 141 m modeled isopleth distance to the Level B harassment threshold.

Comment 16: The ENGOs recommended that NMFS require all project vessel operators to report sightings of living North Atlantic right whales and all sightings of dead, injured, or entangled whales, regardless of species.

Response: NMFS agrees with the recommendation to report all right whale sightings to NMFS and has incorporated this requirement in the IHA. The IHA already includes a requirement to report all observations of dead, injured, or entangled whales to NMFS.

Comment 17: The ENGOs recommended that a combination of visual monitoring by PSOs and passive acoustic monitoring (PAM) should be used at all times.

Response: There are several reasons why we do not think the use of PAM is warranted. NMFS agrees that PAM can be an important tool for augmenting detection capabilities in certain circumstances, however, its utility in further reducing impact for Skipjack's HRG survey activities is very limited. First, for this activity, the area expected to be ensonified above the Level B harassment threshold is relatively small (a maximum of 141 m as described in the Estimated Take section). PAM is only capable of detecting animals that are actively vocalizing, while many marine mammal species vocalize infrequently or during certain activities, which means that only a subset of the animals within the range of the PAM would be detected (and potentially have reduced impacts). Additionally, localization and range detection can be challenging under certain scenarios. For example, odontocetes are fast moving and often travel in large or dispersed groups which makes localization difficult. In addition, the ability of PAM to detect baleen whale vocalizations is further limited due to being deployed from the stern of a vessel, which puts the PAM hydrophones in proximity to propeller noise and low frequency engine noise which can mask the low frequency sounds emitted by baleen whales, including right whales.

Given that the effects to marine mammals from the types of surveys authorized in this IHA are expected to be limited to low level behavioral harassment even in the absence of mitigation, the limited additional benefit anticipated by adding this detection method (especially for right whales and other low frequency cetaceans), and the cost and impracticability of implementing a PAM program, we have determined the current requirements for visual monitoring are sufficient to ensure the least practicable adverse impact on the affected species or stocks and their habitat.

Comment 18: The ENGOs commented that the operation of up to three survey vessels at any one time across a relatively limited geographic area presents a significant potential for cumulative disturbance during the North Atlantic right whale's primary migratory period and that NMFS should analyze the cumulative impacts from Skipjack's survey activities on North Atlantic right whales and other protected species.

Response: The MMPA grants exceptions to its broad take prohibition for a ''specified activity.'' 16 U.S.C. 1371(a)(5)(A)(i). Cumulative impacts (also referred to as cumulative effects) is a term that appears in the context of NEPA and the ESA, but it is defined differently in those contexts. Neither the MMPA nor NMFS' codified implementing regulations address consideration of other unrelated activities and their impacts on populations. However, the preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989) states in

response to comments that the impacts from other past and ongoing anthropogenic activities are to be incorporated into the negligible impact analysis via their impacts on the environmental baseline. Accordingly, NMFS here has factored into its negligible impact analyses the impacts of other past and ongoing anthropogenic activities via their impacts on the baseline (*e.g.,* as reflected in the density/distribution and status of the species, population size and growth rate, and other relevant stressors (such as incidental mortality in commercial fisheries)).

Comment 19: The ENGOs recommended that NMFS fund analyses of recently collected sighting and acoustic data for all data-holders and continue to fund and expand surveys and studies to improve our understanding of distribution and habitat use of marine mammals.

Response: We agree with the ENGOs that analyses of recently collected sighting and acoustic data, as well as continued marine mammal surveys, are warranted. We welcome the opportunity to participate in fora where implications of such data for potential mitigation measures would be discussed; however, we do not have broad statutory authority or the ability to require that all ''data-holders'' fund such analyses and surveys. Additionally, NMFS will fund pertinent surveys based on agency priorities and budgetary considerations.

Changes From the Proposed IHA to Final IHA

As described above, the following additions to reporting requirements have been incorporated in the IHA based on comments received during the public comment period:

- Vessel operators must report sightings of North Atlantic right whales to NMFS; and
- Marine mammal observational datasheets or raw sightings data must be provided in the draft and final monitoring report.

Description of Marine Mammals in the Area of Specified Activity

Sections 3 and 4 of the IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

Table 2 summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR is included here as a gross indicator of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs. All values presented in Table 2 are the most recent available at the time of publication and are available in the 2018 Atlantic SARs (Hayes *et al.,* 2019), available online at*: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.*

TABLE 2—MARINE MAMMALS KNOWN TO OCCUR IN THE SURVEY AREA THAT MAY BE AFFECTED BY SKIPJACK'S PROPOSED ACTIVITY

Common name (scientific name)	Stock	MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Annual M/SI [4]	Expected occurrence in survey area
Toothed Whales (Odontoceti)							
Sperm whale (*Physeter macrocephalus*).	North Atlantic	E; Y	2,288 (0.28; 1,815; n/a).	5,353 (0.12)	3.6	0.8	Rare.
Killer whale (*Orcinus orca*)	W North Atlantic	—; N	Unknown (n/a; n/a; n/a).	11 (0.82)	Undet.	0	Rare.
Long-finned pilot whale (*Globicephala melas*).	W North Atlantic	—; N	5,636 (0.63; 3,464; n/a).	[5] 18,977 (0.11)	35	27	Uncommon.
Short-finned pilot whale (*Globicephala macrorhynchus*).	W North Atlantic	—; N	28,924 (0.24; 23,637; n/a).	[5] 18,977 (0.11)	236	168	Rare.
Atlantic white-sided dolphin (*Lagenorhynchus acutus*).	W North Atlantic	—; N	48,819 (0.61; 30,403; n/a).	37,180 (0.07)	304	30	Common.
Atlantic spotted dolphin (*Stenella frontalis*).	W North Atlantic	—; N	44,715 (0.43; 31,610;.	55,436 (0.32)	316	0	Common.
Bottlenose dolphin (*Tursiops truncatus*).	W North Atlantic Coastal Migratory.	—; N	6,639 (0.41; 4,759; 2015).	[5] 97,476 (0.06)	48	unknown	Common.
Common dolphin [6] (*Delphinus delphis*).	W North Atlantic	—; N	173,486 (0.55; 55,690; 2011).	86,098 (0.12)	557	406	Common.
Risso's dolphin (*Grampus griseus*).	W North Atlantic	—; N	18,250 (0.46; 12,619; 2011).	7,732 (0.09)	126	49.9	Rare.
Harbor porpoise (*Phocoena phocoena*).	Gulf of Maine/Bay of Fundy.	—; N	79,833 (0.32; 61,415; 2011).	* 45,089 (0.12)	706	255	Common.

TABLE 2—MARINE MAMMALS KNOWN TO OCCUR IN THE SURVEY AREA THAT MAY BE AFFECTED BY SKIPJACK'S PROPOSED ACTIVITY—Continued

Common name (scientific name)	Stock	MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Annual M/SI [4]	Expected occurrence in survey area
Baleen Whales (Mysticeti)							
North Atlantic right whale (*Eubalaena glacialis*).	W North Atlantic	E; Y	451 (0; 455; n/a)	[7] 411 (n/a)	0.9	56	Year round in continental shelf and slope waters, occur seasonally.
Humpback whale [8] (*Megaptera novaeangliae*).	Gulf of Maine	—; N	896 (0.42; 239; n/a)	* 1,637 (0.07)	14.6	9.8	Common year round.
Fin whale [6] (*Balaenoptera physalus*).	W North Atlantic	E; Y	3,522 (0.27; 1,234; n/a).	4,633 (0.08)	2.5	2.5	Year round in continental shelf and slope waters, occur seasonally.
Sei whale (*Balaenoptera borealis*).	Nova Scotia	E; Y	357 (0.52; 236; n/a)	* 717 (0.30)	0.5	0.6	Year round in continental shelf and slope waters, occur seasonally.
Minke whale [6] (*Balaenoptera acutorostrata*).	Canadian East Coast	—; N	20,741 (0.3; 1,425; n/a).	* 2,112 (0.05)	14	7.5	Year round in continental shelf and slope waters, occur seasonally.
Earless Seals (Phocidae)							
Gray seal [8] (*Halichoerus grypus*).	W North Atlantic	—; N	27,131 (0.10; 25,908; n/a).	505,000 (n/a)	1,389	5,688	Uncommon.
Harbor seal (*Phoca vitulina*).	W North Atlantic	—; N	75,834 (0.15; 66,884; 2012).	75,834 (0.15)	2,006	345	Uncommon.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (—) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] Stock abundance as reported in NMFS marine mammal stock assessment reports (SAR) except where otherwise noted. SARs available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate. All values presented here are from the 2018 Atlantic SARs.

[3] This information represents species- or guild-specific abundance predicted by recent habitat-based cetacean density models (Roberts *et al.,* 2016, 2017, 2018) (with the exception of North Atlantic right whales and pinnipeds—see footnotes 7 and 9 below). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Atlantic Ocean, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area. For those species marked with an asterisk (*), the available information supported development of either two or four seasonal models; each model has an associated abundance prediction. Here, we report the maximum predicted abundance.

[4] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP). Annual M/SI, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI values often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the 2018 SARs.

[5] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016, 2017, 2018) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. Roberts *et al.* (2016, 2017, 2018) produced density models to genus level for *Globicephala* spp. produced density models for bottlenose dolphins that do not differentiate between offshore and coastal stocks, and produced density models for all seals.

[6] Abundance as reported in the 2007 Canadian Trans-North Atlantic Sighting Survey (TNASS), which provided full coverage of the Atlantic Canadian coast (Lawson and Gosselin, 2009). Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided superior coverage of a stock's range (as compared with NOAA shipboard survey effort), the resulting abundance estimate is considered more accurate than the current NMFS abundance estimate (derived from survey effort with inferior coverage of the stock range). NMFS SAR reports the stock abundance estimate for the common dolphin as 70,184; NMFS SAR reports the stock abundance estimate for the fin whale as 1,618; NMFS SAR reports the stock abundance estimate for the minke whale as 2,591.

[7] For the North Atlantic right whale the best available abundance estimate is derived from the 2018 North Atlantic Right Whale Consortium 2018 Annual Report Card (Pettis *et al.,* 2018).

[8] 2018 U.S. Atlantic draft SAR for the Gulf of Maine feeding population lists a current abundance estimate of 896 individuals. However, we note that the estimate is defined on the basis of feeding location alone (*i.e.,* Gulf of Maine) and is therefore likely an underestimate.

[9] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000.

Four marine mammal species that are listed under the Endangered Species Act (ESA) may be present in the survey area and are included in the take request: The North Atlantic right whale, fin whale, sei whale, and sperm whale. We consulted under section 7 of the ESA with the NMFS Greater Atlantic Regional Fisheries Office (GARFO) on our authorization of take for these species; please see the Endangered Species Act section below.

A detailed description of the species likely to be affected by Skipjack's surveys, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the notice of proposed IHA (84 FR 51118; September 27, 2019); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that notice for these descriptions. Please also refer to NMFS' website (*www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from Skipjack's survey activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (84 FR 51118; September 27, 2019) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from Skipjack's survey activities on marine mammals and their habitat. That information and

analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (84 FR 51118; September 27, 2019).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Level B harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are by Level B harassment only. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* exclusion zones and shutdown measures), discussed in detail below in Mitigation section, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 μPa (rms) for impulsive and/or intermittent sources (*e.g.,* impact pile driving) and 120 dB rms for continuous sources (*e.g.,* vibratory driving). Skipjack's planned activity includes the use of impulsive sources (geophysical survey equipment) therefore use of the 120 and 160 dB re 1 μPa (rms) threshold is applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The components of Skipjack's planned activity that may result in the take of marine mammals include the use of impulsive sources.

These thresholds are provided in Table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The survey would entail the use of HRG equipment. The distance to the isopleth corresponding to the threshold for Level B harassment was calculated for all HRG equipment with the potential to result in harassment of marine mammals. NMFS has developed an interim methodology for determining the rms sound pressure level (SPL_{rms}) at the 160-dB isopleth for the purposes of estimating take by Level B harassment resulting from exposure to HRG survey equipment. This methodology incorporates frequency and some directionality to refine estimated ensonified zones and is described below:

If only peak source sound pressure level (SPL_{pk}) is given, the SPL_{rms} can be roughly approximated by

$$(1) \qquad SPL_{rms} = SPL_{pk} + 10\log_{10}\tau$$

where τ is the pulse duration in seconds. If the pulse duration varies, the longest duration should be used, unless there is certainty regarding the portion of time a shorter duration will be used, in which case the result can be calculated/parsed appropriately.

In order to account for the greater absorption of higher frequency sources, we apply 20 log(r) with an absorption term α·r/1000 to calculate transmission loss (*TL*), as described in Eq.s (2) and (3) below.

$$(2) \qquad TL = 20\log_{10}(r) + \alpha \cdot r/1000 \text{ (dB)}$$

where *r* is the distance in meters, and α is absorption coefficient in dB/km.

While the calculation of absorption coefficient varies with frequency, temperature, salinity, and pH, the largest factor driving the absorption coefficient is frequency. A simple formula to approximate the absorption coefficient (neglecting temperature, salinity, and pH) is provided by Richardson *et al.* (1995):

$$(3) \qquad \alpha \approx 0.036f^{1.5} \text{ (dB/km)}$$

where *f* is frequency in kHz. When a range of frequencies, is being used, the lower bound of the range should be used for this calculation, unless there is certainty regarding the portion of time a higher frequency will be used, in which case the result can be calculated/parsed appropriately.

Further, if the beamwidth is less than 180° and the angle of beam axis in respect to sea surface is known, the horizontal impact distance *R* should be calculated using

$$(4) \qquad R = r\cos\left(\varphi - \frac{\theta}{2}\right) \text{ (m)}$$

where *SL* is the SPL_{rms} at the source (1 m), θ is the beamwidth (in radian), and φ is the angle of beam axis in respect to sea surface (in radian)

Finally, if the beam is pointed at a normal downward direction, Eq. (4) can be simplified as

$$(5) \qquad R = r\cos\left(\frac{\pi}{2} - \frac{\theta}{2}\right) = r\sin\frac{\theta}{2} \text{ (m)}$$

The interim methodology described above was used to estimate isopleth distances to the Level B harassment threshold for the proposed HRG survey. NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and therefore recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to the Level B harassment threshold. In cases when the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends that either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 shows the HRG equipment types that may be used during the proposed surveys and the sound levels associated with those HRG equipment types. Table 4 in the IHA application shows the literature sources for the sound source levels that are shown in Table 1 and that were incorporated into the modeling of isopleth distances to the Level B harassment threshold.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment planned for use by Skipjack that has the potential to result in harassment of marine mammals, sound produced by the AA Dura-Spark 400 sparker and the GeoSource 800 J sparker would propagate furthest to the Level B harassment threshold (Table 4); therefore, for the purposes of the exposure analysis, it was assumed the AA Dura-Spark or the GeoSource 800 J would be active during the entirety of

the survey. Thus the distance to the isopleth corresponding to the threshold for Level B harassment for the AA Dura-Spark 400 and the GeoSource 800 J (estimated at 141 m; Table 4) was used as the basis of the take calculation for all marine mammals. Note that this is conservative as Skipjack has stated that for approximately 120 of the 200 total survey days, neither the AA Dura-Spark nor the GeoSource 800 J would be operated, and the sources with smaller associated isopleth distances to the Level B harassment threshold would be used (Table 4).

TABLE 4—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS

Sound source	Radial distance to Level A harassment threshold (m)*				Radial distance to Level B harassment threshold (m)
	Low frequency cetaceans (peak SPL/ SEL_{cum})	Mid frequency cetaceans (peak SPL/ SEL_{cum})	High frequency cetaceans (peak SPL/ SEL_{cum})	Phocid pinnipeds (underwater) (peak SPL/ SEL_{cum})	All marine mammals
Shallow Sub-bottom Profilers					
TB Chirp III	-/<1	0	-/<1	-/<1	48
ET 216 Chirp	-/<1	-/0	-/<1	-/0	9
ET 424 Chirp	-/0	-/0	-/0	-/0	4
ET 512i Chirp	-/0	-/0	-/0	-/0	6
GeoPulse 5430	-/<1	-/0	-/<1	-/0	21
Parametric Sub-bottom Profilers					
Innomar Parametric SBPs	-/<1	-/<1	-/1.2	-/<1	1
Medium Sub-bottom Profilers					
AA Triple plate S-Boom (700/1000J)	-/<1	-/0	2.8/0	-/0	34
AA Dura-Spark 400	-/<1	-/0	2.8/0	-/0	141
GeoSource 400 J Sparker	-/<1	-/0	2.0/0	-/0	56
GeoSource 600 J Sparker	-/<1	-/0	3.2/<1	-/<1	112
GeoSource 800 J Sparker	-/<1	-/0	3.5/<1	-/<1	141
Acoustic Corers					
Pangeo Acoustic Corer (LF Chirp)	-/<1	-/0	-/<1	-/0	4
Pangeo Acoustic Corer (HF Chirp)	-/<1	-/0	-/<1	-/0	4
Acoustic Positioning					
USBL and GAPS (all models)	-/0	-/0	-/<1	-/0	50

*Distances to Level A harassment isopleths were calculated to determine the potential for Level A harassment to occur. Skipjack has not requested, and NMFS does not propose to authorize, the take by Level A harassment of any marine mammals.

- = not applicable; AA = Applied Acoustics; CF = Crocker and Fratantonio (2016); ET = EdgeTech; GAPS = Global Acoustic Positioning System; HF = high-frequency; J = joules; LF = low-frequency; m = meter; MF = mid-frequency; PW = Phocids in water; SBP = Sub-bottom profilers; SEL_{cum} = cumulative sound exposure level; SL = source level; SPL_{pk} = zero to peak sound pressure level in decibel referenced to 1 micropascal (dB re 1 μPa); TB = teledyne benthos; USBL = ultra-short baseline.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups (Table 4), were also calculated. The updated acoustic thresholds for impulsive sounds (such as HRG survey equipment) contained in the Technical Guidance (NMFS, 2018) were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* the metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group.

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced typically overestimate Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For mobile sources (such as HRG surveys), the User Spreadsheet predicts the closest distance at which a stationary animal would incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Skipjack used the NMFS optional User Spreadsheet to calculate distances to Level A harassment isopleths based on SEL and used the spherical spreading loss model to calculate distances to Level A harassment

isopleths based on peak SPL. Modeling of distances to isopleths corresponding to Level A harassment was performed for all types of HRG equipment proposed for use with the potential to result in harassment of marine mammals. Isopleth distances to Level A harassment thresholds for all types of HRG equipment and all marine mammal functional hearing groups are shown in Table 4. To be conservative, the largest isopleth distances for each functional hearing group were used to model potential exposures above the Level A harassment threshold for all species within that functional hearing group. Inputs to the NMFS optional User Spreadsheet for the GeoSource 800 J Sparker, which resulted in the greatest potential isopleth distance to the Level A harassment threshold for any of the functional hearing groups, are shown in Table 5.

TABLE 5—INPUTS TO THE NMFS OPTIONAL USER SPREADSHEET FOR GEOSOURCE 800 J SPARKER

Source Level (RMS SPL) ..	203 dB re 1μPa.
Source Level (peak)	213 dB re 1μPa.
Weighting Factor Adjustment (kHz).	0.05.
Source Velocity (meters/second).	2.06.
Pulse Duration (seconds) ..	0.0034.
1/Repetition rate (seconds)	2.43.
Duty Cycle	0.00.

Due to the small estimated distances to Level A harassment thresholds for all marine mammal functional hearing groups, based on both SEL_{cum} and peak SPL (Table 4), and in consideration of the mitigation measures (see the *Mitigation* section for more detail), NMFS has determined that the likelihood of take of marine mammals in the form of Level A harassment occurring as a result of the survey is so low as to be discountable, and we therefore do not authorize the take by Level A harassment of any marine mammals.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

The habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018) represent the best available information regarding marine mammal densities in the survey area. The density data presented by Roberts *et al.* (2016, 2017, 2018) incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016). In subsequent years, certain models have been updated on the basis of additional data as well as certain methodological improvements. Although these updated models (and a newly developed seal density model) are not currently publicly available, our evaluation of the changes leads to a conclusion that these represent the best scientific evidence available. More information, including the model results and supplementary information for each model, is available online at *seamap.env.duke.edu/models/Duke-EC-GOM-2015/*. Marine mammal density estimates in the project area (animals/km^2) were obtained using these model results (Roberts *et al.,* 2016, 2017, 2018). The updated models incorporate additional sighting data, including sightings from the NOAA Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys from 2010–2014 (NEFSC & SEFSC, 2011, 2012, 2014a, 2014b, 2015, 2016).

For purposes of the exposure analysis, density data from Roberts *et al.* (2016, 2017, 2018) were mapped using a geographic information system (GIS). The density coverages that included any portion of the survey area were selected for all survey months (see Figure 4 in the IHA application for an example of density blocks used to determine monthly marine mammal densities within the project area). Monthly density data for each species were then averaged over the year to come up with a mean annual density value for each species. Estimated monthly and average annual density (animals per km^2) of all marine mammal species that may be taken by the survey are shown in Table 8 of the IHA application. The mean annual density values used to estimate take numbers are also shown in Table 6 below.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to harassment thresholds are calculated, as described above. Those distances are then used to calculate the area(s) around the HRG survey equipment predicted to be ensonified to sound levels that exceed harassment thresholds. The area estimated to be ensonified to relevant thresholds in a single day is then calculated, based on areas predicted to be ensonified around the HRG survey equipment and the estimated trackline distance traveled per day by the survey vessel. Skipjack estimates that planned surveys will achieve a maximum daily track line distance of 110 km per day during planned HRG surveys. This distance accounts for the vessel traveling at roughly 4 knots and accounts for non-active survey periods. Based on the maximum estimated distance to the Level B harassment threshold of 141 m (Table 4) and the maximum estimated daily track line distance of 110 km, an area of 31.1 km^2 would be ensonified to the Level B harassment threshold per day during Skipjack's planned HRG surveys. As described above, this is a conservative estimate as it assumes the HRG sources that result in the greatest isopleth distances to the Level B harassment threshold would be operated at all times during the 200 day survey.

The number of marine mammals expected to be incidentally taken per day is then calculated by estimating the number of each species predicted to occur within the daily ensonified area (animals/km^2), incorporating the estimated marine mammal densities as described above. Estimated numbers of each species taken per day are then multiplied by the total number of survey days (*i.e.,* 200). The product is then rounded, to generate an estimate of the total number of instances of harassment expected for each species over the duration of the survey. A summary of this method is illustrated in the following formula:

$$\text{Estimated Take} = D \times ZOI \times \#\text{ of days}$$

Where:

D = average species density (per km^2) and ZOI = maximum daily ensonified area to relevant thresholds.

Using this method to calculate take, Skipjack estimated a total of 2 takes by Level A harassment of 1 species (harbor porpoise) would occur, in the absence of mitigation (see Table 9 in the IHA application for the estimated number of Level A takes for all potential HRG equipment types). However, as described above, due to the very small estimated distances to Level A harassment thresholds (Table 4), and in consideration of the mitigation measures, the likelihood of the survey resulting in take in the form of Level A harassment is considered so low as to be discountable; therefore, we do not

propose to authorize take of any marine mammals by Level A harassment. Authorized take numbers are shown in Table 6.

TABLE 6—TOTAL NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS AUTHORIZED AND AUTHORIZED TAKES AS A PERCENTAGE OF POPULATION

Species	Density (animals/100 km^2)	Authorized takes by Level A harassment	Estimated takes by Level B harassment	Authorized takes by Level B harassment	Total takes authorized	Total authorized takes as a percentage of population [1]
Fin whale	0.00124	0	8	8	8	0.2
Sei whale [2]	0.00001	0	0	1	1	0.1
Minke whale	0.00034	0	2	2	2	0.1
Humpback whale	0.00053	0	3	3	3	0.2
North Atlantic right whale	0.00043	0	3	3	3	0.7
Sperm Whale [2]	0.00004	0	0	3	3	0.1
Atlantic white-sided dolphin [2]	0.00229	0	14	40	40	0.1
Atlantic spotted dolphin [2]	0.00124	0	8	100	100	0.2
Bottlenose dolphin (W. N. Atlantic Coastal Migratory)	0.2355	0	1,465	1,465	1,465	22.1
Killer whale [2]	0.00001	0	0	3	3	27.3
Short-finned pilot whale [2]	0.00031	0	2	20	20	0.1
Long-finned pilot whale [2]	0.00031	0	2	20	20	0.1
Risso's dolphin [2]	0	0	0	30	30	0.4
Common dolphin	0.01328	0	83	83	83	0.1
Harbor porpoise	0.01277	0	79	79	79	0.2
Gray seal	0.00072	0	4	4	4	0.0
Harbor seal	0.00072	0	4	4	4	0.0

[1] Calculations of percentage of stock taken are based on the best available abundance estimate as shown in Table 2. In most cases the best available abundance estimate is provided by Roberts *et al.* (2016, 2017, 2018), when available, to maintain consistency with density estimates derived from Roberts *et al.* (2016, 2017, 2018). For North Atlantic right whales the best available abundance estimate is derived from the 2018 North Atlantic Right Whale Consortium 2018 Annual Report Card (Pettis *et al.,* 2018).

[2] The number of authorized takes (Level B harassment only) for these species has been increased from the estimated take number to mean group size. Source for group size estimates are as follows: Sei whale: Kenney and Vigness-Raposa (2010); sperm whale: Barkaszi and Kelly (2019); killer whale: de Bruyn *et al.* (2013); Risso's dolphin: Kenney and Vigness-Raposa (2010); long-finned and short-finned pilot whale: Olson (2018); Atlantic spotted dolphin: Herzing and Perrin (2018); Atlantic white-sided dolphin: Cipriano (2018).

Skipjack requested take authorization for three marine mammal species for which no takes were calculated based on the modeling approach described above: Killer whale, sei whale and Risso's dolphin. Though the modeling resulted in estimates of less than 1 take for these species, Skipjack determined that take of these species is possible due to low densities in some density blocks and general variability in the movements of these species. NMFS believes this is reasonable and we therefore authorize take of these species.

As described above, Roberts *et al.* (2016, 2017, 2018) produced density models to genus level for *Globicephala* spp. and did not differentiate between long-finned and shortfinned pilot whales. Similarly, Roberts *et al.* (2018) produced density models for all seals and did not differentiate by seal species. The take calculation methodology as described above resulted in an estimate of 2 pilot whale takes and 4 seal takes. Based on this estimate, Skipjack requested 2 takes each of short-finned and long-finned pilot whales, and 4 takes each of harbor and gray seals, based on an assumption that the modeled takes could occur to either of the respective species. We think this is a reasonable approach and therefore authorize the take of 4 harbor seals, 4 gray seals, 2 short-finned pilot whales and 2 long-finned pilot whales.

Using the take methodology approach described above, the take estimates for the sei whale, sperm whale, killer whale, Risso's dolphin, Atlantic white-sided dolphin, spotted dolphin, long-finned and short-finned pilot whale were less than the average group sizes estimated for these species (Table 6). However, information on the social structures of these species indicates these species are likely to be encountered in groups. Therefore it is reasonable to conservatively assume that one group of each of these species will be taken during the survey. We therefore authorize the take of the average group size for these species to account for the possibility that the survey encounters a group of any of these species or stocks (Table 6).

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood,

scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation Measures

The following mitigation measures must be implemented during Skipjack's site characterization surveys.

Marine Mammal Exclusion Zones, Buffer Zone and Monitoring Zone

Marine mammal exclusion zones (EZ) must be established around the HRG survey equipment and monitored by protected species observers (PSO) during HRG surveys as follows:

- A 500-m EZ for North Atlantic right whales;
- A 200 m EZ for all other ESA-listed marine mammals (*i.e.,* fin, sei and sperm whales), and
- A 100-m EZ for all other marine mammals.

If a marine mammal is detected approaching or entering the EZs during the survey, the vessel operator would adhere to the shutdown procedures described below. In addition to the EZs described above, PSOs must visually monitor a 200-m Buffer Zone. During use of acoustic sources with the potential to result in marine mammal harassment (*i.e.,* anytime the acoustic source is active, including ramp-up), occurrences of marine mammals within the Buffer Zone (but outside the EZs) must be communicated to the vessel operator to prepare for potential shutdown of the acoustic source. The Buffer Zone is not applicable when the EZ is greater than 100 m. PSOs are required to observe a 500-m Monitoring Zone and record the presence of all marine mammals within this zone. In addition, any marine mammals observed within 141 m of the HRG equipment must be documented by PSOs as taken by Level B harassment. The zones described above must be based upon the radial distance from the active equipment (rather than being based on distance from the vessel itself).

Visual Monitoring

A minimum of one NMFS-approved PSO must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of HRG equipment. Visual monitoring must begin no less than 30 minutes prior to ramp-up of HRG equipment and must continue until 30 minutes after use of the acoustic source ceases or until 30 minutes past sunset. PSOs must establish and monitor the applicable EZs, Buffer Zone and Monitoring Zone as described above. Visual PSOs must coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs must estimate distances to marine mammals located in proximity to the vessel and/or relevant using range finders. It is the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and enforce the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. Position data must be recorded using hand-held or vessel global positioning system (GPS) units for each confirmed marine mammal sighting.

Pre-Clearance of the Exclusion Zones

Prior to initiating HRG survey activities, Skipjack must implement a 30-minute pre-clearance period. During pre-clearance monitoring (*i.e.,* before ramp-up of HRG equipment begins), the Buffer Zone must also act as an extension of the 100 m EZ in that observations of marine mammals within the 200 m Buffer Zone also precludes HRG operations from beginning. During this period, PSOs must ensure that no marine mammals are observed within 200 m of the survey equipment (500 m in the case of North Atlantic right whales). HRG equipment must not start up until this 200 m zone (or, 500 m zone in the case of North Atlantic right whales) is clear of marine mammals for at least 30 minutes. The vessel operator must notify a designated PSO of the planned start of HRG survey equipment as agreed upon with the lead PSO; the notification time must not be less than 30 minutes prior to the planned initiation of HRG equipment order to allow the PSOs time to monitor the EZs and Buffer Zone for the 30 minutes of pre-clearance. A PSO conducting pre-clearance observations must be notified again immediately prior to initiating active HRG sources.

If a marine mammal is observed within the relevant EZs or Buffer Zone during the pre-clearance period, initiation of HRG survey equipment must not begin until the animal(s) has been observed exiting the respective EZ or Buffer Zone, or, until an additional time period has elapsed with no further sighting (*i.e.,* minimum 15 minutes for small odontocetes and seals, and 30 minutes for all other species). The pre-clearance requirement must include small delphinoids that approach the vessel (*e.g.,* bow ride). PSOs must also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure must be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. The ramp-up procedure should be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the survey area by allowing them to detect the presence of the survey and vacate the area prior to the commencement of survey equipment operation at full power. Ramp-up of the survey equipment must not begin until the relevant EZs and Buffer Zone has been cleared by the PSOs, as described above. HRG equipment must be initiated at their lowest power output and would be incrementally increased to full power. If any marine mammals are detected within the EZs or Buffer Zone prior to or during ramp-up, the HRG equipment must be shut down (as described below).

Shutdown Procedures

If an HRG source is active and a marine mammal is observed within or entering a relevant EZ (as described above) an immediate shutdown of the HRG survey equipment is required. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable EZ. The vessel operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the HRG source(s) to ensure that shutdown commands are conveyed swiftly while

allowing PSOs to maintain watch. Subsequent restart of the HRG equipment must only occur after the marine mammal has either been observed exiting the relevant EZ, or, until an additional time period has elapsed with no further sighting of the animal within the relevant EZ (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for large whales).

Upon implementation of shutdown, the HRG source must be reactivated after the marine mammal that triggered the shutdown has been observed exiting the applicable EZ (*i.e.,* the animal is not required to fully exit the Buffer Zone where applicable), or, following a clearance period of 15 minutes for small odontocetes and seals and 30 minutes for all other species with no further observation of the marine mammal(s) within the relevant EZ. If the HRG equipment shuts down for brief periods (*i.e.,* less than 30 minutes) for reasons other than mitigation (*e.g.,* mechanical or electronic failure) the equipment may be re-activated as soon as is practicable at full operational level, without 30 minutes of pre-clearance, only if PSOs have maintained constant visual observation during the shutdown and no visual detections of marine mammals occurred within the applicable EZs and Buffer Zone during that time. For a shutdown of 30 minutes or longer, or if visual observation was not continued diligently during the pause, pre-clearance observation is required, as described above.

The shutdown requirement is waived for certain genera of small delphinids (*i.e., Delphinus, Lagenorhynchus, Stenella, and Tursiops)* under certain circumstances. If a delphinid(s) from these genera is visually detected approaching the vessel (*i.e.,* to bow ride) or towed survey equipment, shutdown is not required. If there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgment in making the decision to call for a shutdown.

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the area encompassing the Level B harassment isopleth (141 m), shutdown must occur.

Vessel Strike Avoidance

Vessel strike avoidance measures include, but are not be limited to, the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- All vessel operators and crew will maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop their vessel to avoid striking these protected species;
- All vessel operators will comply with 10 knot (18.5 km/hr) or less speed restrictions in any SMA and DMA per NOAA guidance;
- All vessel operators will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, large assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;
- All survey vessels will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;
- All vessels will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped; and
- All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped.

Skipjack must ensure that vessel operators and crew maintain a vigilant watch for marine mammals by slowing down or stopping the vessel to avoid striking marine mammals. Project-specific training will be conducted for all vessel crew prior to the start of survey activities. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey activities.

Seasonal Operating Requirements

A section of the planned survey area partially overlaps with a portion of a North Atlantic right whale SMA off the mouth of Delaware Bay. This SMA is active from November 1 through April 30 of each year. Any survey vessels that are >65 ft in length is required to adhere to the mandatory vessel speed restrictions (<10 kn) when operating within the SMA during times when the SMA is active. In addition, between watch shifts, members of the monitoring team must consult NMFS' North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. Members of the monitoring team must also monitor the NMFS North Atlantic right whale reporting systems for the establishment of Dynamic Management Areas (DMA). If NMFS should establish a DMA in the survey area while surveys are underway, Skipjack must contact NMFS within 24 hours of the establishment of the DMA to determine whether alteration of survey activities was warranted to avoid right whales to the extent possible.

The mitigation measures are designed to avoid the already low potential for injury in addition to some instances of Level B harassment, and to minimize the potential for vessel strikes. Further, we believe the mitigation measures are practicable for the applicant to implement. Skipjack has proposed additional mitigation measures in addition to the measures described above; for information on the measures proposed by Skipjack, see Section 11 of the IHA application.

There are no known marine mammal rookeries or mating or calving grounds in the survey area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat (or both). The survey would occur in an area that has been identified as a biologically important area for migration for North Atlantic right whales. However, given the small spatial extent of the survey area relative to the substantially larger spatial extent of the right whale migratory area, the survey is not expected to appreciably reduce migratory habitat nor to negatively impact the migration of North Atlantic right whales, thus mitigation to address the planned survey's occurrence in North Atlantic right whale migratory habitat is not warranted.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the survey area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Monitoring Measures

As described above, visual monitoring must be performed by qualified and NMFS-approved PSOs. Skipjack must use independent, dedicated, trained PSOs, meaning that the PSOs must be employed by a third-party observer provider, must have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and must have successfully completed an approved PSO training course appropriate for their designated task. Skipjack must provide resumes of all proposed PSOs (including alternates) to NMFS for review and approval at least 45 days prior to the start of survey operations.

During survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty and conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and nighttime ramp-ups of HRG equipment. Visual monitoring must begin no less than 30 minutes prior to initiation of HRG survey equipment and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. PSOs would coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least two hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals must be communicated to PSOs on all survey vessels.

PSOs must be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the monitoring of marine mammals. Position data must be recorded using hand-held or vessel GPS units for each sighting. Observations must take place from the highest available vantage point on the survey vessel. General 360-degree scanning must occur during the monitoring periods, and target scanning by the PSO must occur when alerted of a marine mammal presence.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs will conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods. Any observations of marine mammals by crew members aboard any vessel associated with the survey must be relayed to the PSO team.

Data on all PSO observations must be recorded based on standard PSO collection requirements. This includes dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal take that occurs (*e.g.,* noted behavioral disturbances).

Reporting Measures

Within 90 days after completion of survey activities, a final technical report must be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals estimated to have been taken during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and

monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. PSO datasheets or raw sightings data must also be provided with the draft and final monitoring report.

In addition to the final technical report, Skipjack must provide the reporting described below as necessary during survey activities. If a North Atlantic right whale is observed at any time during surveys or during vessel transit, Skipjack must report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the unanticipated event that Skipjack's survey activities lead to an injury (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement) of a marine mammal, Skipjack must immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS New England/Mid-Atlantic Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with Skipjack to minimize reoccurrence of such an event in the future. Skipjack would not resume activities until notified by NMFS.

In the event that Skipjack discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), Skipjack would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS New England/Mid-Atlantic Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Skipjack to determine if modifications in the activities are appropriate.

In the event that Skipjack discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Skipjack would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, and the NMFS New England/Mid-Atlantic Regional Stranding Coordinator, within 24 hours of the discovery. Skipjack would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Skipjack may continue its operations in such a case.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 2, given that NMFS expects the anticipated effects of the planned survey to be similar in nature.

NMFS does not anticipate that serious injury or mortality would occur as a result of Skipjack's survey, even in the absence of mitigation. Thus the authorization does not authorize any serious injury or mortality. As discussed in the *Potential Effects* section, non-auditory physical effects and vessel strike are not expected to occur. Additionally and as discussed previously, given the nature of activity and sounds sources used and especially in consideration of the required mitigation, Level A harassment is neither anticipated nor authorized. We expect that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area, reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and temporarily avoid the area where the survey is occurring. We expect that any avoidance of the survey area by marine mammals would be temporary in nature and that any marine mammals that avoid the survey area during the survey activities would not be permanently displaced. Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In addition to being temporary and short in overall duration, the acoustic footprint of the survey is small relative to the overall distribution of the animals in the area and their use of the area. Feeding behavior is not likely to be significantly impacted. Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved

away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the survey area and there are no feeding areas known to be biologically important to marine mammals within the survey area. There is no designated critical habitat for any ESA-listed marine mammals in the survey area. The survey area overlaps a portion of a biologically important migratory area for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LaBrecque, *et al.,* 2015). Off the coasts of Delaware and Maryland, this biologically important migratory area extends from the coast to beyond the shelf break. Due to the fact that that the survey is temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the area, right whale migration is not expected to be impacted by the survey.

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Repeated exposures of individuals to relatively low levels of sound outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. We expect that animals disturbed by sound associated with the planned survey would simply avoid the area during the survey in favor of other, similar habitats.

As described above, North Atlantic right, humpback, and minke whales, and gray and harbor seals are experiencing ongoing UMEs. For North Atlantic right whales, as described above, no injury as a result of the proposed survey is expected or authorized, and Level B harassment takes of right whales are expected to be in the form of avoidance of the immediate area of the proposed survey. In addition, the number of takes authorized above the Level B harassment threshold are minimal (*i.e.,* 3). As no injury or mortality is expected or authorized, and Level B harassment of North Atlantic right whales will be reduced to the level of least practicable adverse impact through use of mitigation measures, the authorized takes of right whales would not exacerbate or compound the ongoing UME in any way.

Similarly, no injury or mortality is expected or authorized for any of the other species with UMEs, Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures, and the authorized takes would not exacerbate or compound the ongoing UMEs. For minke whales, although the ongoing UME is under investigation (as occurs for all UMEs), this event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales. Even though the PBR value is based on an abundance for U.S. waters that is negatively biased and a small fraction of the true population abundance, annual M/SI does not exceed the calculated PBR value for minke whales. With regard to humpback whales, the UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains healthy. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. The status review identified harmful algal blooms, vessel collisions, and fishing gear entanglements as relevant threats for this DPS, but noted that all other threats are considered likely to have no or minor impact on population size or the growth rate of this DPS (Bettridge *et al.,* 2015). As described in Bettridge *et al.* (2015), the West Indies DPS has a substantial population size (*i.e.,* approximately 10,000; Stevick *et al.,* 2003; Smith *et al.,* 1999; Bettridge *et al.,* 2015), and appears to be experiencing consistent growth. With regard to gray and harbor seals, although the ongoing UME is under investigation, the UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (345) is well below PBR (2,006) (Hayes *et al.,* 2018). For gray seals, the population abundance in the United States is over 27,000, with an estimated abundance including seals in Canada of approximately 505,000, and abundance is likely increasing in the U.S. Atlantic EEZ as well as in Canada (Hayes *et al.,* 2018).

The mitigation measures are expected to reduce the number and/or severity of takes by giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy and by establishing zones that will prevent animals from being exposed to higher sound levels that may otherwise result in injury or more severe behavioral responses. No Level A harassment, which involves the potential for injury, has been authorized. Additional vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the survey area.

NMFS concludes that exposures to marine mammal species and stocks due to Skipjack's survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Marine mammals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the authorized takes to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality, serious injury, or Level A harassment is anticipated or authorized;
- The anticipated impacts of the activity on marine mammals would primarily be in the form of temporary behavioral changes due to avoidance of the area around the survey vessel;
- The availability of alternate areas of similar habitat value (for foraging, etc.) for marine mammals that may temporarily vacate the survey area during the survey to avoid exposure to sounds from the activity;
- The survey area does not contain known areas of significance for mating or calving;
- Effects on species that serve as prey species for marine mammals from the survey would be minor and temporary and would not be expected to reduce the availability of prey or to affect marine mammal feeding;
- The mitigation measures, including visual and acoustic monitoring, exclusion zones, and shutdown measures, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The numbers of marine mammals that we authorize to be taken, for all species and stocks, would be considered small relative to the relevant stocks or populations (less than 28 percent for two of seventeen species and stocks, and less than 1 percent for all remaining species and stocks). See Table 6. Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the proposed action qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources Permits and Conservation Division is authorizing the incidental take of four species of marine mammals which are listed under the ESA: The North Atlantic right, fin, sei and sperm whale. We requested initiation of consultation under Section 7 of the ESA with NMFS GARFO on September 30, 2019, for the issuance of this IHA. In November, 2019, NMFS GARFO determined our issuance of the IHA to Skipjack was not likely to adversely affect the North Atlantic right, fin, sei and sperm whale or the critical habitat of any ESA-listed species or result in the take of any marine mammals in violation of the ESA.

Authorization

NMFS has issued an IHA to Skipjack for conducting marine site characterization surveys offshore of Delaware and Maryland, from the date of issuance for a period of one year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 26, 2019.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–26091 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR070]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical Survey in the Atlantic Ocean

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

ACTION: Notice; proposed revised incidental harassment authorization (IHA); request for comments.

SUMMARY: On November 30, 2018, NMFS issued an IHA to ION GeoVentures, pursuant to the Marine Mammal Protection Act (MMPA). NMFS has received a request, co-signed by officers from ION GeoVentures (ION) and GX Technology Corporation (GXT), to administratively change the name of the holder of the subject IHA from ION to GXT. No other changes are proposed. NMFS is inviting comments on the proposed change.

DATES: Comments and information must be received no later than January 2, 2020.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-*

activity-atlantic without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original IHA, change request, and other documents relevant to issuance of the original IHA may be obtained online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-atlantic.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

Summary of Request

On November 30, 2018, NMFS issued an IHA to ION to take marine mammals, by harassment, incidental to a proposed geophysical survey in the Atlantic Ocean (83 FR 63268). NMFS subsequently received a written request, co-signed by officers from both ION and GXT, to administratively change the name of the IHA holder from ION to GXT. This November 6, 2019, request states that GXT, a U.S. corporation, is a wholly owned subsidiary of ION Exploration Productions (U.S.A.), Inc., which, in turn, is wholly owned by ION Geophysical Corporation. The request further states that ''ION GeoVentures'' is the name of a business unit within ION Geophysical Corporation that performs a specific business function for entities in the corporate structure of ION Geophysical Corporation, including for GXT. According to the request, however, GXT is the company that plans to carry out the subject geophysical survey in the Atlantic Ocean and should have been listed as the applicant. The request explains that inclusion of the name ''ION GeoVentures'' on the original IHA request was an unintentional clerical error. With the name change, GXT expressly agrees to comply with the associated terms, conditions, stipulations, and restrictions of the original IHA.

Based on this request, we propose to revise the issued IHA by correcting the name of the IHA holder to reflect GXT. No other changes were requested. Written notification has not yet been received from the IHA holder and, therefore, the IHA is not yet effective. The revised IHA, if issued, would become effective upon notification from the IHA holder, with an expiration date no later than November 30, 2020.

There are no other changes to the issued IHA as described in the December 7, 2018, **Federal Register** notice of a final IHA (83 FR 63268): The specified activity; description of marine mammals in the area of the specified activity; potential effects on marine mammals and their habitat; mitigation and related monitoring used to implement mitigation; reporting; estimated take by incidental harassment; negligible impact and small numbers analyses and determinations; impact on availability of affected species or stocks for subsistence uses and the period of effectiveness remain unchanged and are herein incorporated by reference.

Proposed Revisions to the IHA

NMFS is proposing a change in the name of the holder of the IHA from ''ION GeoVentures'' to ''GX Technology Corporation.''

Request for Public Comments

NMFS invites comment on the proposed change in the name of the holder of the IHA only. The scope of NMFS' decision and, therefore, the scope of this solicitation for public comment, is limited to the requested change. Comments that are not relevant to this decision will not be considered. Please include with your comments any supporting information to help inform our final decision on GXT's request.

Dated: November 26, 2019.

Angela Somma,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–26054 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2019–0038]

Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation

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

ACTION: Request for comments; extension of comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) published a request for comments in the **Federal Register** on October 30, 2019, seeking public comment on the impact of artificial intelligence (''AI'') technologies on intellectual property law and policy. Through this notice, the USPTO is extending the period for public comment until January 10, 2020.

DATES: Written comments must be received on or before January 10, 2020.

ADDRESSES: Written comments should be sent by email to *AIPartnership@uspto.gov.* Comments may also be submitted by postal mail addressed to the Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450. Although comments may be submitted by postal mail, the USPTO prefers to receive comments via email.

Because written comments and testimony will be made available for public inspection, information that a respondent does not desire to be made public, such as a phone number, should not be included in the testimony or written comments.

FOR FURTHER INFORMATION CONTACT: Coke Stewart, Office of the Under Secretary and Director of the USPTO, (571) 272–8600.

SUPPLEMENTARY INFORMATION: On October 30, 2019, the United States Patent and Trademark Office published a notice in the **Federal Register** requesting public input on copyright, trademark, and other intellectual property rights issues that may be impacted by AI. *See* Request for Comments on Intellectual Property Protection for Artificial Intelligence Innovation, 84 FR 58141 (Oct. 30, 2019). The notice requested public comments

on or before December 16, 2019. Through this notice, the USPTO is extending the period for public comment until January 10, 2020, to give interested members of the public additional time to submit comments. All other information and instructions to commenters provided in the original notice remain unchanged. Previously submitted comments do not need to be resubmitted.

Dated: November 26, 2019.

Andrei Iancu,

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

[FR Doc. 2019–26104 Filed 12–2–19; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0150]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Subpart J—Approval of Independently Administered Tests

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 February 3, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0150. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208, D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Subpart J—Approval of Independently Administered Tests.

OMB Control Number: 1845–0049.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector; Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 48,779.

Total Estimated Number of Annual Burden Hours: 6,340.

Abstract: This request is for an extension without change of the approval for the reporting and recordkeeping requirements that are contained in the information collection 1845–0049 for Student Assistance General Provision in the regulations in Subpart J-Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process. There are no forms or formats established by the Department for the reporting or recordkeeping requirements. These regulations govern the application for and approval by the Secretary of assessments by a private test publisher or State that are used to measure a student's skills and abilities. The administration of approved ability to benefit (ATB) tests may be used to determine a student's eligibility for assistance for the Title IV student financial assistance programs authorized under the Higher Education Act of 1965, as amended (HEA) when, among other conditions, the student does not have a high school diploma or its recognized equivalent. The language of the current statute and regulations have not changed.

Dated: November 27, 2019.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2019–26080 Filed 12–2–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy, Office of Environmental Management.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, January 16, 2020; 6:00 p.m.

ADDRESSES: West Kentucky Community and Technical College, Emerging Technology Center, 5100 Alben Barkley Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, U.S. Department of Energy, Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825; email: *Jennifer.woodard@pppo.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken as Appropriate

Public Participation: The meeting is open to the public. The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope of the Board may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials.*

Signed in Washington, DC, on November 26, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–26125 Filed 12–2–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy, Office of Environmental Management.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 12, 2020; 6:00 p.m.

ADDRESSES: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; E-Mail: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: Processing of Uranium 233 Material
- Public Comment Period
- Motions/Approval of November 13, 2019 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on November 26, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–26127 Filed 12–2–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 12–156–LNG]

Golden Pass Products LLC; Request for Extension of Commencement Deadline for Non-Free Trade Agreement Authorization

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of request.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of a request (Request), filed on October 28, 2019, by Golden Pass LNG Terminal LLC (GPLNG) on behalf of Golden Pass Products LLC (GPP), which recently merged with and into GPLNG. GPP seeks to amend its existing authorization to export domestically produced liquefied natural gas (LNG) to non-free trade agreement countries, issued in DOE/FE Order No. 3978 on April 25, 2017. Specifically, GPP requests a 17-month extension to commence its export operations. GPP filed the Request under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of

intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, December 18, 2019.

ADDRESSES:

Electronic Filing by email, *fergas@hq.doe.gov*

Regular Mail, U.S. Department of Energy (FE–34), Office of Regulation, Analysis and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (*e.g.,* FedEx, UPS, etc.), U.S. Department of Energy (FE–34), Office of Regulation, Analysis and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Beverly Howard or Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9387; (202) 586–2627

Cassandra Bernstein, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Ave. SW, Washington, DC 20585, (202) 586–9793

SUPPLEMENTARY INFORMATION: On April 25, 2017, in Order No. 3978, DOE/FE authorized GPP to export domestically produced LNG in a volume equivalent to 808 billion cubic per year (Bcf/yr) of natural gas.[1] DOE/FE authorized GPP to export this LNG by vessel from its proposed export project to be constructed at the Golden Pass LNG Terminal, located near Sabine Pass, Texas, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries) for a 20-year term. As relevant here, Order No. 3978 requires GPP to ''commence export operations using the planned liquefaction facilities no later than seven years from the date of issuance of this Order''—*i.e.,* by April 25, 2024.[2] In the Request, GPP asks DOE/FE to extend this ''in-service'' deadline by 17 months—until September 30, 2025.[3]

In support of this Request, GPP identifies the actions it has taken to proceed with the construction and operation of its LNG export project under DOE/FE Order No. 3978. GPP further states that, due to the length of the various authorization processes, the resulting time necessary for it to reach final investment decision, and the time needed for construction of the export project, it is unable to complete construction and place the export facilities in service by April 25, 2024. Accordingly, GPP requests an extension of 17 months—to September 30, 2025—to place the export facilities in service and commence LNG exports. Additional details can be found in the Request, posted on the DOE/FE website at: *https://www.energy.gov/sites/prod/files/2019/10/f68/FE12-88-LNG%20FE12-156-LNG%20Extension%20Request%2010-28-19%20FINAL.pdf.*

DOE/FE also notes that, on July 17, 2019, GPLNG filed a ''Statement of Change in Control to Reorganize and Restructure Liquefied Natural Gas Export Authorizations,'' indicating that GPP had merged with and into GPLNG effective June 18, 2019. Because that filing is still pending before DOE/FE in the above-captioned docket, GPP remains the authorization holder of DOE/FE Order No. 3978 until such time as DOE/FE takes action on the filing and transfers the Order from GPP to GPLNG. Thus, for purposes of this Notice, DOE/FE construes the Request described above as being filed by GPP.

DOE/FE Evaluation

In reviewing GPP's Request, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[4] and DOE/FE's response to public comments received on that study.[5]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[6] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[7]

Parties that may oppose this Request should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Request.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. DOE/FE will disregard comments or protests that do not bear directly on the Request.

Any person wishing to become a party to the proceeding must file a motion to

[1] *Golden Pass Products LLC,* DOE/FE Order No. 3978, FE Docket No. 12–156–LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Golden Pass LNG Terminal Located in Jefferson County, Texas, to Non-Free Trade Agreement Countries (Apr. 25, 2017), *reh'g denied* DOE/FE Order No. 3978–A (Mar. 30, 3018).

[2] *See Golden Pass Products LLC,* DOE/FE Order No. 3978, at 173 (Ordering Para. D); *see also id.* at 167 (Term and Condition Para. B).

[3] Golden Pass LNG Terminal LLC, Request for Extension of Commencement Deadlines, FE Docket Nos. 12–156–LNG and 12–88–LNG (Oct. 28, 2019) [hereinafter Request] (referring to both GPP and GPLNG as ''GPLNG''). The Request also applies to GPP's existing FTA order in FE Docket No. 12–88–LNG, but DOE/FE will address that portion of the Request separately pursuant to NGA section 3(c), 15 U.S.C. 717b(c).

[4] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[5] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[6] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[7] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.* On September 19, 2019, DOE/FE gave notice of an update to the LCA GHG Report, and that proceeding is on-going. *See* U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update, 84 FR 49278 (Sept. 19, 2019).

intervene or notice of intervention. The filing of comments or a protest with respect to the Request will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Request. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 12–156–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 12–156–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Request will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Request and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Request is available for inspection and copying in the Office of Regulation, Analysis, and Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Request and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *https://fossil.energy.gov/ng_regulation/applications-2012-goldenpassproductsllc12-156-lng.*

Signed in Washington, DC, on November 26, 2019.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy.

[FR Doc. 2019–26039 Filed 12–2–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–18–000.
Applicants: Pattern Energy Group Inc., on Behalf of its Public Utility S Canada Pension Plan Investment Board.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Pattern Energy Group Inc., et al.
Filed Date: 11/22/19.
Accession Number: 20191122–5242.
Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: EC20–19–000.
Applicants: Pattern Energy Group Inc., Riverstone Holdings LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Pattern Energy Group Inc., et al.
Filed Date: 11/22/19.
Accession Number: 20191122–5251.
Comments Due: 5 p.m. ET 12/13/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2822–014; ER16–1238–002; ER16–1250–006 ER17–1392–002; ER10–3158–008; ER12–308–008; ER10–3162–008; ER10–3161–008; ER17–1242–001.
Applicants: Atlantic Renewable Projects II LLC, Avangrid Arizona Renewables, LLC, Avangrid Renewables, LLC, El Cabo Wind LLC, Dillon Wind LLC, Manzana Wind LLC, Mountain View Power Partners III, LLC, Shiloh I Wind Project, LLC, Tule Wind LLC.
Description: Supplement to July 1, 2019 Updated Market Power Analysis of the Avangrid Southwest MBR Sellers, et al.
Filed Date: 11/22/19.
Accession Number: 20191122–5228.
Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER19–2505–002.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: SCE's Response to Deficiency Letter—WDAT Energy Storage ER19–2505 to be effective 10/30/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5079.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER19–2727–001.
Applicants: California Independent System Operator Corporation.
Description: Tariff Amendment: 2019–11–22 CCDEBE Deficiency Letter Response to be effective 12/31/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5215.
Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER19–2747–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 3593 Frontier Windpower II GIA—Deficiency Response to be effective 8/23/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5032.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER19–2748–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 3595 Skeleton Creek Wind, LLC GIA—Deficiency Response to be effective 8/23/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5040.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER19–2773–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 3594 Wheatbelt Wind, LLC GIA—Deficiency Response to be effective 8/23/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5041.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER19–2813–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 3597 Chilocco Wind Farm GIA—Amended Filing/Deficiency to be effective 9/6/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5042.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER20–453–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Eliminate Attachment Z2 Revenue Credits to be effective 2/1/2020.
Filed Date: 11/22/19.
Accession Number: 20191122–5173.
Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–454–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–11–25_SA 3372 Entergy Louisiana-sPower Development GIA (J697) to be effective 11/8/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5009.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER20–455–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–11–25_SA 3376 ATC-Wisconsin Public Service GIA (J886) to be effective 11/8/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5011.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER20–456–000.
Applicants: Tenaska Frontier Partners, Ltd.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/1/2019.
Filed Date: 11/25/19.
Accession Number: 20191125–5070.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER20–457–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA SA No. 5034; Queue No. AC1–097 to be effective 1/10/2020.
Filed Date: 11/25/19.
Accession Number: 20191125–5072.
Comments Due: 5 p.m. ET 12/16/19.

Docket Numbers: ER20–458–000.
Applicants: Enerwise Global Technologies, Inc.
Description: Request for Limited Tariff Waiver of Enerwise Global Technologies, Inc.
Filed Date: 11/25/19.
Accession Number: 20191125–5084.
Comments Due: 5 p.m. ET 12/16/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 25, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–26077 Filed 12–2–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–237–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Bay releases to UGI eff 12–1–19 to be effective 12/1/2019.
Filed Date: 11/21/19.
Accession Number: 20191121–5124.
Comments Due: 5 p.m. ET 12/3/19.

Docket Numbers: RP20–238–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: ETNG Oglethorpe release to Ratio Energy eff 11–21–19 to be effective 11/21/2019.
Filed Date: 11/21/19.
Accession Number: 20191121–5128.
Comments Due: 5 p.m. ET 12/3/19.

Docket Numbers: RP20–239–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Compliance filing Cashout Report 2018–2019 to be effective N/A.
Filed Date: 11/21/19.
Accession Number: 20191121–5129.
Comments Due: 5 p.m. ET 12/3/19.

Docket Numbers: RP20–240–000.
Applicants: Peninsula Energy Services Company, Inc., Aspire Energy of Ohio, LLC.
Description: Joint Petition for Temporary Waiver of Commission Capacity Release Regulations and Policies, et al. of Peninsula Energy Services Company, Inc., et al. under RP20–240.
Filed Date: 11/21/19.
Accession Number: 20191121–5142.
Comments Due: 5 p.m. ET 11/29/19.

Docket Numbers: RP20–216–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Tariff Amendment: Neg Rates 2019–11–22 RP20–216 amendment to be effective 11/1/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5169.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–241–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Article 11.2(a) Inflation Adjustment Filing 2020 to be effective 1/1/2020.
Filed Date: 11/22/19.
Accession Number: 20191122–5002.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–242–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Stratton Ridge Non-Conforming Filing—Toshiba 911494 to be effective 12/24/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5007.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–243–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing Stratton Ridge (CP17–56) Negotiated Rate Compliance Filing to be effective 12/24/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5008.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–244–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releasers to Agera Energy eff 12–1–2019 to be effective 12/1/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5012.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–245–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 1/1/2020.
Filed Date: 11/22/19.
Accession Number: 20191122–5022.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–246–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Boston Gas to UGI 800658 to be effective 12/1/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5030.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–247–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—Chevron 911109 release to Eco-Energy 8960980 to be effective 12/1/2019.
Filed Date: 11/22/19.
Accession Number: 20191122–5067.
Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–248–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Quarterly L&U Update Filing to be effective 1/1/2020.

Filed Date: 11/22/19.

Accession Number: 20191122–5089.

Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–249–000.

Applicants: Young Gas Storage Company, Ltd.

Description: § 4(d) Rate Filing: Annual Fuel and L&U Update Filing to be effective 1/1/2020.

Filed Date: 11/22/19.

Accession Number: 20191122–5090.

Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–250–000.

Applicants: TransColorado Gas Transmission Company LLC.

Description: § 4(d) Rate Filing: Fuel and Lost and Unaccounted For Filing to be effective 1/1/2020.

Filed Date: 11/22/19.

Accession Number: 20191122–5096.

Comments Due: 5 p.m. ET 12/4/19.

Docket Numbers: RP20–251–000.

Applicants: Sierrita Gas Pipeline LLC.

Description: Operational Purchases and Sales Report of Sierrita Gas Pipeline LLC under RP20–251.

Filed Date: 11/22/19.

Accession Number: 20191122–5104.

Comments Due: 5 p.m. ET 12/4/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 25, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–26076 Filed 12–2–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–14–000]

Natural Gas Pipeline Company of America LLC; Notice of Request Under Blanket Authorization

Take notice that on November 15, 2019, Natural Gas Pipeline Company of America LLC (Natural), 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, filed a prior notice application pursuant to sections 157.205, 157.208(b) and 157.211 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and Natural's blanket certificate issued in Docket No. CP82–402–000. Natural requests authorization to construct, own, operate, modify, and maintain an approximately 1.4 mile, 12-inch diameter pipeline lateral and appurtenant facilities, including a pig launcher and assembly and associated piping and fittings, in Cook County, Illinois and Lake County, Indiana (134th Street Lateral Project). The proposed project also includes a new delivery interconnection between Natural and Northern Indiana Public Service Company (NIPSCO), a local distribution company with facilities in Northwestern Indiana. Natural states that the proposed project will allow Natural to provide continued natural gas transportation service to NIPSCO in this area. Natural estimates the cost of the 134th Street Lateral Project to be approximately $16.2 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Bruce H. Newsome, Vice President, Regulatory Products and Services, Natural Gas Pipeline Company of America LLC, 3250 Lacey Road, 7th Floor, Downers Grove, Illinois 60515–7918, by telephone at (630) 725–3070, or by email at *bruce_newsome@kindermorgan.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or

intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: November 25, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–26078 Filed 12–2–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0563; FRL–10002–17]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 2330.04 and OMB Control No. 2070–0179); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Pesticide Registration Fees Program'' and identified by EPA ICR No. 2330.04 and OMB Control No. 2070–0179, represents the renewal of an existing ICR that is scheduled to expire on September 30, 2020. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before February 3, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2019–0563, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Carolyn Siu, Field External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0159; email address: *siu.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Pesticide Registration Fees Program.

EPA ICR number: EPA ICR No. 2330.04.

OMB control number: OMB Control No. 2070–0179.

ICR status: This ICR is currently approved through September 30, 2020. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations in title 40 of the Code of Federal Regulations (CFR) are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the paperwork burden hours and costs associated with the information collection activities under the pesticide registration fee programs implemented through the Office of Pesticide Programs (OPP). Pesticide registrants are required by statute to pay an annual registration maintenance fee for all products registered under sections 3 and 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In addition, the Pesticide Registration Improvement Act (PRIA) amended FIFRA in 2004 to create a registration service fee system for applications for specific pesticide registration, amended registration, and associated tolerance actions (Section 33). This ICR specifically overs the activities related to the collection of the annual registration maintenance fees, the registration service fees and the burden associated with the submission of requests for fees to be waived.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,700 hours for the Pesticide Registration Maintenance Fee program and 6,840 for the Pesticide Registration Service Fee Waiver program. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are identified by the North American Industrial Classification System (NAICS) codes: 3250A1—Pesticide and other agricultural chemical manufacturing; 32518—Other Basic Inorganic Chemical Manufacturing; 32519—Other Basic Organic Chemical Manufacturing and 9641—Regulation of Agricultural Marketing and Commodities.

Estimated total number of potential respondents: 1,523.

Frequency of response: Annually and on occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: Ranges from 1,700–6,840 hours.

Estimated total annual costs: $ 686,709. There are no annualized

capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is an increase of 19 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This reason for the increase was an increase in the number of responses from 1,471 to 1,523. The total estimated annual respondent burden for the pesticide registration service fee waivers information collection has not increased in the existing ICR for this renewal. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Dated: November 27, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–26156 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0581; FRL–100002–61]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1632.06 and OMB Control No. 2070–0133); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: Standards for Pesticide Containers and Containment and identified by EPA ICR No. 1632.06 and OMB Control No. 2070–0133, represents the renewal of an existing ICR that is scheduled to expire on October 31, 2020. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before February 3, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2019–0581, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Carolyn Siu, Field External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0159; email address: *siu.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Standards for Pesticide Containers and Containment.

EPA ICR number: 1632.06.

OMB control number: 2070–0133.

ICR status: This ICR is currently scheduled to expire on October 31, 2020. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The entities affected by the container regulations are different than the entities affected by the containment regulations, so this ICR document provides separate discussions of the primary activities and the related burden estimates for each. Where necessary to distinguish the discussion of these two primary activities within each section of this ICR, the Agency has identified the discussion of the information collection activities associated with the container design and residue removal requirements with this header: ''Container,'' and the information collection activities related to the containment structure requirements with this header: ''Containment.'' Where the discussion applies equally to both sets of activities, there is no distinction.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7.5 hours per response for container regulations and 4 hours per response for containment

regulations. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are pesticide registrants and businesses who formulate pesticide products or pesticide formulation intermediates (NAICS code 325320), farm supply wholesales (NAICS code 422910), swimming pool applicators (NAICS code 561790, 453998 and 235990), and agricultural (aerial and ground) commercial applicators (NAICS code 115112).

Estimated total number of potential respondents: 23,586.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 169,660 hours.

Estimated total annual costs: $8,113,231. This includes an estimated burden cost of $7,221,656 for container regulations and an estimated cost of $891,575 for containment regulations for maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There are no changes to the overall estimated burden hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Dated: November 27, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–26106 Filed 12–2–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 16291]

Information Collection Being Submitted for Review and Approval to the 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, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The 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 January 2, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@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 Nicole Ongele at (202) 418–2991. 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 OMB control number 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, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

Title: Incumbent 39 GHz Licensee Payment Instruction.

Form Number: FCC Form 1877.

Type of Review: New information collection.

Respondents: Individuals or households and Business or other for-profit.

Number of Respondents and Responses: 10 respondents; 10 responses.

Estimated Time per Response: 5 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 309(j)(8)(G).

Total Annual Burden: 50 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The information collection includes information identifying bank accounts and providing account and routing numbers to access those accounts. FCC considers that information to be records not routinely available for public inspection under 47 CFR 0.457, and exempt from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)).

Needs and Uses: The Commission is requesting Office of Management and Budget (OMB) approval for a new information collection as described below.

The Commission is conducting an auction for 39 GHz spectrum pursuant to 47 U.S.C. 309(j)(8)(G) in which it is offering incumbent licensees a share of auction proceeds as an incentive to relinquish voluntarily previously granted spectrum usage rights in order to permit the assignment of new initial licenses subject to flexible use rules.

The information in the form is needed to make payments of the respective shares of auction proceeds. The information required for a licensee with respect to payments in incentive auctions is covered under 47 CFR 1.2115(b).

The information collection for which we are requesting approval is necessary for incumbent licensees to instruct the Commission on how to pay the approved amounts due to them, and for the payees to make certifications that reduce the risk of waste, fraud, abuse and improper payments.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–26120 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0717; FRS 16282]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 3, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0717.

Title: Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92–77, 47 CFR Sections 64.703(a), 64.709, 64.710.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,418 respondents; 11,250,150 responses.

Estimated Time per Response: 1 minute (.017 hours)—50 hours.

Frequency of Response: Annual and on-occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at 47 U.S.C. 226, Telephone Operator Services, Public Law 101–435, 104 Stat. 986, codified at 47 CFR 64.703(a) Consumer Information, 64.709 Informational Tariffs, and 64.710 Operator Services for Prison Inmate Phones.

Total Annual Burden: 205,023 hours.

Total Annual Cost: $144,000.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: Pursuant to 47 CFR 64.703(a), Operator Service Providers (OSPs) are required to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate call, how to obtain rate quotations, including any applicable surcharges. 47 CFR 64.710 imposes similar requirements on OSPs to inmates at correctional institutions. 47 CFR 64.709 codifies the requirements for OSPs to file informational tariffs with the Commission. These rules help to ensure that consumers receive information necessary to determine what the charges associated with an OSP-assisted call will be, thereby enhancing informed consumer choice in the operator services marketplace.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–26121 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 05–311; DA 19–1191]

Media Bureau Seeks Comment on NCTA Petition for Clarification of Order Denying Motion for Stay of Section 621 Third Report and Order

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: NCTA—The Internet & Television Association (NCTA) has filed with the Commission a Petition for Clarification of the Media Bureau's Order Denying Motion for Stay of the Commission's Third Report and Order in the proceeding referenced above. In this document, the Media Bureau gives public notice of that Petition and seeks comment on it.

DATES: Comments due by December 6, 2019; reply comments due by December 13, 2019.

ADDRESSES: You may send comments, identified by MB Docket No. 05–311, by any of the following methods:

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

• *Federal Communications Commission's Website: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.

• *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• *People with Disabilities:* 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 & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For detailed instructions for submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Raelynn Remy of the Media Bureau, Federal Communications Commission, at *raelynn.remy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice, DA 19–1191, released on November 18, 2019. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *https://docs.fcc.gov/public/attachments/DA-19-1191A1.doc.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

On November 15, 2019, NCTA—The Internet & Television Association (NCTA) filed a Petition for Clarification of the Media Bureau's Order Denying Motion for Stay of the Commission's Third Report and Order [1] in the above-referenced proceeding. In its Petition, NCTA requests that the Bureau clarify ''certain language in [p]aragraph 21 of the Stay Denial Order [that] creates the potential for confusion and the appearance of a conflict with the Third Report and Order.'' In particular, NCTA asserts that the Bureau's statements in paragraph 21 that ''[t]he rules in the [Third Report and Order] did not supersede provisions in existing franchise agreements on their effective date'' and ''[i]f negotiations fail, the terms in the franchise remain in effect unless and until a cable operator challenges those terms and proves that the terms violate the [Third Report and Order's] requirements'' could be interpreted in a way that ''conflict[s] with the Third Report and Order's plain directives and require[s] procedures not mandated by the Commission.'' NCTA asks that the Bureau address this apparent conflict with the Third Report and Order by removing the relevant statements from the Stay Denial Order.

We issue this Public Notice to seek comment on the Petition. All filings in response to this Public Notice must reference MB Docket No. 05–311. Comments on the Petition must be filed by December 6, 2019; reply comments must be filed by December 13, 2019.

▪ *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities: 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 & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Filings are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554, telephone (202) 418–0270.

This proceeding is treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules.[2] Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the

[1] 84 FR 44725, Aug. 27, 2019.

[2] *Id.* §§ 1.1200 *et seq.*

Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2019–26101 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0126, OMB 3060–0674, OMB 3060–1203; FRS 16290]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 3, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0126.

Title: Section 73.1820, Station Log.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,095 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1820 require that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

OMB Control Number: 3060–0674.

Title: Section 76.1618, Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 2.25 hours.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 4(i) and Section 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,563 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1618 state that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

OMB Control No.: 3060–1203.

Title: Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities; Not for profit institutions; State, Local or Tribal government.

Number of Respondents and Responses: 4,175 respondents and 516,982 responses.

Estimated Time per Response: 0.0167 hours to 10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),

Public Law 111–260, 124 Stat. 2751, and sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

Total Annual Burden: 24,043 hours.

Annual Cost Burden: $70,500.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries, and Requests for Dispute Assistance.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance,'' in the **Federal Register** on August 15, 2014 (79 FR 48152) which became effective on September 24, 2014.

Privacy Act Impact Assessment: The FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: The Commission will use the information submitted by a digital apparatus manufacturer or other party to determine whether it is achievable for digital apparatus to be fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired or whether it is achievable to comply with the information, documentation, and training requirements. The Commission will use the information submitted by an Multichannel Video Programming Distributor (MVPD) or navigation device manufacturer or other party to determine whether it is achievable for on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming to be audibly accessible in real time upon request by individuals who are blind or visually impaired or whether it is achievable to comply with the information, documentation, and training requirements. Consumers will use the information provided by manufacturers of digital apparatus on the full functionalities of digital apparatus, such as instructions and product information, as well as information provided by manufacturers and MVPDs in accordance with the information, documentation, and training requirements, in order to have accessible information and support on how to use the device. Consumers will use the information provided by manufacturers and MVPDs notifying consumers of the availability of accessible digital apparatus and navigation devices to determine which devices accessible and whether they wish to request an accessible device. MVPDs and manufacturers of navigation devices will use the information provided by consumers who are blind or visually impaired consumers when requesting accessible navigation devices to fulfill such requests. MVPDs will use information provided by customers who are blind or visually impaired as reasonable proof of disability as a condition to providing equipment and/or services at a price that is lower than that offered to the general public. Consumers will use the contact information of covered entities to file written complaints regarding the accessibility requirements for digital apparatus and navigation devices. Finally, the Commission will use information received pursuant to the complaint procedures for violations of sections 79.107–79.109 to enforce the Commission's digital apparatus and navigation device accessibility requirements. The Commission will forward complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that the Commission determines may be involved, and it may request additional information from relevant parties.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–26126 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0649; FRS 16289]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 3, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams, (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0649.

Title: Section 76.1601, Deletion or Repositioning of Broadcast Signals; Section 76.1617, Initial Must-Carry Notice; Section 76.1607, Principal Headend.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions.

Number of Respondents/Responses: 3,300 respondents; 3,950 responses.

Estimated Hours per Response: 0.5 hours–1 hour.

Frequency of Response: On occasion reporting requirement, Third party disclosure requirement.

Total Annual Burden: 2,050 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory

authority for this information collection is contained in section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: The information collection requirements listed below are covered under this information collection are as follows: 47 CFR 76.1601 requires that a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

47 CFR 76.1607 states that a cable operator shall provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend.

47 CFR 76.1617(a) states within 60 days of activation of a cable system, a cable operator must notify all qualified Non-Commercial Education (NCE) stations of its designated principal headend by certified mail.

47 CFR 76.1617(b) states within 60 days of activation of a cable system, a cable operator must notify all local commercial and Non-Commercial Education (NCE) stations that may not be entitled to carriage because they either fail to meet the standards for delivery of a good quality signal to the cable system's principal headend, or may cause an increased copyright liability to the cable system.

47 CFR 76.1617(c) states within 60 days of activation of a cable system, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–26122 Filed 12–2–19; 8:45 am]

BILLING CODE 6712–01–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, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than January 2, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Cross County Bancshares, Inc., Wynne, Arkansas;* to acquire additional voting shares of Central Bank, Little Rock, Arkansas.

Board of Governors of the Federal Reserve System, November 27, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–26124 Filed 12–2–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice and request for comment.

SUMMARY: The FTC requests that the Office of Management and Budget (OMB) extend for three years the current PRA clearance for information collection requirements contained in the Antitrust Improvements Act Rules (''HSR Rules'') and corresponding Notification and Report Form for Certain Mergers and Acquisitions (''Notification and Report Form''). The current clearance expires on December 31, 2019.

DATES: Comments must be received by January 2, 2020.

ADDRESSES: Comments in response to this notice should be submitted to the OMB Desk Officer for the Federal Trade Commission within 30 days of this notice. You may submit comments using any of the following methods:

Electronic: Write ''HSR Rules: PRA Comment, P072108,'' on your comment and file your comment online at *https://www.regulations.gov,* by following the instructions on the web-based form.

Email: MBX.OMB.OIRA.Submission@OMB.eop.gov.

Fax: (202) 395–5806.

Mail: Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert L. Jones, Assistant Director, Premerger Notification Office, Bureau of Competition, Federal Trade Commission, Room CC–5301, 600 Pennsylvania Avenue NW, Washington, DC 20580, or by telephone to (202) 326–2740.

SUPPLEMENTARY INFORMATION:

Title: HSR Rules and Notification and Report Form, 16 CFR parts 801–803.

OMB Control Number: 3084–0005.

Type of Review: Extension of a currently approved collection.

Abstract: Section 7A of the Clayton Act (''Act''), 15 U.S.C. 18a, as amended by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390, requires all persons contemplating certain mergers or acquisitions to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Congress empowered the Commission, with the concurrence of the Assistant Attorney General, to require ''that the notification . . . be in such form and contain such documentary material and information . . . as is necessary and appropriate'' to enable the agencies ''to determine whether such acquisitions may, if consummated, violate the antitrust laws.'' 15 U.S.C. 18a(d). Congress similarly granted rulemaking authority to, among other things, ''prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.'' *Id.*

Pursuant to that section, the Commission, with the concurrence of

the Assistant Attorney General, developed the HSR Rules and the corresponding Notification and Report Form.

On September 11, 2019, the Commission sought comment on the reporting requirements associated with the HSR Rules and corresponding Notification and Report Form. 84 FR 47951. No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for those information collection requirements.

The following discussion presents the FTC's PRA burden analysis regarding completion of the Notification and Report Form. For more details about the requirements of the HSR Rules, the background behind these information collection provisions, and the basis for the calculations summarized below, see 84 FR 47951.

Likely Respondents: Merging Parties.

Estimated Annual Hours Burden: 181,091 hours [derived from 4,894 non-index filings × 37 hours/each) + (five index filings × two hours/each) + (one withdrawn transaction later restarted × three hours)].

Estimated Annual Cost Burden: $83,301,860, which is derived from $460/hour × 181,091 hours.

Request for Comment

Your comment—including your name and your state—will be placed on the public record of this proceeding at the *https://www.regulations.gov* website. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone'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.

Heather Hippsley,

Deputy General Counsel.

[FR Doc. 2019–26075 Filed 12–2–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 191 0061]

Bristol-Myers Squibb Company and Celgene Corporation; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 2, 2020.

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: ''Bristol-Myers Squibb Company and Celgene Corporation; File No. 191 0061'' 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: Kari Wallace (202–326–3085), Bureau of Competition, 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 November 15, 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 January 2, 2020. Write ''Bristol-Myers Squibb Company and Celgene Corporation; File No. 191 0061'' 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 ''Bristol-Myers Squibb Company and Celgene Corporation; File No. 191 0061'' 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 January 2, 2020. 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 Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Bristol-Myers Squibb Company (''BMS'') and Celgene Corporation (''Celgene'') designed to remedy the anticompetitive effects resulting from BMS's proposed acquisition of Celgene. The proposed Decision and Order (''Order'') contained in the Consent Agreement requires Celgene to divest all rights and assets related to its Otezla business to Amgen, Inc. (''Amgen'').

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will review the comments received and decide whether it should withdraw, modify, or make the Consent Agreement final.

Pursuant to an Agreement and Plan of Merger dated as of January 2, 2019, BMS plans to acquire all of the voting securities of Celgene in a cash and stock transaction with an equity value of approximately $74 billion (the ''Acquisition''). The Commission's Complaint alleges that the proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in the U.S. market for oral products to treat moderate-to-severe psoriasis. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that otherwise would be lost in this market as a result of the proposed Acquisition.

II. The Parties

Headquartered in New York City, BMS researches, develops, manufactures, and sells prescription pharmaceutical products and biologic products in several therapeutic areas, including oncology, cardiology, virology, and inflammatory diseases. Among other products, BMS is developing an oral product to treat moderate-to-severe psoriasis. Like BMS, Celgene researches, develops, manufactures and sells prescription pharmaceutical products in the United States. Celgene markets eight products, including an oral treatment for moderate-to-severe psoriasis.

III. The Relevant Product and Structure of the Market

Psoriasis is a chronic skin disease caused by an overactive immune system. The disease causes skin cells to multiply faster than normal and leads to a build-up of cells on the skin surface, forming bumpy red patches that are covered with white scales, known as plaques. The plaques can appear anywhere on the body, although they are most commonly found on the scalp, elbows, knees, and lower back. The severity of psoriasis (mild, moderate, or severe) is determined based upon the percentage of body surface area affected and the parts of the body that are affected. Typically, mild psoriasis covers less than 3 percent of the body, moderate psoriasis covers 3 to 10 percent of the body and severe psoriasis covers more than 10 percent of the body.

When deciding how to treat psoriasis, dermatologists typically evaluate the severity of the disease, any risk factors or contraindications for the patient, and the patient's preferences. Dermatologists consider efficacy data, safety data, and side effect profile of each product, as well as mode of administration to select the appropriate treatment course for their patients. While many injectable and infused products are approved to treat moderate-to-severe psoriasis, a number of patients object to such injections or find them inconvenient. For those patients, dermatologists often select an oral product.

Celgene's apremilast, marketed under the brand name Otezla, is a phosphodiesterase 4 inhibitor. Otezla is the most popular oral product approved to treat moderate-to-severe psoriasis in the United States. Several older oral generic products, including methotrexate and acitretin, are approved by the U.S. Food and Drug Administration (''FDA'') to treat psoriasis that does not respond to light, topical agents, and other forms of therapy. These drugs are still occasionally used in the treatment of psoriasis, but most doctors have moved to prescribing newer agents with better efficacy, better safety, or a more favorable side effect profile for patients with moderate-to-severe psoriasis who desire an oral treatment. BMS is developing BMS 986165, an oral, selective tyrosine kinase 2 inhibitor that is the most advanced oral treatment in development for moderate-to-severe psoriasis.

IV. The Relevant Geographic Market

The United States is the relevant geographic market in which to assess the competitive effects of the proposed Acquisition. Oral products to treat moderate-to-severe psoriasis are prescription pharmaceutical products and regulated by FDA. As such, products sold outside the United States, but not approved for sale in the United States, do not provide viable competitive alternatives for U.S. consumers.

V. Competitive Effects of the Acquisition

The proposed Acquisition would likely result in substantial competitive harm to consumers in the market for

oral products to treat moderate-to-severe psoriasis. Celgene is currently the market leader and BMS would likely be the next entrant into the market. Upon entry, BMS 986165 likely will compete directly with, and take sales from, Otezla.

VI. Entry Conditions

Entry in the relevant market would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the proposed Acquisition. New entry would require significant investment of time and money for product research and development, regulatory approval by the FDA, developing clinical history supporting the long-term efficacy of the product, and establishing a U.S. sales and service infrastructure. Such development efforts are difficult, time-consuming, and expensive, and often fail to result in a competitive product reaching the market.

VII. The Consent Agreement

The Consent Agreement eliminates the competitive concerns raised by the proposed Acquisition by requiring BMS and Celgene to divest Celgene's worldwide Otezla business, including its regulatory approvals, intellectual property, contracts, and inventory to Amgen. BMS and Celgene also must transfer all confidential business information, research and development information, regulatory, formulation, and manufacturing reports related to the divested products, as well as provide access to employees who possess or are able to identify such information. Additionally, to ensure that the divestiture is successful and to maintain continuity of supply, the proposed Order requires BMS and Celgene to supply Amgen with Otezla for a limited time while Amgen establishes its own manufacturing capability. The provisions of the Consent Agreement ensure that Amgen becomes an independent, viable, and effective competitor in the U.S. market.

Founded in 1980 and headquartered in Thousand Oaks, California, Amgen discovers, develops, manufactures and sells innovative human pharmaceutical and biologic products. Amgen's existing business includes products that are highly complementary to the divestiture assets. Amgen has the expertise, U.S. sales infrastructure, and resources to restore the competition that otherwise would have been lost due to the proposed Acquisition.

BMS and Celgene must accomplish the divestitures no later than ten days after consummating the proposed Acquisition. If the Commission determines that Amgen is not an acceptable acquirer, or that the manner of the divestitures is not acceptable, the proposed Order requires BMS and Celgene to unwind the sale of rights and assets to Amgen and then divest the affected product to a Commission-approved acquirer within six months of the date the Order becomes final. To ensure compliance with the Order, the Commission has agreed to appoint a Monitor to ensure that BMS and Celgene comply with all of their obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the Otezla rights and assets to Amgen. The proposed Order further allows the Commission to appoint a trustee in the event that BMS and Celgene fail to divest the products as required.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

Statement of Commissioner Noah Joshua Phillips

I write to address the dissenting statements issued by my colleagues, Commissioners Chopra and Slaughter.

From these statements, a reader unfamiliar with the U.S. antitrust laws could be forgiven for gleaning several inaccurate conclusions. First, companies in the U.S. may not merge unless the antitrust enforcement agencies permit them to do so. Second, to stop a merger, the government need not provide any theory as to why a merger violates the law, nor any evidence to support that theory. Third, antitrust enforcement agencies can and should condemn mergers they cannot prove violate the law because the agencies deem the business justifications for the merger insufficient.

The unfamiliar reader would be wrong on each count. That is not the law. (Nor, for that matter, is it sound policy.)

The structural remedy agreed to by the merging parties in this case addresses every competition concern uncovered after an extensive investigation. Every one. But Commissioners Chopra and Slaughter still dissent. Why?

Commissioner Chopra cites a study purporting to show that mergers ''can choke off innovation''. Okay. But how does this merger do that? Without an answer to that question, the logic is rather like saying an individual defendant is guilty of a crime because there is too much of that crime in society. Thank goodness that is not how our criminal justice system works.

He next writes that we must approach our investigations of pharmaceutical mergers with careful scrutiny and with great humility. I agree completely. What I fail to see is how careful scrutiny and great humility lead to the conclusion, without any clearly articulated theory of liability or facts to support it, that this merger violates the law—or, again without any facts in support, that the remedy is inadequate.

The next basis Commissioner Chopra offers for his dissent is his view that the merger is animated by financial and tax considerations, which he deems insufficient to justify the merger. Leaving aside the question of why he thinks the job of antitrust enforcers is to value-judge a merger beyond its impact upon competition, that gets the law precisely backwards. The parties get to merge unless we can show a harm to competition, not the other way round.

His dissent also alludes to ''distorted'' incentives of the buyer due to the overlapping ownership of the parties. I must admit that the precise meaning of that escapes me. Perhaps it is a reference to the theory of ''common ownership'', which has stoked great academic debate and about which I have spoken repeatedly.[1] Whatever the meaning, Commissioner Chopra fails to articulate how the merger will distort the buyer's incentives, much less in a way that violates the law. To sue, or to seek an additional remedy, we need more.

The dissenting commissioners both criticize the Commission's investigations of pharmaceutical mergers generally, expressing concern that they fail to capture all the harms to competition posed by such mergers.[2] But, again, the most they offer is speculation about vaguely articulated harms, without reference to any

[1] Noah Joshua Phillips, Commissioner, U.S. Fed. Trade Comm'n, Taking Stock: Assessing Common Ownership, Address at the Global Antitrust Economics Conference (June 1, 2018), *https://www.ftc.gov/system/files/documents/public_statements/1382461/phillips_-_taking_stock_6-1-18_0.pdf;* Noah Joshua Phillips, Commissioner, U.S. Fed. Trade Comm'n, Competing for Companies: How M&A Drives Competition and Consumer Welfare, Address at the Global Antitrust Economics Conference (May 31, 2019), *https://www.ftc.gov/system/files/documents/public_statements/1524321/phillips_-_competing_for_companies_5-31-19_0.pdf.*

[2] Like Commissioner Wilson, I believe staff conducted a careful investigation of this merger. *See* Statement of Commissioner Christine S. Wilson, In the Matter of Bristol-Myers Squibb Company/Celgene Corporation.

evidence that *this* merger is likely to exacerbate them. Nor do the dissenters cite a previous case that resulted in anticompetitive effects that they insinuate the Commission missed. The dissenting statements mention various violations of the antitrust laws committed by firms in the pharmaceutical industry, but neither explains how this merger makes such conduct more likely. For decades, the Federal Trade Commission has pursued enforcement against many different kinds of anticompetitive conduct in the pharmaceutical industry. That work, critical to controlling healthcare costs for Americans, will continue.

Neither dissenting commissioner argues that the consent order and associated divestiture are bad for competition or consumers, or identifies any additional remedy they believe is warranted. And neither proposes any basis to sue to stop the merger.[3] So, again, why dissent? At the end of the day, we are left only with the sense that Commissioners Chopra and Slaughter feel the merger will threaten competition and wish to dissociate themselves with it. To me, that is not enough. (Even if it were, a vote to join Commissioners Chopra and Slaughter would result, at the end of the day, in the merger without the remedy. Are they calling on their colleagues to vote with them?)

Returning to our unfamiliar reader, here is how the law actually works. First, to block a merger outright, U.S. antitrust enforcement agencies must convince a judge that it violates the law. In this country, where people and companies are free to do what they wish with their property subject to the constraints imposed by the law, our judges are somewhat hostile to the notion that we should block a merger when the parties have agreed to address *every* problem that we can identify. Second, we need to articulate a viable theory of harm to competition posed by the merger and produce evidence to support that theory. Third, our job is to enforce the antitrust laws, which guard against particular (competitive) harms that mergers may present. Other parts of the government guard against other harms posed by mergers, for example the Committee on Foreign Investment in the United States, which looks at certain investments for their potential impact on national security,[4] or the Securities and Exchange Commission, which reviews transactions to protect investors.[5] Our job is not to opine on whether a merger is ''good'' or ''bad'' for society as a whole, or to use our authority to make sure firms merge for reasons that someone might like (innovation) as opposed to reasons that they may not (tax).[6]

In reviewing the dissenting statements, readers—unfamiliar and otherwise—would do well to keep all of that in mind.

Statement of Commissioner Christine S. Wilson

The Commission has accepted, subject to final approval after receiving public comments, an Agreement Containing Consent Order from Bristol-Myers Squibb Company and Celgene Corporation that remedies the anticompetitive effect that otherwise would arise from BMS's proposed acquisition of Celgene. All members of the Commission (including Commissioners Chopra and Slaughter) [1] agree that the *only* evidence of harm to competition that staff found was in the market for oral products that treat moderate-to-severe psoriasis.[2] All members of the Commission also agree that the remedy in that market—a complete divestiture of all of Celgene's products and associated assets in that area—will preserve competition in that market. Moreover, this $13 billion divestiture is the largest in the history of U.S. merger enforcement.

I agree with Commissioner Slaughter that pharmaceutical price levels in the United States today are cause for concern. And there is ample evidence that prices of branded pharmaceuticals have increased much faster—perhaps six to eight times as fast—as prices in the rest of the economy.[3]

Unfortunately, many of the causes of higher drug prices, including systemic distortions created by massive regulatory regimes and a pervasive principal/agent problem, fall outside the jurisdiction and legal authority of the Federal Trade Commission. But within its limited authority as a competition agency, the Commission can—and does—pursue a comprehensive agenda to address anticompetitive mergers and unlawful conduct in the pharmaceutical industry. Specifically, the Commission:

• *Carefully Screens Pharmaceutical Mergers:* Similar to the current enforcement action, the Commission routinely has challenged anticompetitive mergers and acquisitions. During the past five years, the Commission has issued complaints challenging 13 mergers and required the divestiture of 130 branded and generic products to address competitive overlaps for the sale or development of particular drugs.[4]

[3] In fairness, Commissioner Chopra does state his view that the agency should litigate to block more pharmaceutical mergers outright. But he fails to answer whether the Commission should litigate *this case,* and—more importantly—on what legal and factual basis. That is the question we face today.

[4] *See* 50 U.S.C. 4565.

[5] *See, e.g.,* 15 U.S.C. 78m(d), 78n(d).

[6] This is not to say that we should view financial or tax considerations as improper motivations for a merger.

[1] *See* Dissenting Statement of Commissioner Rebecca Kelly Slaughter, In the Matter of Bristol-Myers Squibb and Celgene; Dissenting Statement of Commissioner Rohit Chopra on Bristol-Myers Squibb/Celgene.

[2] While Commissioner Chopra agrees that there is no evidence of harm to innovation, he concludes that the lack of evidence implies there is a problem with the investigative process. I disagree with Commissioner Chopra's hypothesis.

Staff conducted the investigation of this proposed transaction in the same careful manner that all pharmaceutical transactions are investigated. The investigation examined the likely competition between and among all of BMS and Celgene's current products and those now in development. The investigation identified a likely harm to innovation involving oral products to treat moderate-to-severe psoriasis; the identified overlap includes a product that is still in development by BMS. In addition, staff investigated whether the proposed transaction would decrease innovation competition; instead, the investigation found that reduced innovation competition was unlikely.

Moreover, there is no reason to believe there will be reduced innovation in the pharmaceutical industry as a result of this transaction. No fewer than 711 companies are conducting late-stage research and development in oncology, the therapeutic category in which BMS and Celgene conduct research. *See* IQVIA Institute Global Oncology Trends 2019, at 19, May 2019, *available at https://www.iqvia.com/-/media/iqvia/pdfs/institute-reports/global-oncology-trends-2019.pdf.*

To support his hypothesis that there must be additional unidentified harm to innovation, Commissioner Chopra seeks to introduce factors outside the analytical framework demanded by the statutes enforced by the Commission, including Section 7 of the Clayton Act, without offering any evidence to show that these non-competition factors may reduce innovation.

[3] *See, e.g.,* Suzanne M. Kirchhoff *et al.,* Congressional Research Service, Frequently Asked Questions About Prescription Drug Pricing and Policy, at 8–9 (Apr. 24, 2018), *available at https://fas.org/sgp/crs/misc/R44832.pdf* (plotting CPI–U data from the U.S. Bureau of Labor Statistics); Stephen W. Schondelmeyer & Leigh Purvis, AARP Public Policy Institute, Rx Price Watch Report: Trends in Retail Prices of Brand Name Prescription Drugs Widely Used by Older Americans: 2017 Year-End Update, at 6–8 (Sept. 2018), *available at https://www.aarp.org/content/dam/aarp/ppi/2018/09/trends-in-retail-prices-of-brand-name-prescription-drugs-year-end-update.pdf* (using data from Truven MarketScan to estimate that ''brand name drug prices went up more than 8.5 times the rate of general inflation during [the] 12-year period [from December 31, 2005 to December 31, 2017]''); Robert Pearl, *How Big Pharma Might Be Cut Down to Size,* Forbes.com, May 11, 2017, *available at https://www.forbes.com/sites/robertpearl/2017/05/11/how-big-pharma-might-be-cut-down-to-size/* (''[A]ccording to the U.S. Bureau of Labor Statistics, prices for U.S.-made pharmaceuticals have climbed over the past decade six times as fast as the cost of goods and services overall.''); Charles Silver & David A. Hyman, Overcharged: Why Americans Pay Too Much for Health Care 25–27 (2018) (discussing analyses from Schondelmeyer & Purvis, Pearl, and others).

[4] *See Baxter Int'l Inc.,* Dkt. No. C–4620 (F.T.C. July 20, 2017); *Amneal Holdings, LLC,* Dkt. No. C–4650 (F.T.C. Apr. 27, 2018); FTC v. Mallinckrodt

• *Combats Anticompetitive Patent Litigation Settlements:* In 2013, the FTC won a landmark victory at the Supreme Court in the *Actavis* case,[5] and has prevailed in subsequent challenges of similar agreements. For instance, earlier this year, the Commission issued a unanimous opinion condemning a patent litigation settlement after finding that the brand manufacturer possessed market power in the market for branded and generic oxymorphone ER, the potential generic entrant received a large and unjustified payment, and the respondent failed to show a cognizable justification for the restraint.[6] The Commission's successful challenges of prior settlements have substantially reduced the number of anticompetitive patent litigation settlements into which companies are entering today.

• *Challenges Abuse of FDA Regulatory Processes:* The Commission has brought several cases alleging that pharmaceutical companies misuse FDA regulatory processes to impede competition. For example, in 2014 the FTC challenged a pharmaceutical company for abusing the litigation process by filing meritless patent lawsuits against competitors to keep them off the market. The Commission won a judgment for $448 million.[7] The FTC also sued Shire ViroPharma in 2017, alleging anticompetitive abuse of the FDA citizen-petition process to keep the FDA from approving the competitive products, thereby keeping those lower-cost drugs off the market. (Unfortunately, the Commission lost the case on a statutory construction issue that kept the Court of Appeals from ruling on the merits of the allegations.[8]) And under Chairman Tim Muris, the FTC challenged wrongful listings in the FDA Orange Book[9] by BMS, one of the very parties before us today, that allegedly were used obtain unwarranted automatic 30-month stays of FDA approval of generic pharmaceuticals that would have competed with BMS branded products.[10]

• *Advocates for the Reform of Misused Regulations:* The FTC advised the FDA and Congress of possible abuses of the Risk Evaluation and Mitigation Strategy (REMS) framework to forestall competitors' entry by denying access to branded drugs required to conduct bioequivalence testing, a gating factor for FDA approval to launch.[11] In remarks before a Subcommittee of the Senate Committee on Commerce, Science, and Transportation, I encouraged Congress to take action on this front.[12] And under the bipartisan leadership of first Chairman Bob Pitofsky and then Chairman Tim Muris, the FTC conducted a 6(b) study of generic drugs and issued a report recommending refinements to the Hatch Waxman Act and changes to the FDA regulatory framework, many of which were implemented, so as to fulfill the original balance of innovation and competition struck by the Hatch Waxman Act.

• *Challenges Novel Anticompetitive Strategies As They Arise:* Earlier this year the Commission challenged and settled a case against Reckitt Benckiser Group plc alleging that Reckitt introduced a film version of Suboxone, which treats opioid addiction, and pushed the market to use the film version rather than the existing tablet version that was about to face generic competition.[13] The complaint alleged that Reckitt pushed the market toward the film and away from the tablets by claiming the film was safer than tablets while having no data to back up the claim and significantly raising the price of the tablet when the film was costlier to make. Under the terms of the settlement, Reckitt was required to contribute $50 million to a fund to be distributed to those who were overcharged.[14]

• *Informs Courts of Relevant Competition Principles and Policies:* The Commission has filed briefs as amicus curiae in cases involving patent litigation settlements,[15] REMS and restricted distribution systems,[16] and product hopping.[17]

This list of actions by the FTC is by no means exhaustive.[18] But the message is clear—the FTC uses the full force and weight of its authority to protect consumers from unlawful conduct that increases prices and reduces innovation in this important sector of our economy.

Notwithstanding the Commission's valiant efforts, there are many factors that contribute to increasing drug prices but that are not cognizable under the antitrust laws, and therefore that the FTC does not have the legal authority to fix. Even if the FTC and other government enforcers did their job

ARD Inc., No. 1:17-cv-00120 (D.D.C. Jan. 18, 2017); *Mylan, N.V.,* Dkt. No. C–4590 (F.T.C. July 26, 2016); *Teva Pharmaceutical Indus. Ltd.,* Dkt. No. C–4589 (F.T.C. July 26, 2016); *Hikma Pharmaceuticals PLC,* Dkt. No. C–4572 (F.T.C. Mar. 28, 2016); *Hikma Pharmaceuticals PLC,* Dkt. No. C–4568 (F.T.C. Feb. 26, 2016); *Lupin Ltd.,* Dkt. No. C–4566 (F.T.C. Feb. 18, 2016); *Endo Int'l PLC,* Dkt. No. C–4539 (F.T.C. Sept. 24, 2015); *Pfizer Inc.,* Dkt. No. C–4537 (F.T.C. Aug. 21, 2015); *Impax Labs, Inc.,* Dkt. No. C–4511 (F.T.C. Mar. 5, 2015); *Novartis AG,* Dkt. No. C–4510 (F.T.C. Feb. 20, 2015); *Sun Pharmaceutical Indus. Ltd,* Dkt. No. C–4506 (F.T.C. Jan. 30, 2015).

[5] FTC v. Actavis, Inc., 570 U.S. 136 (2013).

[6] *See, e.g., Impax Laboratories, Inc.,* Dkt. No. 9373 (F.T.C. April 3, 2019) (Commission Decision).

[7] FTC v. AbbVie, Inc. 329 F. Supp. 3d 98 (E.D. Pa. 2018).

[8] FTC v. Shire ViroPharma, Inc., 917 F.3d 147, 156 (3d Cir. 2019).

[9] Pursuant to the FDC Act, a brand-name drug manufacturer seeking to market a new drug product must first obtain FDA approval by filing a New Drug Application (''NDA''). At the time the NDA is filed, the NDA filer must also provide the FDA with certain categories of information regarding patents that cover the drug that is the subject of its NDA. 21 U.S.C. 355(b)(1). Upon receipt of the patent information, the FDA is required to list it in an agency publication entitled ''Approved Drug Products with Therapeutic Equivalence,'' commonly known as the ''Orange Book.'' *Id.* § 355(j)(7)(A).

[10] *See* Complaint, *Bristol-Myers Squibb Co.,* Dkt. No. C–4076 (F.T.C. filed Apr. 14, 2003).

[11] *See, e.g.,* Statement of the Federal Trade Commission to the Department of Health and Human Services Regarding the HHS Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs (July 16, 2018); Prepared Statement of Markus H. Meier, Acting Director, Bureau of Competition, Federal Trade Commission before the U.S. House of Representatives, Judiciary Committee, Subcommittee on Regulatory Reform, Commercial and Antitrust Laws, on ''Antitrust Concerns and the FDA Approval Process'' (July 27, 2017).

[12] *See* Commissioner Christine S. Wilson, Oral Statement before Senate Committee on Commerce, Science & Transportation, Subcommittee on Consumer Protection, Product Safety, Insurance, & Data Protection (Nov. 27, 2018).

[13] *See* Joint Motion for Entry of Stipulated Order for Permanent Injunction and Equitable Monetary Relief, FTC v. Reckitt Benckiser Group, PLC, No. 1:19–cv–00028 (W.D. Va. filed July 11, 2019).

[14] I was recused from this enforcement action because, before joining the Commission, I represented a generic drug company before the FTC and FDA challenging this anticompetitive conduct.

[15] *See, e.g.,* Br. of *amicus curiae* Federal Trade Commission in Support of Plaintiffs-Appellants, *In re* Lamictal Direct Purchaser Antitrust Litigation, No. 2:12–cv–995, (3d Cir. filed Apr. 28, 2014) (explaining that a commitment not to introduce an authorized generic product is the type of settlement subject to antitrust scrutiny); Supp. Br. of *amicus curiae* Federal Trade Commission in Support of Plaintiffs-Appellants, *In re* Effexor XR Antitrust Litig., No. 3:11–cv–05479 (3d Cir. filed Mar. 17, 2016) (explaining that litigation settlements among private parties are private commercial agreements and are not exempt from antitrust scrutiny under the *Noerr* doctrine).

[16] *See, e.g.,* Br. of *amicus curiae* Federal Trade Commission, Mylan Pharmaceuticals, Inc. v. Celgene, No. 2:14–cv–2094 (D.N.J. filed June 17, 2014) (explaining that a monopolist's refusal to sell to potential competitors may, under certain limited circumstances, violate Section 2 of the Sherman Act and that a brand name drug manufacturer's patents do not reach activities undertaken in connection with bioequivalence testing).

[17] *See* Br. of *amicus curiae* Federal Trade Commission, Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co., No. 12–cv–3824 (E.D. Pa. filed Nov. 21, 2012) (explaining that minor, non-therapeutic changes to a branded pharmaceutical product that harm generic competition can constitute exclusionary conduct that violates U.S. antitrust laws).

[18] For a complete review of the Commission's ongoing and extensive efforts to combat anticompetitive mergers and unlawful conduct in the pharmaceutical industry, *see* Markus H. Meier, Bradley S. Albert, & Kara Monahan, Overview of FTC Actions in Pharmaceutical Products and Distribution (Sept. 2019), available at *https://www.ftc.gov/system/files/attachments/competition-policy-guidance/20190930_overview_pharma_final.pdf.*

flawlessly (and our ''retrospective'' reviews of our past work suggests we do quite well), pharmaceutical prices would still rise for many other reasons. For example, last year the Trump Administration released two reports identifying various market imperfections in health care markets, including prescription drug markets, and various regulatory and legislative reforms that would increase consumer choice and provider competition.[19] Similarly, former FDA Administrator Scott Gottlieb has identified several flaws in the market for biosimilars—generic biologic medicines—that he believes require Congressional action.[20] And Professors David Hyman (also a former FTC Special Counsel) and Charles Silver have identified a host of other legal and regulatory factors that increase drug prices,[21] including FDA delays in processing generic applications and a Medicare system pursuant to which the government purchases one- third of all retail drugs but is barred from negotiating the prices that it pays.[22]

There is broad concern about prescription drug price levels, and I share those concerns. But here, Commission staff conducted a thorough investigation and found evidence that the acquisition of Celgene by BMS would, if not addressed, diminish competition in one relevant market. Commission staff then negotiated a record-breaking consent agreement that replaces the competition otherwise lost because of the merger by divesting all of Celgene's relevant products and assets to a new and robust competitor. Rather than asserting that staff should have found something—anything—more to justify asking a court to block the transaction, we should recognize the limited authority we have been granted by Congress and encourage other responsible governmental actors to fix the many problems in this sector that lie beyond our jurisdiction.

Dissenting Statement of Commissioner Rebecca Kelly Slaughter

The Federal Trade Commission has a long history of reviewing mergers between pharmaceutical manufacturers using an analytical framework that identifies specific product overlaps between the merging parties, including of drugs in development, and requiring divestitures of one of those products. This approach addresses significant competitive concerns in these mergers,[1] but I am concerned that it does not fully capture all of the competitive consequences of these transactions.[2]

The consent decree in this case follows the Commission's standard approach. It remedies a serious concern about a drug-level overlap between BMS's development-stage BMS 986165 (or ''TYK2'') and Celgene's on-market Otezla for the treatment of moderate-to-severe psoriasis. This is important, and I support the Commission's effort to remedy this drug-level overlap. However, I remain concerned that this analytical approach is too narrow. In particular, I believe the Commission should more broadly consider whether any pharmaceutical merger is likely to exacerbate anticompetitive conduct by the merged firm or to hinder innovation.

Several recent developments enhance my concerns. Branded drug prices have increased substantially in recent years,[3] and pharmaceutical merger activity persists at a high pace.[4] The high rate of drug company consolidation has coincided with a sea change in the structure of pharmaceutical research and development; recent studies suggest mergers may inhibit research, development, or approval in this changing environment.[5] In addition, the pharmaceutical industry has long been the focus of anticompetitive conduct enforcement by both the Commission and private litigants, including for practices such as pay-for-delay settlements,[6] sham litigation,[7] and anticompetitive product hopping.[8] We must carefully consider the facts in each specific merger to understand whether or how it may facilitate anticompetitive conduct, and therefore be more likely to result in a substantial lessening of competition.

Going forward, I hope the Commission will take a more expansive approach to analyzing the full range of competitive consequences of

[19] U.S. Dep't of Health and Human Servs., American Patients First: A Trump Administration Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs (May 2018), *available at https://www.hhs.gov/sites/default/files/AmericanPatientsFirst.pdf;* U.S. Dep't of Health and Human Servs., U.S. Dep't of the Treasury, & U.S. Dep't of Labor, Reforming America's Healthcare System Through Choice and Competition 63–67 (2018), *available at https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf* (discussing, *e.g.,* the use of ''any-willing-provider'' laws in the context of drug prescription plans and Medicare Part D). FTC staff consulted with HHS on the latter report. *See id.* at 3 (''Executive Order 13813, . . . requires the Secretary of Health and Human Services (HHS), in consultation with the secretaries of the Treasury and Labor and the Federal Trade Commission, to provide a report to the President.'').

[20] Scott Gottlieb, Op-Ed, *Don't Give Up on Biosimilars—Congress Can Give Them a Boost,* Wall St. J., Aug. 25, 2019, *https://www.wsj.com/articles/dont-give-up-on-biosimilarscongress-can-give-them-a-boost-11566755042.*

[21] *See, e.g.,* Charles Silver & David A. Hyman, *Here's a Plan to Fight High Drug Prices that Could Unite Libertarians and Socialists, Vox.Com*, June 21, 2018, *https://www.vox.com/the-big- idea/2018/6/21/17486128/prescription-drug-prices-monopolies-epipen-shkreli-sanders-patents-prizes; see also* Statement of Commissioner Rebecca Kelly Slaughter, *supra* note 1, at 2 n.10 (citing Silver & Hyman approvingly).

[22] *See* Silver & Hyman, *supra* note 3, at 53–60.

[1] Within the standard analytical framework for pharmaceutical mergers, the Commission has done a good job of studying the effects of previous divestitures, and has taken seriously the lesson that divestitures of on-market, rather than pipeline products, are often more likely to succeed in preserving competition among the overlapping products. *See* Bruce Hoffman, *It Only Takes Two to Tango: Reflections on Six Months at the FTC,* at 6 (Feb. 2, 2018).

[2] The Commission has been very successful in negotiating settlements with merging parties to address drug overlaps. The Commission has not recently litigated pharmaceutical merger cases, and, although merger litigation in other industries and merger guidelines provide useful guidance, we simply do not have a contemporary body of pharmaceutical merger caselaw to clarify the boundaries for our analytical approach.

[3] *See* IQVIA Institute for Human Data Science, *The Global Use of Medicine in 2019 and Outlook to 2023,* at 11 (Jan. 29, 2019); IQVIA Institute for Human Data Science, *Medicine Use and Spending in the U.S.,* at 8 (Apr. 19, 2018); Laura Entis, *Why Does Medicine Cost So Much? Here's How Drug Prices Are Set,* Time (Apr. 9, 2019), *https://time.com/5564547/drug-prices-medicine/; see also* Joanna Shepherd, *The Prescription for Rising Drug Prices: Competition or Price Controls?,* 27 Health Matrix 315, 315–16 (2017); Aimee Picchi, *Drug Prices in 2019 are Surging, With Hikes at 5 Times Inflation,* CBS News (July 1, 2019), *https://www.cbsnews.com/news/drug-prices-in-2019-are-surging-with-hikes-at-5-times-inflation/.*

[4] *See* Barak Richman, et al., *Pharmaceutical M&A Activity: Effects on Prices, Innovation, and Competition,* 48 Loy. U. Chi. L. J. 787, 790–91 (2017); Meagan Parrish, *What's Behind all the M&A Deals in Pharma,* Pharma Manufacturing (July 31, 2019).

[5] *See* Justus Haucap & Joel Stiebale, *Research: Innovation Suffers When Drug Companies Merge,* Harvard Business Review (Aug. 3, 2016); Justus Haucap & Joel Stiebale, *How Mergers Affect Innovation: Theory and Evidence From the Pharmaceutical Industry* (2016) (finding a negative effect on research and development activity of the merged firm and rival firms); *but see* Richman, et al., *supra* note 4 at 799–801, 817–18 (finding a positive correlation between increased pharmaceutical merger and drug development activity, but noting competitive concerns about a ''bottleneck'' in FDA approval).

[6] *See* Press Release, Fed. Trade Comm'n, *Last Remaining Defendant Settles FTC Suit that Led to Landmark Supreme Court Ruling on Drug Company ''Reverse Payments''* (Feb. 28, 2019), *https://www.ftc.gov/news-events/press-releases/2019/02/last-remaining-defendant-settles-ftc-suit-led-landmark-supreme.*

[7] *See* Press Release, Fed. Trade Comm'n, *Statement of FTC Chairman Joe Simons Regarding Federal Court Ruling in FTC* v. *AbbVie* (June 29, 2018), *https://www.ftc.gov/news-events/press-releases/2018/06/statement-ftc-chairman-joe-simons-regarding-federal-court-ruling.*

[8] *See* Press Release, Fed. Trade Comm'n, *Reckitt Benckiser Group plc to Pay $50 Million to Consumers, Settling FTC Charges that the Company Illegally Maintained a Monopoly over the Opioid Addiction Treatment Suboxone* (July 11, 2019), *https://www.ftc.gov/news-events/press-releases/2019/07/reckitt-benckiser-group-plc-pay-50-million-consumers-settling-ftc.*

pharmaceutical mergers. I urge not only the Commission, but also researchers and industry experts to think carefully and creatively about these cases, and in particular to study the effects of recent consummated mergers on drug research, development, and approval. Outside of merger enforcement, we should also continue to police aggressively business practices that suppress competition. Indeed, as Commissioner Chopra and I have explained elsewhere, we should unleash the full scope of our authority under Section 5 to combat high drug prices.[9]

The problem of high drug prices is too important to leave any potential solutions unexhausted. As a society, we should also consider all other policy interventions that would help combat high drug prices.[10]

Dissenting Statement of Commissioner Rohit Chopra

Summary

- Today's troubles in the pharmaceutical industry are well known. Drug pricing is out-of-control and innovation is too slow. Given the consequences for human life, the FTC must ensure fierce competition in this market through close scrutiny of mergers and conduct.
- The agency has scored big victories in court to combat anticompetitive conduct in the industry. But, when it comes to mergers, Commissioners have typically voted to steer clear of the courtroom, instead focusing on settlements that address product overlaps.
- Given the size and potential impact of this massive merger, I am skeptical that the status quo approach will uncover the range of potential harms to American patients.

When it comes to life-saving pharmaceuticals, the Federal Trade Commission should never ignore serious warning signs that most Americans see clearly. Many of us depend on prescription drugs to survive, but too many cannot afford the high costs. The argument that sky-high prices are necessary for innovation has been falling apart, as more evidence reveals that many new drugs seem to be designed to extend exclusivity, rather than providing meaningful therapeutic benefits.[1]

Predicting the anticompetitive effects of massive mergers in any industry is difficult. This is especially true in pharmaceuticals, where research and discovery are core to competition. Some evidence shows that these mergers have choked off innovation,[2] creating harms that are immeasurable for those waiting for a cure.

Routine vs. Rigor

Over the years, the agency has worked to combat abuse of intellectual property and other anticompetitive conduct by pharmaceutical companies, achieving major victories in courts across the country. Our approach to pharmaceutical mergers, however, has focused primarily on reaching settlements, rather than litigation or in-depth merger studies. The agency has focused on seeking divestitures of individual products, usually to another major pharmaceutical player.

There have been longstanding, bipartisan concerns about whether this strategy is truly working. For example, in 2005, as he reflected on his six years of service as Commissioner, Thomas Leary lamented that the agency's approach to these investigations mostly stayed the same, despite overarching concerns about other anticompetitive harms.[3]

During my time as a Commissioner, I have pushed for the agency to be more rigorous across all of our work by opening our eyes to new types of analysis and sources of evidence,[4] while avoiding assumptions that may be outdated. Given some of the clear warning signs in the industry, we must approach our investigations of pharmaceutical mergers with careful scrutiny and great humility about our longstanding practices.

This massive $74 billion merger between Bristol-Myers Squibb (NYSE: BMY) and Celgene (NASDAQ: CELG) may have significant implications for patients and inventors, so we must be especially vigilant. In my view, this transaction appears to be heavily motivated by financial engineering[5] and tax considerations[6] (as opposed to a genuine drive for greater discovery of life-saving medications), without clear benefits to patients or the public. The buyer's incentives might also be distorted, given overlaps in ownership.[7]

[9] *See* Statement of Commissioners Rohit Chopra and Rebecca Kelly Slaughter Regarding the Federal Trade Commission Report on the Use of Section 5 to Address Off-Patent Pharmaceutical Price Spikes, (June 27, 2019).

[10] The problem of high drug prices has prompted a number of proposed policy solutions in addition to antitrust enforcement, including (1) reference pricing, (2) reforming import restrictions, (3) innovation prizes, and (4) Medicare Part D price negotiation. *See* So-Yeon Kang, et al., *Using External Reference Pricing in Medicare Part D to Reduce Drug Price Differentials With Other Countries,* 5 Health Aff. 38 (2019); Tim Wu, *How to Stop Drug Price Gouging,* N.Y. Times (Apr. 20, 2017), *https://www.nytimes.com/2017/04/20/opinion/how-to-stop-drug-price-gouging.html;* Charles Silver & David A. Hyman, *Here's a Plan to Fight High Drug Prices That Could Unite Libertarians and Socialists,* Vox (Jun. 21, 2018), *https://www.vox.com/the-big-idea/2018/6/21/17486128/prescription-drug-prices-monopolies-epipen-shkreli-sanders-patents-prizes;* Juliette Cubanski & Tricia Neuman, *Searching for Savings in Medicare Drug Price Negotiations,* Henry J. Kaiser Family Foundation (Apr. 26, 2018).

[1] Donald W. Light & Joel R. Lexchin, *Pharmaceutical R&D: What do we get for all that money?,* 345 British Med. J. 22, 24 (2012), *https://www.bmj.com/bmj/section-pdf/187604?path=/bmj/345/7869/Analysis.full.pdf.*

[2] *See generally,* Justus Haucap & Joel Stiebale, *How Mergers Affect Innovation: Theory and Evidence from the Pharmaceutical Industry* (Düsseldorf Inst. for Competition Economics, Discussion Paper No. 218, 2016), *http://www.dice.hhu.de/fileadmin/redaktion/Fakultaeten/Wirtschaftswissenschaftliche_Fakultaet/DICE/Discussion_Paper/218_Haucap_Stiebale.pdf.*

[3] Interview with Commissioner Thomas B. Leary, 19 (3) A.B.A. Antitrust Health Care Chronicle 1, 5 (2005), *https://www.ftc.gov/public-statements/2005/09/health-care-interview-commissioner-thomas-b-leary.*

[4] I have previously noted that the agency can enhance its assessments of the likelihood of entry by new innovators, as well as its approach to vetting the financial condition of divestiture buyers. Statement of Commissioner Rohit Chopra, In the Matter of Fresenius Medical Care AG & Co. KGaA and NxStage Medical, Inc. (Feb. 19, 2019), *https://www.ftc.gov/public-statements/2019/02/statement-commissioner-chopra-matter-fresenius-medical-care-ag-co-kgaa;* Statement of Commissioner Rohit Chopra, In the Matter of Linde AG, Praxair, Inc., and Linde PLC (Oct. 22, 2018), *https://www.ftc.gov/public-statements/2018/10/statement-commissioner-chopra-matter-linde-ag-praxair-inc-linde-plc.*

[5] This transaction will lead to changes in the merged firm's capital structure, as well as an acceleration of share buybacks. I fear that these changes will alter the firm's incentives in ways that might increase the likelihood of anticompetitive conduct. *See* Bristol-Myers Squibb, Press Release, Bristol-Myers Squibb Announces Agreement Between Celgene and Amgen to Divest OTEZLA® for $13.4 Billion (Aug. 26, 2019, 6:30 a.m.), *https://news.bms.com/press-release/corporatefinancial-news/bristol-myers-squibb-announces-agreement-between-celgene-and-a.*

[6] Tax avoidance appears to be one of the primary motivations of the deal, rather than a meaningful increase in the firms' ability to innovate or operate effectively. *See, e.g.,* Siri Bulusu, *Celgene Holders May See Tax Benefit From Bristol-Myers Deal (1),* Bloomberg Tax (Jan. 4, 2019, 4:43 p.m.), *https://news.bloombergtax.com/daily-tax-report/celgene-holders-may-see-tax-benefit-from-bristol-myers-deal-1* (noting that the buyer went out of its way to make sure the stock component of the merger will be taxable and describing how that tax would be deductible by Celgene shareholders). Tax considerations were also relevant to Amgen, the Commission's approved buyer of a divested asset. Amgen publicly disclosed that it would recognize $2.2 billion in tax benefits, on a present value basis. *See* Michael Erman & Manas Mishra, *Amgen to buy Celgene psoriasis drug Otezla for $13.4 billion,* Reuters (Aug. 26, 2019), *https://www.reuters.com/article/us-bristol-myers-divestiture-amgen/amgen-to-buy-celgene-psoriasis-drug-otezla-for-13-4-billion-idUSKCN1VG102.*

[7] For example, I noted with great interest that two-thirds of Bristol-Myers Squibb's 100 largest shareholders also have stakes in Celgene, according to data assembled by Refinitiv. *See, e.g.,* Svea Herbst-Bayliss & Michael Erman, *Starboard joins opposition to Bristol-Myers' $74 billion Celgene*

Continued

In addition, there are also concerns about a history of anticompetitive conduct.[8] Expansive investigation for mergers like these is time well spent.

Again, with a few exceptions,[9] many FTC Commissioners have primarily scrutinized pharmaceutical mergers based on an examination of whether there are any product overlaps between the merging corporations, or where there may be clear-cut incentives to foreclose rivals with the ability to compete.[10] When there are no obvious overlaps or foreclosure possibilities, the Commission typically does not challenge any aspect of the transaction.[11]

I am deeply skeptical that this approach can unearth the complete set of harms to patients and innovation, based on the history of anticompetitive conduct of the firms seeking to merge and the characteristics of today's pharmaceutical industry when it comes to innovation. Will the merger facilitate a capital structure that magnifies incentives to engage in anticompetitive conduct or abuse of intellectual property? Will the merger deter formation of biotechnology firms that fuel much of the industry's innovation? How can we know the effects on competition if we do not rigorously study or investigate these and other critical questions? Given our approach, I am not confident that the Commission has sufficient information to determine the full scope of potential harms to competition of this massive merger.

Conclusion

The financial crisis and the Great Recession taught our country a tough lesson: When watchdogs wear blindfolds or fail to evolve with the marketplace, millions of American families can suffer the consequences. The regulators and enforcers of the mortgage industry failed to stop the widespread abuses that plagued the marketplace. And there are many more examples every year, from the opioid crisis to the failures of the Boeing 737 Max, where blindfolded regulators and the absence of rigorous investigation proved to be catastrophic to human life, despite so many warning signs.

When enforcers conduct wide-ranging, intensive inquiries that do not uncover unlawful conduct, then, of course, they cannot take action. However, when they wear blindfolds or cling to the status quo, they cannot assume that the public is protected.

For these reasons, I respectfully dissent.

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deal, Reuters (Feb. 28, 2019, 6:59 a.m.), *https://www.reuters.com/article/us-celgene-m-a-bristol-myers-wellington/starboard-joins-opposition-to-bristol-myers-74-billion-celgene-deal-idUSKCN1QH1K7.*

[8] For example, last year, the Food & Drug Administration published a list of drug makers that were the subject of complaints that they had restricted generic drug companies from accessing drug samples, which enable generic firms to develop viable alternatives. Celgene was a top recipient of these complaints. Alison Kodjak, *How a Drugmaker Gamed The System To Keep Generic Competition Away,* NPR (May 17, 2018; 5:00 a.m.), *https://www.npr.org/sections/health-shots/2018/05/17/571986468/how-a-drugmaker-gamed-the-system-to-keep-generic-competition-away.*

[9] *See, e.g.,* Statement of the Federal Trade Commission, In the Matter of Teva Pharmaceuticals Industries Ltd. and Allergan plc (July 27, 2016), *https://www.ftc.gov/public-statements/2016/07/statement-federal-trade-commission-matter-teva-pharmaceuticals-industries; cf.* Concurring Statement of Commissioner J. Thomas Rosch, Federal Trade Commission v. Ovation Pharmaceuticals, Inc. (Dec. 16, 2008), *https://www.ftc.gov/public-statements/2008/12/concurring-statement-commissioner-j-thomas-rosch-federal-trade-commission.*

[10] In this matter, the Analysis of Agreement Containing Consent Orders to Aid Public Comment focuses primarily on a specific product market overlap. This is similar to many past analyses contained in public notices seeking comment on proposed consent orders in the FTC's pharmaceutical merger actions. *See, e.g.,* Analysis Of Agreement Containing Consent Orders To Aid Public Comment, *In the Matter of Boston Scientific Corporation,* File No. 191–0039, *https://www.ftc.gov/system/files/documents/cases/191_0039_boston_scientific_aapc.pdf;* Analysis Of Agreement Containing Consent Orders To Aid Public Comment, *In the Matter of Amneal Holdings, LLC, Amneal Pharmaceuticals LLC, Impax Laboratories, Inc., and Impax Laboratories, LLC,* File No. 181–0017, *https://www.ftc.gov/system/files/documents/cases/1810017_amneal_impax_analysis_4-27-18.pdf. See also* Markus Meier et al., Fed. Trade Comm'n, Overview of FTC Actions In Pharmaceutical Products and Distribution (2019), *https://www.ftc.gov/system/files/attachments/competition-policy-guidance/overview_pharma_june_2019.pdf.*

[11] For example, in January 2015 the Commission granted early termination of the Hart-Scott-Rodino waiting period and took no enforcement action against the proposed $66 billion merger between Actavis plc and Allergan, Inc. *See* Fed. Trade Comm'n, Early Termination Notices, *20150313: Actavis plc; Allergan, Inc.* (Jan. 9, 2015), *https://www.ftc.gov/enforcement/premerger-notification-program/early-termination-notices/20150313.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0112]

Priority Topics for the Community Preventive Services Task Force (CPSTF); Request for Information

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the opening of a docket to obtain public comment to identify topics of public health importance that will form the basis of Community Preventive Services Task Force (CPSTF) evidence-based recommendations. CDC will use this information to support the CPSTF in its selection of priority topics to guide its work over the next five years. This docket will provide the opportunity to expand the current body of knowledge and identify important evidence gaps.

DATES: Written comments must be received on or before January 23, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0112, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Julie Zajac, Centers for Disease Control and Prevention, Office of the Associate Director for Policy and Strategy, Community Guide Office, 1600 Clifton Road NE, Mail Stop V25–5, Atlanta, GA 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Julie Zajac MPH, Community Guide Office, Office of the Associate Director for Policy and Strategy, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mail Stop V25–5, Atlanta, GA 30329. Phone: 404–498–1827; Email: *cpstf@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. In addition, CDC invites comments specifically on the following questions:

1. What public health topics should be prioritized for CPSTF systematic reviews assessing the effectiveness and economic merits of public health programs, services, and other interventions?
2. What is the rationale for choosing these topics?
3. What are examples of published studies on interventions within these topics?

Possible domains to consider in answering these questions include (but are not limited to):

- Burden of disease and preventability
- Presence of important health disparities
- Alignment with national efforts (*e.g.,* Healthy People 2020 or 2030)
- Ability to provide users with an adequate menu of options for addressing the health topic (*i.e.,* recommendations or findings for multiple interventions within the same topic)
- Balance across public health topics
- Complementary work of other bodies that provide guidance or recommendations on addressing health issues (*e.g.,* U.S. Preventive Services Task Force, Advisory Committee on Immunization Practices). Specific citations or websites that support suggested topics, rationale, or demonstrate available evidence would be helpful. Please feel free to respond to any or all of the questions.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. Note that personal information such as name, contact information, or other information that identifies an individual appearing in the body of submitted comments will be on public display. CDC will review all submissions and may choose to redact or withhold submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign.

Previous Areas of Focus: The CPSTF conducted the previous prioritization process in 2015 and identified the following list of topics to guide its work:

- Cardiovascular Disease Prevention and Control
- Diabetes Prevention and Control
- Environmental Health
- Injury Prevention
- Mental Health
- Obesity Prevention and Control (includes Nutrition)
- Older Adult Health
- Physical Activity
- Sleep Health
- Social Determinants of Health
- Substance Abuse (*e.g.,* Prescription Drug Overdose)
- Violence Prevention

Background

When communities need to know how to protect and improve their population's health, they turn to The Community Guide, a collection of evidence-based recommendations and findings from the CPSTF. The CPSTF makes evidence-based recommendations about the effectiveness and economic merits of public health programs, services, and other interventions used in real-world settings—such as communities, worksites, schools, faith-based organizations, military bases, public health clinics and departments, and integrated healthcare systems. Systematic reviews are conducted in accordance with the highest international standards, using a transparent and replicable methodology that accounts for the complexities of real-world public health interventions. CPSTF recommendations are based on systematic reviews, which help make sense of large bodies of scientific literature by applying the scientific process to summarize evidence about the effectiveness of particular approaches for addressing a public health problem. CDC provides administrative, scientific, and technical support for the CPSTF.

The CPSTF periodically updates its priority topics so that its recommendations are responsive to changes in evidence, burden of disease, changing epidemiology, and changes in how interventions are delivered (*e.g.,* use of technology). The CPSTF uses a multi-stage process to identify and prioritize topics. A prioritization committee seeks input from its members and liaison organizations, subject matter experts, public health authorities, the public, and other stakeholders. The topic areas identified are then ranked and prioritized by the full CPSTF using established criteria.

The criteria established by the CPSTF (such as the domains listed above) are then applied to each of the identified topics and presented to the full CPSTF for its discussion, expert assessment, and arrival at a final set of priorities.

CDC welcomes input to this docket from a diverse range of perspectives. The input will inform CDC's support to the CPSTF in its work to select priority topics and will improve the credibility and transparency of the process.

Dated: November 27, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–26092 Filed 12–2–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–5120]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on December 18, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–5120. The docket will close on December 17, 2019. Submit either electronic or written comments on this public meeting by December 17, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 17, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before December 10, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will

continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments 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–N–5120 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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 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 the 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: Lauren Tesh Hotaki, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: During the morning session, the committee will discuss biologics license application (BLA) 761136/Original 2, for luspatercept for injection, application submitted by Celgene Corporation. The proposed indication (use) for this product is for the treatment of adult patients with very low- to intermediate-risk myelodysplastic syndromes -associated anemia who have ring sideroblasts and require red blood cell transfusions.

During the afternoon session, the committee will discuss new drug application (NDA) 211723 for tazemetostat tablets, submitted by Epizyme, Inc. The proposed indication (use) for this product is for the treatment of patients with metastatic or locally advanced epithelioid sarcoma not eligible for curative surgery.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before December 10, 2019, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m. and 3:30 p.m. to 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before December 5, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the

speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by December 6, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Lauren Tesh Hotaki (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–26143 Filed 12–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–E–4403]

Determination of Regulatory Review Period for Purposes of Patent Extension; AIMOVIG

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for AIMOVIG and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 3, 2020. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 1, 2020. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 3, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of February 3, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–E–4403 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; AIMOVIG.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product AIMOVIG (erenumab-aooe). AIMOVIG is indicated for the preventive treatment of migraine in adults. Subsequent to this approval, the USPTO received a patent term restoration application for AIMOVIG (U.S. Patent No. 9,102,731) from Amgen, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 13, 2019, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of AIMOVIG represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for AIMOVIG is 2,042 days. Of this time, 1,675 days occurred during the testing phase of the regulatory review period, while 367 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* October 16, 2012. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 16, 2012.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* May 17, 2017. FDA has verified the applicant's claim that the biologics license application (BLA) for AIMOVIG (BLA 761077) was initially submitted on May 17, 2017.

3. *The date the application was approved:* May 17, 2018. FDA has verified the applicant's claim that BLA 761077 was approved on May 17, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 689 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–26081 Filed 12–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: HRSA Ryan White HIV/AIDS Program AIDS Drug Assistance Program Data Report, OMB No. 0915–0345—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than February 3, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 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, pursuant to Section 3506(c)(2)(A), the Paperwork Reduction Act of 1995.

Information Collection Request Title: HRSA Ryan White HIV/AIDS Program (RWHAP) AIDS Drug Assistance Program Data Report, OMB No. 0915–0345—Revision.

Abstract: HRSA's Ryan White HIV/AIDS Program (RWHAP) AIDS Drug Assistance Program (ADAP) is authorized under Part B of the RWHAP legislation, codified in sections 2611 *et seq.* of the Public Health Service Act, which provides grants to U.S. states and territories. RWHAP ADAP is a state and territory-administered program that provides Food and Drug Administration approved medications to low-income people with HIV who have limited or no health coverage from private insurance, Medicaid, or Medicare. RWHAP ADAP funds may also be used to purchase health insurance for eligible clients and for services that enhance access, adherence, and monitoring of drug treatments.

All 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the five U.S. Pacific Territories or Associated Jurisdictions receive RWHAP Part B grant awards including funds for RWHAP ADAP. RWHAP Part B reporting requirements include the annual submission of an ADAP Data Report (ADR), including a Recipient Report and a Client Report. The Recipient Report is a collection of basic information about grant recipient characteristics and policies including program administration, purchasing mechanisms, funding, and expenditures. The Client Report is a collection of client-level records (one record for each client enrolled in the RWHAP ADAP), which includes the client's encrypted unique identifier, basic demographic data, enrollment information, services received and clinical data.

HRSA is proposing several changes to the ADR Recipient and Client Reports to improve question clarity, delete obsolete data elements, combine related data elements, add new data elements, and improve response options to reflect program practices and support HRSA's analysis and understanding of program impact. Specifically, the Recipient Report includes the following proposed changes:

- Addition of two new ''Yes/No'' questions,
- addition of one new follow-up question that requests the number of new clients enrolled,
- clarification on two existing questions,
- revision to one existing question that requests program income and manufacturer rebates reinvested in ADAP, and
- deletion of six obsolete data elements.

The Client Report includes the following proposed changes:

- Revision to reporting of RWHAP ADAP-funded medications to include all medications rather than a subset of medications;
- revision to one existing question that requests reporting of all RWHAP ADAP-funded medications using the National Drug Code from the Drug Identification Code (d-codes);
- revision to reporting of clinical data for clients to include all clients rather than a subset of clients; and
- deletion of three data elements that were combined with other existing data elements.

Overall, HRSA does not anticipate these proposed revisions resulting in a change in the reporting burden. New and revised data elements require reporting of information that should already be collected by recipients to meet legislative or programmatic requirements for the proper oversight and administration of the program.

Need and Proposed Use of the Information: RWHAP requires the submission of annual reports by the Secretary of HHS to the appropriate committees of Congress. HRSA uses the ADR to evaluate the national impact of the RWHAP ADAP by providing client-level data on individuals being served, services being delivered, and costs associated with these services. The client-level data is used to monitor health outcomes of people with HIV receiving care and treatment through the RWHAP ADAP, to monitor the use of RWHAP ADAP funds in addressing the HIV epidemic and its impact on vulnerable communities, and to track progress toward achieving the goals identified in the National HIV/AIDS Strategy.

Likely Respondents: State ADAPs of RWHAP Part B recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOUR

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Grantee Report	54	1	54	6	324
Client-level Report	54	1	54	81	4,374
Total	*54	.....	54	.....	4,698

*The same respondents complete the Grantee Report and the Client-level Report.

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, Executive Secretariat.

[FR Doc. 2019–26099 Filed 12–2–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2020 Through September 30, 2021

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

SUMMARY: This notice announces the calculated Federal Medical Assistance Percentages (FMAP) rates, in accordance with sections 1101(a)(8) and 1905(b) of the Social Security Act (the Act), that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of Federal matching for state medical assistance (Medicaid), Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Title IV–E Foster Care Maintenance payments, Adoption Assistance payments and Kinship Guardianship Assistance payments, and the Enhanced Federal Medical Assistance Percentages (eFMAP) rates for the Children's Health Insurance Program (CHIP) expenditures.

DATES: The percentages listed in Table 1 of this notice will be effective for each of the four quarter-year periods beginning October 1, 2020 and ending September 30, 2021.

FOR FURTHER INFORMATION CONTACT: Ann Conmy, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201, (202) 690–6870.

SUPPLEMENTARY INFORMATION: The FMAP, Enhanced Federal Medical Assistance Percentages eFMAP, and disaster-recovery FMAP adjustments for Fiscal Year 2021 have been calculated pursuant to the Act. These percentages will be effective from October 1, 2020 through September 30, 2021.

Table 1 gives figures for each of the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This notice reminds states of adjustments available for states meeting requirements for disproportionate employer pension or insurance fund contributions and adjustments for disaster recovery. At this time, no state qualifies for such adjustments, and territories are not eligible.

This notice also contains the increased eFMAPs for CHIP as authorized under section 2705(b) of the Act, as amended by the HEALTHY KIDS Act of 2017, for fiscal year 2021 (October 1, 2020 through September 30, 2021).

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands. The percentages in this notice apply to state expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides separately for Federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Social Security Act (the Act) require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8), and calculations by the Department of Commerce of average income per person in each state and for the United States (meaning, for this purpose, the fifty states and the District of Columbia). The percentages must fall within the upper and lower limits specified in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

Federal Medical Assistance Percentage (FMAP)

Section 1905(b) of the Act specifies the formula for calculating FMAPs as the Federal medical assistance percentage'' for any state shall be 100 per centum less the state percentage; and the state percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such state bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum.

Section 1905(b) further specifies that the FMAP for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 55 percent. Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia, for purposes of titles XIX and XXI, shall be 70 percent. For the District of Columbia, we note under Table 1 that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act. The rates for the States, District of Columbia and the territories are displayed in Table 1, Column 1.

Section 1905(y) of the Act, as added by section 2001 of the Patient Protection and Affordable Care Act of 2010 (''Affordable Care Act'') (Pub. L. 111–148), provides for a significant increase in the FMAP for medical assistance expenditures for newly eligible individuals described in section 1902(a)(10)(A)(i)(VIII) of the Act, as added by the Affordable Care Act (the new adult group); ''newly eligible'' is defined in section 1905(y)(2)(A) of the Act. The FMAP for the new adult group is 100 percent for Calendar Years 2014, 2015, and 2016, gradually declining to 90 percent in 2020, where it remains indefinitely. In addition, section 1905(z) of the Act, as added by section 10201 of the Affordable Care Act, provides that states that offered substantial health coverage to certain low-income parents and nonpregnant, childless adults on the date of enactment of the Affordable Care Act, referred to as ''expansion states,'' shall receive an enhanced FMAP beginning in 2014 for medical assistance expenditures for nonpregnant childless adults who may be required to enroll in benchmark coverage under section 1937 of the Act. These provisions are discussed in more detail in the Medicaid Program: Eligibility Changes Under the Affordable Care Act of 2010 proposed rule published on August 17, 2011 (76 FR 51148, 51172) and the final rule published on March 23, 2012 (77 FR 17144, 17194). This notice is not intended to set forth the matching rates for the new adult group as specified in section 1905(y) of the Act or the matching rates for nonpregnant, childless adults in expansion states as specified in section 1905(z) of the Act.

Other Adjustments to the FMAP

For purposes of Title XIX (Medicaid) of the Social Security Act, the Federal Medical Assistance Percentage (FMAP), defined in section 1905(b) of the Social Security Act, for each state beginning with fiscal year 2006, can be subject to an adjustment pursuant to section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3. Section 614 of CHIPRA stipulates that a state's FMAP under Title XIX (Medicaid) must be adjusted in two situations.

In the first situation, if a state experiences no growth or positive growth in total personal income and an employer in that state has made a significantly disproportionate contribution to an employer pension or insurance fund, the state's FMAP must be adjusted. The adjustment involves disregarding the significantly disproportionate employer pension or insurance fund contribution in computing the per capita income for the state (but not in computing the per capita income for the United States). Employer pension and insurance fund contributions are significantly disproportionate if the increase in contributions exceeds 25 percent of the total increase in personal income in that state. A **Federal Register** notice with comment period was published on June 7, 2010 (75 FR 32182) announcing the methodology for calculating this adjustment; a final notice was published on October 15, 2010 (75 FR 63480).

The second situation arises if a state experiences negative growth in total personal income. Beginning with Fiscal Year 2006, section 614(b)(3) of CHIPRA specifies that, for the purposes of calculating the FMAP for a calendar year in which a state's total personal income has declined, the portion of an employer pension or insurance fund contribution that exceeds 125 percent of the amount of such contribution in the previous calendar year shall be disregarded in computing the per capita income for the state (but not in computing the per capita income for the United States).

No Federal source of reliable and timely data on pension and insurance contributions by individual employers and states is currently available. We request that states report employer pension or insurance fund contributions to help determine potential FMAP adjustments for states experiencing significantly disproportionate pension or insurance contributions and states experiencing a negative growth in total personal income. See also the information described in the January 21, 2014 **Federal Register** notice (79 FR 3385).

Section 2006 of the Affordable Care Act provides a special adjustment to the FMAP for certain states recovering from a major disaster. This notice does not contain an FY 2021 adjustment for a major statewide disaster for any state (territories are not eligible for FMAP adjustments) because no state had a recent major statewide disaster and had its FMAP decreased by at least three percentage points from FY 2019 to FY 2020. See information described in the December 22, 2010 **Federal Register** notice (75 FR 80501).

Enhanced Federal Medical Assistance Percentage (eFMAP) for CHIP

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as the ''enhanced FMAP'', for a state for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the state increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the state, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a state exceed 85 percent.

The eFMAP rates are used in the Children's Health Insurance Program under Title XXI, and in the Medicaid program for expenditures for medical assistance provided to certain children as described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the states (Table 1, Column 2).

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: Children's Health Insurance Program)

Dated: November 27, 2019.

Alex M. Azar II,

Secretary.

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2020–SEPTEMBER 30, 2021

[Fiscal year 2021]

State	Federal medical assistance percentages	Enhanced federal medical assistance percentages
Alabama	72.58	80.81
Alaska	50.00	65.00
American Samoa	55.00	68.50
Arizona	70.01	79.01
Arkansas	71.23	79.86
California	50.00	65.00
Colorado	50.00	65.00
Connecticut	50.00	65.00
Delaware	57.74	70.42
District of Columbia	70.00	79.00
Florida	61.96	73.37
Georgia	67.03	76.92
Guam	55.00	68.50
Hawaii	53.02	67.11
Idaho	70.41	79.29
Illinois	50.96	65.67
Indiana	65.83	76.08
Iowa	61.75	73.23
Kansas	59.68	71.78
Kentucky	72.05	80.44
Louisiana	67.42	77.19
Maine	63.69	74.58
Maryland	50.00	65.00
Massachusetts	50.00	65.00

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2020–SEPTEMBER 30, 2021—Continued

[Fiscal year 2021]

State	Federal medical assistance percentages	Enhanced federal medical assistance percentages
Michigan	64.08	74.86
Minnesota	50.00	65.00
Mississippi	77.76	84.43
Missouri	64.96	75.47
Montana	65.60	75.92
Nebraska	56.47	69.53
Nevada	63.30	74.31
New Hampshire	50.00	65.00
New Jersey	50.00	65.00
New Mexico	73.46	81.42
New York	50.00	65.00
North Carolina	67.40	77.18
North Dakota	52.40	66.68
Northern Mariana Islands	55.00	68.50
Ohio	63.63	74.54
Oklahoma	67.99	77.59
Oregon	60.84	72.59
Pennsylvania	52.20	66.54
Puerto Rico	55.00	68.50
Rhode Island	54.09	67.86
South Carolina	70.63	79.44
South Dakota	58.28	70.80
Tennessee	66.10	76.27
Texas	61.81	73.27
Utah	67.52	77.26
Vermont	54.57	68.20
Virgin Islands	55.00	68.50
Virginia	50.00	65.00
Washington	50.00	65.00
West Virginia	74.99	82.49
Wisconsin	59.37	71.56
Wyoming	50.00	65.00

[FR Doc. 2019–26207 Filed 11–29–19; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct; Correction

AGENCY: Office of the Secretary, HHS

ACTION: Correction of notice.

SUMMARY: This document corrects errors that appeared in the notice published in the November 14, 2019, **Federal Register** entitled ''Findings of Research Misconduct.''

DATES:

Correction Date: December 3, 2019.

Applicability Date: The correction notice is applicable for the Findings of Research Misconduct notice published on November 14, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Gorirossi or Dr. Alexander Runko at 240–453–8800.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2019–24715 of November 14, 2019 (84 FR 61916–61917), there were errors involving incorrect grant numbers affecting the first paragraph of the **SUMMARY** section and the second paragraph of the **SUPPLEMENTARY INFORMATION** section. The errors are identified and corrected in the Correction of Errors section below.

II. Correction of Errors

In FR Doc. 2019–24715 of November 14, 2019 (84 FR 61916–61917), make the following corrections:

1. On page 61916, first column, in FR Doc. 2019–24715, **SUMMARY** section, first paragraph, lines 20–21, and page 61916, Supplementary Information section, second paragraph, line 18, change ''P30 ES003891–25'' to ''P30 ES003819–25.''

2. On page 61916, **SUPPLEMENTARY INFORMATION** section, second paragraph, lines 20–21, delete ''NCI, NIH, grant R01 CA122737–01A2.''

Dated: November 25, 2019.

Elisabeth A. Handley,

Interim Director, Office of Research Integrity.

[FR Doc. 2019–26072 Filed 12–2–19; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Information Technology Advisory Committee 2020 Schedule

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), HHS.

ACTION: 2020 public meeting dates of the Health Information Technology Advisory Committee.

SUMMARY: The Health Information Technology Advisory Committee (HITAC) was established in accordance with section 4003(e) of the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the National

Coordinator for Health Information Technology (National Coordinator). The HITAC will hold public meetings throughout 2020. See list of public meetings below.

FOR FURTHER INFORMATION CONTACT: Lauren Richie, Designated Federal Officer, at *Lauren.Richie@hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 4003(e) of the 21st Century Cures Act (P.L. 114–255) establishes the Health Information Technology Advisory Committee (referred to as the ''HITAC''). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (P.L. 92–463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Composition

The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;
- 3 members are appointed by the HHS Secretary
  - 1 of whom shall be appointed to represent the Department of Health and Human Services and
  - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives; and
- Other members are appointed by the Comptroller General of the United States.

Members will serve for one-, two-, or three-year terms. All members may be reappointed for a subsequent three-year term. Each member is limited to two three-year terms, not to exceed six years of service. After establishment, members shall be appointed for a three-year term. Members serve without pay, but will be provided per-diem and travel costs for committee services.

Recommendations

The HITAC recommendations to the National Coordinator are publicly available at *https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it.*

Public Meetings

The schedule of meetings to be held in 2020 is as follows:

- January 15, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005
- February 19, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- March 18, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- April 15, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005
- May 20, 2020 from approximately 9:30 a .m. to 2:30 p.m./Eastern Time (virtual meeting)
- June 17, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time at the Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia, 22209
- September date TBD
- October 21, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- November 10, 2020 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)

All meetings are open to the public. Additional meetings may be scheduled as needed. For web conference instructions and the most up-to-date information, please visit the HITAC calendar on the ONC website, *https://www.healthit.gov/topic/federal-advisory-committees/hitac-calendar.*

Contact Person for Meetings: Lauren Richie, *lauren.richie@hhs.gov.* A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Please email Lauren Richie for the most current information about meetings.

Agenda: As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the National Coordinator on the topics of interoperability, privacy and security, and patient access. In addition, the committee will also address any administrative matters and hear periodic reports from ONC. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its website prior to the meeting, the material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's website after the meeting, at *http://www.healthit.gov/hitac.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting.

Persons attending ONC's HITAC meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its HITAC meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Lauren Richie at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. No. 92- 463, 5 U.S.C., App. 2).

Dated: November 13, 2019.

Lauren Richie,

Office of Policy,Office of the National Coordinator for Health Information Technology.

[FR Doc. 2019–26085 Filed 12–2–19; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed collection; 60-Day Comment Request; Evaluation of the Enhancing Diversity of the NIH-funded Workforce Program (National Institute of General Medical Sciences)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute of General Medical Sciences (NIGMS) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received

within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Alison Gammie, Director, Division of Training, Workforce Development, and Diversity, NIGMS, 45 Center Drive, Room 2AS43J, Bethesda, MD 20892, or call non-toll-free number (301) 594–2662, or Email your request, including your address to: *alison.gammie@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Evaluation of the Enhancing the Diversity of the NIH-funded Workforce Program Consortium (DPC), 0925–0747, 11/30/2022 National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

Need and Use of Information Collection: The goal of the DPC is to address a unique and compelling need identified by NIH, namely to enhance the diversity of well-trained biomedical research scientists who can successfully compete for NIH research funding and/or otherwise contribute to the NIH-funded scientific workforce. The DPC is a national collaborative through which awardee institutions, in partnership with NIH, aim to enhance diversity in the biomedical research workforce through the development, implementation, assessment and dissemination of innovative and effective approaches to: (a) Student outreach, engagement, training, and mentoring, (b) faculty development, and (c) institutional research training infrastructure. The Coordination and Evaluation Center (CEC) will evaluate the efficacy of the training and mentoring approaches implemented across a variety of contexts and populations and will disseminate information to the broader research community. The planned consortium-wide data collection and evaluation will provide comprehensive information about the multi-dimensional factors (individual, institutional, and faculty/mentor) that influence student and faculty success, professional development, and persistence within biomedical research career paths across a variety of contexts. The planned data collection, and the resulting findings, is projected to have a sustained, transformative effect on biomedical research training and mentoring nationwide.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 55,132.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
2019 CIRP HERI Freshman Survey-(Attachment 12).	BUILD and Non- BUILD Student	15,000	1	45/60	11,250
Student Annual Follow-up survey (Attachment 13).	Non- BUILD Student	15,000	1	45/60	11,250
2019 College Senior Survey (Attachment 14).	BUILD and Non- BUILD Student	15,000	1	45/60	11,250
Student Annual Follow-up Survey (Attachment 13).	2020 BUILD Student Cohort	5,000	3	25/60	6,250
Student Annual Follow-up Survey (Attachment 13).	2021 BUILD Student Cohort	5,000	2	25/60	4,167
Student Annual Follow-up Survey (Attachment 13).	2022 BUILD Student Cohort	5,000	1	25/60	2,083
2019–20 HERI Faculty Survey Core National Instrument (Attachment 15).	BUILD and Non- BUILD Faculty Survey.	500	1	25/60	208
Faculty Annual Follow-up survey (Attachment 16).	BUILD Faculty Annual Follow-up survey.	500	2	25/60	417
BUILD Institutional Research & Program Data Requests (Attachment 19).	Personnel and Administrators at BUILD Institutions.	10	3	16	480
BUILD Site Visits (Attachment 18) ...	BUILD Students, Faculty, and Institution.	120	1	24	2,880
BUILD Case Studies Preparation (Attachment 18).	BUILD Students, Faculty, and Institutions.	24	1	40	960
BUILD Case Study Interviews (Attachment 18).	Undergraduate BUILD Students	170	1	90/60	255
BUILD Case Study Interviews (Attachment 18).	Graduate/post-doctoral BUILD students.	70	1	90/60	105
BUILD Case Study Interviews (Attachment 18).	BUILD PI's, Program Managers/Directors, & Faculty.	162	1	90/60	243

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2020 mentee cohort	500	3	25/60	625
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2021 mentee cohort	500	3	25/60	625
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2022 mentee cohort	500	2	25/60	417
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2020 mentor cohort	500	3	25/60	625
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2021 mentor cohort	500	3	25/60	625
NRMN Annual Follow-up Surveys (Attachment 17).	NRMN 2022 mentor cohort	500	2	25/60	417
Total			85,076		55,132

Dated: November 21, 2019.

Richard A. Aragon,

Project Clearance Liaison, National Institute of General Medical Sciences, National Institutes of Health.

[FR Doc. 2019–26087 Filed 12–2–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Diane Kreinbrink, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Bethesda, MD 20892–9760 or call non-toll-free number (240) 276–5582 or Email your request, including your address to: *diane.kreinbrink@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize~~s~~ the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NCI), 0925–0642, Expiration Date 05/31/2020, EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This information collection activity is collecting qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This generic provides information about the National Cancer Institute's customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. It also allows feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance provides useful information, but it will not yield data that can be generalized to the overall population.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 9,337, hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Surveys	Individuals	27,100	1	12/60	5,420

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
In-Depth Interviews (IDIs) or Small Discussion Groups.	Individuals	500	1	90/60	750
Focus Groups	Individuals	1,000	1	90/60	1,500
Website or Software Usability Tests	Individuals	5,000	1	20/60	1,667
Total			33,600		9,337

Dated: November 20, 2019.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2019–26113 Filed 12–2–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice To Announce the National Institute of Mental Health (NIMH) Draft Strategic Plan for Research; Request for Comments

AGENCY: National Institutes of Health (NIH), HHS.

ACTION: Notice.

SUMMARY: The National Institute of Mental Health (NIMH) is updating its Strategic Plan for Research to guide the Institute's research efforts and priorities over the next five years. The purpose of this Notice is to seek comments from the public about the draft 2020 NIMH Strategic Plan for Research. The draft Strategic Plan will be publicly available via *https://www.nimh.nih.gov/about/strategic-planning-reports/2020-draft-strategic-plan.pdf* for a 30-day period beginning on the publication of this Notice. The public is invited to provide comments.

DATES: To ensure consideration, your responses must be received within a 30-day period that begins on the publication date of this Notice.

ADDRESSES: Responses to this Notice should be submitted electronically via *http://grants.nih.gov/grants/rfi/rfi.cfm?ID=92.* Alternatively, written responses can be submitted by mail to the Office of Science Policy, Planning, and Communications (OSPPC), 6001 Executive Boulevard, MSC 9663, Bethesda, MD 20892–9663.

FOR FURTHER INFORMATION CONTACT: Rachel B. Scheinert, Ph.D., Science Policy and Evaluation Branch, Office of Science Policy, Planning, and Communications, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6202, NSC, Bethesda, MD 20892–9667, 301–451–0292;, Telephone: 1–866–615–6464 (toll-free), 1–301–443–8431 (TTY), 1–866–415–8051 (TTY toll-free), Fax: 1–301–443–4279, Email: *NIMHStratPlan@mail.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Institute of Mental Health (NIMH) is the lead federal agency for research on mental illnesses. The mission of the NIMH is to transform the understanding and treatment of mental illnesses through basic and clinical research, paving the way for prevention, recovery, and cure. To fulfill its mission, the NIMH supports and conducts research on mental illnesses and the underlying basic science of brain and behavior; supports the training of scientists to carry out basic and clinical mental health research; and, communicates with scientists, patients, providers, and the general public about the science of mental illnesses.

Every five years, NIMH publishes a Strategic Plan for Research to accelerate progress in basic, translational, and clinical science. The need to update the plan became clear with the increasing number of remarkable scientific advancements, the changing landscapes of mental health care over the past few years, and the pace of discovery and change in the mental health space.

With the goals of helping individuals living with mental illnesses and promoting both prevention and cure, NIMH has updated its high-level Goals as follows:

1. Define the Brain Mechanisms Underlying Complex Behaviors
2. Examine Mental Illness Trajectories Across the Lifespan
3. Strive for Prevention and Cures
4. Strengthen the Public Health Impact of NIMH-Supported Research

These four Goals form a broad roadmap for the Institute's priorities over the next five years, which begins with the fundamental science of the brain and behavior and continues through to the public health impact. Full implementation of these Goals will, we hope, transform the diagnosis, treatment, and prevention of mental illnesses.

Information Requested/Request for Comments

This Notice invites public comment on the draft 2020 NIMH Strategic Plan for Research. When developing your comments, we encourage you to read the draft Strategic Plan for Research (linked here) and provide any comments you may have via *http://grants.nih.gov/grants/rfi/rfi.cfm?ID=92.* Alternatively, written responses can be submitted by mail to the Office of Science Policy, Planning, and Communications (OSPPC), 6001 Executive Boulevard, MSC 9663, Bethesda, MD 20892–9663.

General Information

Submitted information will not be considered confidential. Responses are welcome from associations and professional organizations as well as individual stakeholders. This request is for information and planning purposes and should not be construed as a solicitation or as an obligation of the Federal Government or NIMH. No awards will be made based on responses to this RFI. The information submitted will be analyzed and may be used for planning purposes. No proprietary, classified, confidential and/or sensitive information should be included in your response. The NIH and the government reserve the right to use any non-proprietary technical information in any future solicitation(s).

Joshua A. Gordon,

Director, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2019–26108 Filed 12–2–19; 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 the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; BRAIN Initiative: Theories, Models and Methods for Analysis of Complex Data from the Brain (2020/05).

Date: February 13, 2020.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (301) 451–4794, *dennis.hlasta@nih.gov.*

Dated: November 26, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–26063 Filed 12–2–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of meetings of the National Deafness and Other Communication Disorders Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Deafness and Other Communication Disorders Advisory Council.

Date: January 31, 2020.

Closed: 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), Room C and D, 6001 Executive Boulevard, Rockville, MD 20852.

Open: 10:00 a.m. to 2:00 p.m.

Agenda: Staff reports on divisional, programmatical, and special activities.

Place: National Institutes of Health, Neuroscience Center Building (NSC), Room C and D, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Craig A. Jordan, Ph.D., Director, Division of Extramural Activities, NIDCD, NIH, Room 8345, MSC 9670, 6001 Executive Blvd., Bethesda, MD 20892–9670, 301–496–8693, *jordanc@nidcd.nih.gov.*

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: May 29, 2020.

Closed: 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Porter Neuroscience Research Center, Building 35A, Room 620, 35 Convent Drive, Bethesda, MD 20892.

Open: 10:00 a.m. to 2:00 p.m.

Agenda: staff reports on divisional, programmatical, and special activities.

Place: Porter Neuroscience Research Center, Building 35A, Room 620, 35 Convent Drive, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Ph.D., Director, Division of Extramural Activities, NIDCD, NIH, Room 8345, MSC 9670, 6001 Executive Blvd., Bethesda, MD 20892–9670, 301–496–8693, *jordanc@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: November 26, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–26065 Filed 12–2–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Notification of Intent To Use Schedule III, IV, or V Opioid Drugs for the Maintenance and Detoxification Treatment of Opiate Addiction Under 21 U.S.C. 823(g)(2) (OMB No. 0930–0234 and OMB No. 0930–0369)—Revision

The Drug Addiction Treatment Act of 2000 (''DATA,'' Pub. L. 106–310) amended the Controlled Substances Act (21 U.S.C. 823(g)(2)) to permit qualifying practitioners to seek and obtain waivers to prescribe certain approved narcotic treatment drugs for the treatment of opiate addiction. The legislation set eligibility requirements and certification requirements as well as an interagency notification review process for practitioners who seek waivers. To implement these provisions, SAMHSA developed Notification of Intent Forms that facilitate the submission and review of notifications. The forms provide the information necessary to determine whether practitioners meets the qualifications for waivers set forth under the law at the

30-, 100-, and 275-patient limits. This includes the annual reporting requirements for practitioners with waivers for a 275 patient limit. On October 24, 2018, the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act (Pub. L. 115–71) was signed into law. Sections 3201–3202 of the SUPPORT Act made several amendments to the Controlled Substances Act regarding office-based opioid treatment that affords practitioners greater flexibility in the provision of medication-assisted treatment (MAT).

The SUPPORT Act expands the definition of ''qualifying other practitioner'' enabling Clinical Nurse Specialists, Certified Registered Nurse Anesthetists, and Certified Nurse Midwives (CNSs, CRNAs, and CNMs) to apply for a Drug Addiction Treatment Act of 2000 (DATA) waiver until October 1, 2023. It also allows qualified practitioners (*i.e.,* MDs, DOs, NPs, PAs, CNSs, CRNAs, and CNMs) who are board certified in addiction medicine or addiction psychiatry, -or- practitioners who provide MAT in a qualified practice setting, to start treating up to 100 patients in the first year of MAT practice (as defined in 42 CFR 8.2) with a waiver.

Further, the SUPPORT Act extends the ability to treat up to 275 patients to ''qualifying other practitioners'' (*i.e.,* NPs, PAs, CNSs, CRNAs, and CNMs) if they have a waiver to treat up 100 patients for at least one year and provide medication-assisted treatment with covered medications (as such terms are defined under 42 CFR 8.2) in a qualified practice setting as described under 42 CFR 8.615. Finally, the SUPPORT Act also expands how physicians could qualify for a waiver. Under the statute now, physicians can qualify for a waiver if they have received at least 8 hours of training on treating and managing opiate-dependent patients, as listed in the statute if the physician graduated in good standing from an accredited school of allopathic medicine or osteopathic medicine in the United States during the 5-year period immediately preceding the date on which the physician submits to SAMHSA. In order to expedite the new provisions of the SUPPORT Act, SAMHSA sought and received a Public Health Emergency Paperwork Reduction Act Waiver. Practitioners may use the form for four types of notifications: (a) New Notification to treat up to 30 patients; (b) New Notification, with the intent to immediately facilitate treatment of an individual (one) patient; (c) Second notification of need and intent to treat up to 100 patients; and (d) New notification to treat up to 100 patients. Under ''new'' notifications, practitioners may make their initial waiver requests to SAMHSA. ''Immediate'' notifications inform SAMHSA and the Attorney General of a practitioner's intent to prescribe immediately to facilitate the treatment of an individual (one) patient under 21 U.S.C. 823(g)(2)(E)(ii). The form collects data on the following items: Practitioner name; state medical license number; medical specialty; and DEA registration number; address of primary practice location, telephone and fax numbers; email address; name and address of group practice; group practice employer identification number; names and DEA registration numbers of group practitioners; purpose of notification: New, immediate, or renewal; certification of qualifying criteria for treatment and management of opiate dependent patients; certification of capacity to provide directly or refer patients for appropriate counseling and other appropriate ancillary services; certification of maximum patient load, certification to use only those drug products that meet the criteria in the law. The form also notifies practitioners of Privacy Act considerations, and permits practitioners to expressly consent to disclose limited information to the SAMHSA Buprenorphine Physician and Behavioral Health Treatment Services locators. The following table summarizes the estimated annual burden for the use of this form.

42 CFR citation	Purpose of submission	Estimated number of respondents	Responses/ respondent	Burden/ response (hrs.)	Total burden (hrs.)
	Notification of Intent	1,500	1	0.083	125
	Notification to Prescribe Immediately	50	1	0.083	4
	Notice to Treat up to 100 patients	500	1	0.04	20
	Notice to Treat up to 275 patients	800	1	1	65
	Subtotal	2,850			214
Burden Associated with the Final Rule That Increased the Patient Limit					
8.620 (a)–(c)	Request for Patient Limit Increase *	517	1	0.5	259
	Request for Patient Limit Increase *	517	1	0.5	259
	Request for Patient Limit Increase *	517	1	0.5	259
8.64	Renewal Request for a Patient Limit Increase *	260	1	0.5	130
	Renewal Request for a Patient Limit Increase *	260	1	0.5	130
	Renewal Request for a Patient Limit Increase*	260	1	0.5	130
8.655	Request for a Temporary Patient Increase for an Emergency *.	10	1	3	30
	Request for a Temporary Patient Increase for an Emergency *.	10	1	3	30
	Request for a Temporary Patient Increase for an Emergency *.	10	1	3	30
	Subtotal	2,361			1,256
New Burden Associated with the Final Rule That Outlined the Reporting Requirements					
8.635	Practitioner Reporting Form *	1,350	1	3	4,050
	''Qualifying Other Practitioner'' under 21 U.S.C. 823(g)(2)—Nurse Practitioners.	816	1	0.066	54

42 CFR citation	Purpose of submission	Estimated number of respondents	Responses/ respondent	Burden/ response (hrs.)	Total burden (hrs.)
	"Qualifying Other Practitioner" under 21 U.S.C. 823(g)(2)—Physician Assistants.	590	1	0.066	39
	"Qualifying Other Practitioner" under 21 U.S.C. 823(g)(2)—Certified Nurse Specialists.	590	1	0.066	39
	"Qualifying Other Practitioner" under 21 U.S.C. 823(g)(2)—Certified Nurse Mid-Wives.	590	1	0.066	39
	"Qualifying Other Practitioner" under 21 U.SC. 823(g)(2)—Certified Registered Nurse Anesthetists.	590	1	0.066	39
	Subtotal	4,526			4,260
	Total Burden	6,561			5,519

Written comments and recommendations concerning the proposed information collection should be sent by January 2, 2020 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–26001 Filed 12–2–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092)—Revision

Statute (42 U.S.C. 290dd–2) and regulations (42 CFR part 2) require federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting "medical personnel" status of recipients of a disclosure to meet a medical emergency. Annual burden estimates for these requirements are summarized in the table below:

ANNUALIZED BURDEN ESTIMATES

	Annual number of respondents [1]	Responses per respondent	Total responses	Hours per Response	Total hour burden
Disclosure					
42 CFR 2.22	11,779	163	[2] 1,920,844	.20	384,169
Recordkeeping					
42 CFR 2.51	11,779	2	23,558	.167	3,934
Total	11,779		1,944,402		388,103

[1] The number of publicly funded alcohol and drug facilities from SAMHSA's 2017 National Survey of Substance Abuse Treatment Services (N–SSATS).

[2] The average number of annual treatment admissions from SAMHSA's 2015–2017 Treatment Episode Data Set (TEDS).

Written comments and recommendations concerning the proposed information collection should be sent by January 2, 2020 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory

Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2019–26003 Filed 12–2–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0748]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0028

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–028, Course Approval and Records for Merchant Marine Training Schools; without change. Our ICR describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before January 2, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2019–0748] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8413, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2019–0748], and must be received by January 2, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0028.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (84 FR 48360, September 13, 2019) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Course Approval and Records for Merchant Marine Training Schools.

OMB Control Number: 1625–0028.

Summary: The information is needed to ensure that merchant marine training schools meet minimal statutory requirements. The information is used to approve the curriculum, facility and faculty for these school.

Need: Section 7315 of 46 U.S.C. authorizes an applicant for a license or document to substitute the completion of an approved course for a portion of the required sea service. Section 10.402 of 46 CFR contains the Coast Guard regulations for course approval.

Forms: None.

Respondents: Merchant marine training schools.

Frequency: Five years for reporting; one year for recordkeeping.

Hour Burden Estimate: The estimated burden has increased from 139,807 hours to 145,917 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 27, 2019.

James D. Roppel,

Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2019–26107 Filed 12–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0747]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0079

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0079, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995, 1997, and 2010 Amendments to the International Convention; without change. Our ICR describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before January 2, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2019–0747] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8413, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2019–0747], and must be received by January 2, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0079.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (84 FR 48362, September 13, 2019) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995, 1997 and 2010 Amendments to the International Convention.

OMB Control Number: 1625–0079.

Summary: This information is necessary to ensure compliance with the international requirements of the STCW Convention, and to maintain an acceptable level of quality in activities associated with training and assessment of merchant mariners.

Need: Chapter 71 of 46 U.S.C. authorizes the Coast Guard to issue regulations related to licensing of merchant mariners. These regulations are contained in 46 CFR chapter I, subchapter B.

Forms: None.

Respondents: Owners and operators of vessels, training institutions, and mariners.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 29,366 hours to 29,234 hours a year, primarily due to a decrease in the estimated annual number of vessel respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 27, 2019.

James D. Roppel,

Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2019–26105 Filed 12–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0746]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0118

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0118, Various International Agreement Certificates and Documents; without change. Our ICR describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before January 2, 2020.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2019–0746] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8413, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2019–0746], and must be received by January 2, 2020.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0118.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (84 FR 48361, September 13, 2019) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Various International Agreement Certificates and Documents.

OMB Control Number: 1625–0118.

Summary: This information collection is associated with the Maritime Labour Convention, 2006. The Coast Guard established a voluntary inspection program for vessels who wish to document compliance with the requirements of the MLC. U.S. commercial vessels that operate on international routes are eligible to participate. The Coast Guard issues voluntary compliance certificates as proof of compliance with the MLC.

Need: This information is needed to determine if a vessel is in compliance with the Maritime Labour Convention, 2006.

Forms:

- CG–16450, Maritime Labour Certificate (Statement of Voluntary Compliance)
- CG–16450A, Interim Maritime Labour Certificate (Statement of Voluntary Compliance)
- CG–16450B, Declaration of Maritime Labour Certficiate—Part I (Statement of Voluntary Compliance)
- CG–16450C, United States Coast Guard, Maritime Labour Convention, 2006 Inspection Report

Respondents: Vessel owners and operators.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 625 hours to 653 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 27, 2019.

James D. Roppel,

Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2019–26109 Filed 12–2–19; 8:45 am]

BILLING CODE 9110–04–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pick-Up Truck Folding Bed Cover Systems and Components Thereof, DN 3421;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and 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 United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (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 has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Extang Corporation and Laurmark Enterprises, Inc. d/b/a BAK Industries on November 26, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pick-up truck folding bed cover systems and components thereof. The complaint names as respondents: Tyger Auto Inc. of Rialto, CA; Cixi City Liyuan Auto Parts Co. Ltd. of China; and Hong Kong Car Start Industries Co. of China. The complainant requests that the Commission issue a general exclusion order or in the alternative, a limited exclusion order, and a cease and desist order, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3421'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

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,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 27, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–26137 Filed 12–2–19; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1446 (Final)]

Sodium Sulfate Anhydrous From Canada; Scheduling of the Final Phase of an Anti-Dumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1446 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of sodium sulfate anhydrous from Canada, provided for in subheadings 2833.11.10 and 2833.11.50 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: November 8, 2019.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of this investigation, Commerce has defined the subject merchandise as ''sodium sulfate (Na_2SO_4) (Chemical Abstracts Service (CAS) Number 7757–82–6) that is anhydrous (*i.e.,* containing no water), regardless of purity, grade, color, production method, and form of packaging, in which the percentage of particles between 20 mesh and 100 mesh, based on U.S. mesh series screens, ranges from 10–95% and the percentage of particles finer than 100 mesh, based on U.S. mesh series screens, ranges from 5–90%.

Excluded from the scope of this investigation are specialty sodium sulfate anhydrous products, which are products whose particle distributions fall outside the described ranges. Glauber's salt ($Na_2SO_4{\cdot}10H_2O$), also known as sodium sulfate decahydrate, an intermediate product in the production of sodium sulfate anhydrous that has no known commercial uses, is not included within the scope of the investigation, although some end-users may mistakenly refer to sodium sulfate anhydrous as Glauber's salt. Other forms of sodium sulfate that are hydrous (*i.e.,* containing water) are also excluded from the scope of the investigation.

The merchandise subject to this investigation is classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2833.11.5010. Subject merchandise may also be classified under 2833.11.1000, 2833.11.5050, and 2833.19.0000. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.''

Background.—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by Commerce that imports of sodium sulfate anhydrous from Canada are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 28, 2019, by Cooper Natural Resources, Inc., Fort Worth, Texas; Elementis Global LLC, East Windsor, New Jersey; and Searles Valley Minerals, Inc., Overland Park, Kansas.

For further information concerning the conduct of this phase of the 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 207, subparts A and C (19 CFR part 207).

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this 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, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this

investigation will be placed in the nonpublic record on March 5, 2020, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on Thursday, March 19, 2020, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 13, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on March 16, 2020, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 12, 2020. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 27, 2020. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before March 27, 2020. On April 17, 2020, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 21, 2020, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 26, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–26073 Filed 12–2–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Survivor's Form For Benefits Under The Black Lung Benefits Act.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 3, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Program, Division of Coal Mine Workers' Compensation, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This collection of information is required to administer the benefit payment provisions of the Black Lung Benefits Act for survivors of deceased miners. Completion of this form constitutes the application for benefits by survivors and assists in determining the survivor's entitlement to benefits. Form CM–912 is authorized for use by the Black Lung Benefits Act (30 U.S.C. 901, *et seq.*) and regulations (20 CFR 725.304) and is used to gather information from a survivor of a miner to determine whether the survivor is entitled to benefits. This information collection is currently approved for use through March 31, 2020.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a

valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1240–0027.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP–DCMWC.

Type of Review: Extension.

Title of Collection: Survivor's Form For Benefits Under The Black Lung Benefits Act.

Form: Survivor's Form For Benefits Under The Black Lung Benefits Act, CM–912, 1240–0027.

OMB Control Number: 1240–0027.

Affected Public: Individuals or households.

Estimated Number of Respondents: 850.

Frequency: One time.

Total Estimated Annual Responses: 850.

Estimated Average Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 113 hours.

Total Estimated Annual Other Cost Burden: $377.

Dated: November 26, 2019.

Anjanette Suggs,

Agency Clearance Officer.

BILLING CODE 4510–CK–P

Survivor's Form For Benefits Under The Black Lung Benefits Act

U. S. Department Of Labor
Office of Workers' Compensation Programs
Division of Coal Mine Workers' Compensation

If you are a survivor of a person who was receiving Federal black lung benefits, this is a Survivor's Notification of the Beneficiary's Death. Otherwise, this is a claim for survivor's benefits. This form is authorized by the Black Lung Benefits Act (30 U.S.C. 901, et seq.) and by 20 C.F.R.725.304. This information will be used to determine possible eligibility for and the amount of benefits payable under the Act. Benefits may be payable to you, your children and all children of the deceased miner. The information on this form is required to obtain a benefit. However, disclosure of your or the deceased miner's Social Security Number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which an individual may be entitled.

OMB No: 1240-0027
Expires:
(For Agency Use Only)

1. Deceased Coal Miner's Name: First Middle Last

2. Deceased Coal Miner's Social Security Number:

3. COAL MINER's BIRTH AND DEATH DATES (ATTACH DEATH CERTIFICATE, IF AVAILABLE)

Date of birth:	Date of death:	Autopsy? ☐ Yes ☐ No

4. Your name: First Middle Last

5. Your Social Security Number:

6. Your date of birth

7. SHOW YOUR RELATIONSHIP TO THE MINER

☐ Surviving Spouse (wife or husband) ☐ Dependent Child

☐ Surviving Divorced Spouse ☐ Dependent Parent, Brother or Sister

8. Have you or the miner ever filed a State or Federal workers' compensation claim for death or disability due to coal workers' pneumoconiosis (Black Lung) or any other lung conditions?	Yes	No
9. Have you or any dependent of the miner ever received Federal Black Lung Benefits under **another miner's Social Security number**?	Yes	No

- **IF YOU ARE FILING AS A CHILD, PARENT, BROTHER OR SISTER, GO TO QUESTION 12.**

10. Do you or the miner have any dependent children under age 18; age 18 to age 23 and attending school; age 18 or older and disabled?	Yes	No
11. Were you or the miner ever married to anyone else at any time?	Yes	No
12. Do you authorize any physician, hospital, agency or other organization (including Social Security Administration) to disclose to the Department of Labor any medical records or information important to your claim?	Yes	No
13. The following events may affect your entitlement to Federal Black Lung Benefits. Do you agree to notify the U.S. Department of Labor promptly if any of the events listed below occur?	Yes	No

- You become entitled to receive any workers' compensation or occupational disease payments because of the miner's disability or death due to pneumoconiosis (Black Lung Disease).
- A person receiving benefits marries, dies, or is adopted by someone else, becomes disabled or the existing disability ceases, or if divorced, receives support payments from previous spouse.
- A child (age 18-23) stops attending school, or in the case of the disabled child (age 18 or over), the disabling condition improves.

PRIVACY ACT NOTICE

- The following information is provided in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. (1) Collection of this information is authorized by the Black Lung Benefits Act 30 U.S.C. 901 et. *seq*. and implementing regulations. (2) The information will be used to determine eligibility for and the amount of benefits payable under the Act. (3) This information may be used by other agencies or persons handling matters relating, directly or indirectly, to processing this form including liable coal mine operators and their insurance carriers; contractors providing automated data processing or other services to the Department of Labor; representatives of the parties to the claim; and federal, state or local agencies. This would include legal representatives; state workers' compensation agencies or the Social Security Administration, for the purpose of determining benefit payment offsets; the Internal Revenue Service and other federal, state, and local agencies for the purpose of conducting investigations relating to the payment of benefits; and debt collection agencies and credit bureaus for the purpose of collecting overpayments that might be made to the beneficiary. (4) Furnishing all requested information will facilitate the claims adjudication process, and the effects of not providing all or any part of the requested information may delay the process, or result in an unfavorable decision or a reduced level of benefits. (5) This information is included in two Systems of Records, DOL/OWCP-2 and DOL/OWCP-9, published at 81 Federal Register 25858 and 25866 (April 29, 2016), or as updated and republished.

COMPUTER MATCHING PROGRAM. The Department of Labor conducts computer matches with the Social Security Administration. Any information provided by applicants for and recipients of financial assistance or payments under Federal benefit programs may be subject to verification through computer matches which the Department of Labor conducts with the Social Security Administration.

SIGNATURE OF APPLICANT

I hereby certify that the information given by me on and in connection with this form is true and correct to the best of my knowledge and belief. I am also fully aware that any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this title shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year or both.

Signature in ink (First, Middle, Last)	Date
Mailing Address (Number, Street, Apt. No., PO Box, Rural Route)	County you live in
City, State, ZIP Code	Area Code and Telephone Number

Witnesses are required only if this application has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the applicant must sign below, giving their full address.

Signature of Witness	Signature of Witness
Address of Witness	Address of Witness
City, State, ZIP Code	City, State, ZIP Code

WHERE TO MAIL THIS FORM:
Submit completed form with accompanying documentation to:
US Department of Labor
OWCP/DCMWC/CMR Correspondence
PO Box 8307
London, KY 40742-8307

For further information call TOLL FREE: 1-800-638-7072.

Public reporting for this collection of information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U. S. Department of Labor, Division of Coal Mine Workers' Compensation, 200 Constitution Avenue, Room N-3464, Washington, DC 20210. DO NOT SEND THE COMPLETED FORM TO THIS OFFICE.

Note: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Notice

If you have a disability, federal law gives you the right to receive help from the OWCP in the form of communication assistance, accommodation(s) and/or modification(s) to aid you in the OWCP claims process. For example, we will provide you with copies of documents in alternate formats, communication services such as sign language interpretation, or other kinds of adjustments of changes to accommodate your disability. Please contact our office or your OWCP claims examiner to ask about this assistance.

[FR Doc. 2019–26103 Filed 12–2–19; 8:45 am]
BILLING CODE 4510–CK–C

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice.

DATES: Comments should be received on or before January 2, 2020 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Suite 6032, Alexandria, VA 22314, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0067.

Type of Review: Extension of a currently approval collection.

Title: Corporate Credit Union Monthly Call Report and Report of Officers.

Forms: NCUA Form 5310.

Abstract: Section 202(a)(1) of the Federal Credit Union Act (Act) requires federally insured credit unions to make reports of condition to the NCUA Board upon dates selected by it. Corporate credit unions report this information monthly on NCUA Form 5310, also known as the corporate credit union call report. The financial and statistical information is essential to NCUA in carrying out its responsibility for supervising corporate credit unions. The Federal Credit Union Act, 12 U.S.C. 1762, specifically requires federal credit unions to report the identity of credit union officials. Section 741.6(a) requires federally-insured credit unions to submit a Report of Officials annually to NCUA containing the annual certification of compliance with security requirements. The branch information is requested under the authority of § 741.6 of the NCUA Rules and Regulations.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 539.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on November 26, 2019.

Dated: November 27, 2019.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2019–26114 Filed 12–2–19; 8:45 am]
BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 2, 2020. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address, 703–292–8030, or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2020–013

1. *Applicant:* Nicholas Teets, Department of Entomology, University of Kentucky, S–225 Agricultural Science Center, North, Lexington, KY 40546.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area (ASPA). The applicant proposes to collect midges (*Belgica antarctica*) from sites along the Antarctic Peninsula for physiology and genetic studies. Sample collections would require access to several ASPAs (108, 126, & 134) and sites within ASMA 7, Southwest Anvers Island and Palmer Basin. Collection of the midges would have minimal to no ecological impacts. Any rocks disturbed would be returned to their original location and position. Very little, if any, plant material would be removed and it would typically be dead or decaying. The local abundances of midges are very high, so the sample collections are expected to have very minimal impact on local populations. The applicant would also collect a small amount of algae (*Prasiola crispa*) to serve as a food source for midges in the laboratory.

Location: Antarctic Peninsula region; ASMA 7, Southwest Anvers Island and Palmer Basin; ASPA 108, Green Island, Berthelot Islands; ASPA 126, Byers Peninsula, Livingston Island, South Shetland Islands; ASPA 134 Cierva Point and offshore islands, Danco Coast, Antarctic Peninsula.

Dates of Permitted Activities: January 1, 2020–July 1, 2022.

Permit Application: 2020–021

2. *Applicant:* Daniel P. Zitterbart, Woods Hole Oceanographic Institution, 266 Woods Hole Road, Woods Hole, MA 02543–1050.

Activity for Which Permit is Requested: Take. The permit applicant proposes to place short-term deployment tags on humpback whales (*Megaptera novaeangliae*) for the purposes of studying their foraging ecology. The applicant would deploy digital acoustic recording tags (DTAGs) onto humpback whales to record the three-dimensional movement of the animals, and the presence of feeding lunges. DTAGs contain a 3-axis accelerometer and magnetometer that

record the pitch, yaw, and heading of the whale at a high sampling rate (>50 Hz), as well as a pressure sensor that records the depth of the animal. A FastLoc® (Wildtrack Telemetry Systems Ltd) GPS tag will also be attached to the DTAG, allowing the position of the whale to be recorded throughout the deployment. To deploy the tag, a zodiac will be used to approach the whale, with the tag lowered onto the back of the whale using a carbon-fiber pole. Effort will be made to tag animals that are determined to be in transit or resting, and not currently feeding. The tags would be released from the whales after several hours and would be retrieved by the researchers. The applicant proposes to tag up to five adult or sub-adult humpack whales during the permit period (no calves would be tagged). Up to 70 additional whales, all ages, would potentially be approached and disturbed during the tagging efforts. The applicant and agents would also conduct water and oceanographic sampling, as well as deploy an echosounder and hydrophone, in order to study the availability of prey and oceanographic conditions during whale foraging. The study would be conducted during an expedition aboard a tour vessel operated by Polar Latitudes, Inc.

Location: West Antarctic Peninsula region.

Dates of Permitted Activities: February 27–March 31, 2020.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2019–26084 Filed 12–2–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0238]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from November 5, 2019 to November 18, 2019. The last biweekly notice was published on November 19, 2019.

DATES: Comments must be filed by January 2, 2020. A request for a hearing must be filed by February 3, 2020.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0238. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0238, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0238.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0238, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in section 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (First Floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: September 5, 2019. A publicly-available version is in ADAMS under Accession No. ML19248C571.

Description of amendment request: The amendment would revise the Fermi 2 Technical Specification (TS) 2.1.1, ''Reactor Core SLs [safety limits],'' reactor steam dome pressure from 785 psig [pounds per square inch gauge] to 686 psig and TS Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' Function 1.b, ''Main Steam Line Pressure—Low,'' isolation function allowable value from 736 psig to 801 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because decreasing the reactor steam dome pressure in TS Safety Limits 2.1.1.1 and 2.1.1.2 for reactor thermal power ranges and increasing the trip set point and allowable value for main steam line low pressure isolation effectively expands the validity range for GEXL critical power correlation and the calculation of minimum critical power ratio. The critical power ratio rises during the pressure reduction following the scram that terminates the PRFO [pressure regulator failure—Open] transient. The reduction in reactor steam dome pressure value in the SL and the increase in trip set point and the reactor steam dome pressure value in the SL and the increase in the trip set point and the allowable value for the main steam line low pressure isolation provides adequate margin to accommodate the pressure reduction during the PRFO transient within the revised TS limit.

The proposed changes do not alter the use of the analytical methods used to determine the safety limits that have been previously reviewed and approved by the NRC. The proposed changes are in accordance with an NRC approved critical power correlation methodology and do not adversely affect accident initiators or precursors.

The proposed changes do not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the applicable acceptance limits. The proposed changes are consistent with the safety analysis and resultant consequences.

Based on the above, DTE has concluded that the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed reduction in the reactor dome steam pressure value in the safety limit in conjunction with the increase in the trip setpoint and the allowable value for the main steam line low pressure isolation reflects a wider range of applicability for the GEXL critical power correlation which is approved by the NRC.

In addition, no new failure modes are being introduced. There are no changes in the method by which any plant systems perform a safety function. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes.

The proposed changes do not introduce any new accident precursors, nor do they involve any changes in the methods governing normal plant operation. The proposed changes do not alter the outcome of the safety analysis.

Based on the above, DTE has concluded that the proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, and through the parameters for safe operation and setpoints for actuation of equipment relied upon to respond to transients and design basis accidents. Evaluation of the 10 CFR part 21 condition by General Electric determined that since the Minimum Critical Power Ratio improves during the PRFO transient, there is no decrease in the safety margin and therefore there is not a threat to fuel cladding integrity. The proposed change in reactor steam dome pressure limits supports the current safety margin, which protects the fuel cladding integrity during a depressurization transient, but does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. The change does not alter the behavior of plant equipment, which remains unchanged. By raising the MSL LPIS AV [main steamline, low-pressure injection system, allowable value] in conjunction with lowering the Reactor Steam Dome Pressure SL, there is an increase in margin which increases protection of the MCPR [maximum critical power ratio].

The proposed change to Reactor Core SLs 2.1.1.1 and 2.1.1.2 is consistent with and within the capabilities of the applicable NRC approved critical power correlation for the fuel designs in use at Fermi 2. The proposed change does not alter the manner in which the SLs are determined. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The reduction in value of the reactor steam dome pressure safety limit and the increase in the trip setpoint and allowable value for main steam line low pressure isolation provides adequate margin to accommodate the pressure reduction during the PRFO transient within the revised TS limit.

Based on the above, DTE has concluded that the proposed TS change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Jon P. Christinidis, DTE Energy, 688 WCB, One Energy Plaza, Detroit, MI 48226.

NRC Branch Chief: Nancy L. Salgado.

Duke Energy Progress, LLC, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: July 29, 2019. A publicly-available version is in ADAMS under Accession No. ML19210D020.

Description of amendment request: The amendment would revise H. B. Robinson Steam Electric Plant, Unit No. 2, Technical Specification (TS) 3.7.3 regarding main feedwater isolation valves, main feedwater regulation valves, and bypass valves, by making the TS applicable to three additional feedwater bypass valves. The amendment would also revise the condition and completion time associated with the feedwater bypass valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not modify the feedwater system, nor does it make any physical or operational changes to the facility. The new non-safety BVs [bypass valves] are being installed under 10 CFR 50.59 to provide a backup isolation function to the existing safety grade BVs, consistent with NUREG–0138 and Section 6.2.1.4 of the NRC's Standard Review Plan. The new BVs will receive the same Engineered Safety Features signals to close and they will be

subject to the same testing as the existing safety grade BVs. The proposed change has no impact on the containment or accident analyses. Inclusion of the new BVs within the scope of TS 3.7.3 subjects them to the same TS LCO [limiting condition for operation] and Surveillance Requirements as the existing BVs and allows them to be credited as backups to the existing BVs.

Extending the Completion Time of TS 3.7.3, Required Action C.1 from 8 hours to 72 hours is not an accident initiator and thus does not change the probability that an accident will occur; however, it could potentially affect the consequences of an accident if the accident occurred during the extended unavailability of an inoperable BV. The new BVs provide redundant isolation in the feedwater bypass flow paths. This represents a safety improvement over the original single BV (per flow path) design. The proposed increase in time an inoperable BV is allowed to remain open/unisolated is small and the probability of an event requiring isolation of the feedwater flow path occurring during this period, coincident with a failure of the redundant BV in that flow path, is low.

Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not modify the feedwater system, nor does it make any physical or operational changes to the facility. Neither the inclusion of the new BVs in TS 3.7.3 nor the extension of the Completion Time for TS 3.7.3 Required Action C.1 results in any new failure modes or affects. The new non-safety BVs are being installed under 10 CFR 50.59 to provide a backup isolation function to the existing safety grade BVs. Closure of the BVs is required to mitigate the consequences of steam line and feedwater line break events. The proposed changes allow for the new BVs to be credited in plant analyses for the isolation feedwater flow in the event of a failure of the existing BVs to close.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment does not involve: (1) A physical alteration of the plant, (2) a change to any set points for parameters associated with protection or mitigation actions nor (3) any impact on the fission product barriers or parameters associated with licensed safety limits. The new BVs are being installed under 10 CFR 50.59 to provide a backup isolation function to the existing BVs. There are no changes to either the containment analysis or to the analysis for any design basis event.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: August 29, 2019. A publicly-available version is in ADAMS under Accession No. ML19241A264.

Description of amendment request: The proposed amendment would modify multiple Technical Specifications (TSs) for ANO–2 to address non-conservative TSs associated with the movement of fuel assemblies. This proposed change is necessary due to the previous adoption of the Alternate Source Terms, which included an update to the ANO–2 fuel handling accident (FHA) analysis. This update created a new requirement to address the movement of new (unirradiated) fuel assemblies over irradiated fuel assemblies. The proposed amendment would also adopt certain changes to gain greater consistency with NUREG–1432, Revision 4, ''Standard Technical Specifications, Combustion Engineering Plants.'' The changes necessary to support the revised FHA affect similar TSs associated with Technical Specifications Task Force (TSTF) Standard Technical Specification Change Travelers TSTF–51, Revision 2, ''Revise Containment Requirements During Handling Irradiated Fuel and Core Alterations''; TSTF–272, Revision 1, ''Refueling Boron Concentration Clarification''; TSTF–286, Revision 2, ''Operations Involving Positive Reactivity Additions''; TSTF 471, Revision 1, ''Eliminate Use of Term Core Alterations in ACTIONS and Notes''; and TSTF–571–1, Revision 0, ''Revise Actions for Inoperable Source Range Neutron Flux Monitor.'' Therefore, the licensee proposes to adopt these TSTFs in conjunction with changes necessary to support the revised FHA analysis. Additionally, the proposed amendment would incorporate specified administrative and editorial changes associated with the TS pages affected by the aforementioned proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. Each of the six items described above is addressed under each of the three standards, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Updated FHA [Analysis]

TS changes associated with the updated FHA analysis ensure the initial assumptions of the FHA are maintained and, therefore, act to minimize the consequences of an accident by ensuring TS required features are operable during the movement of fuel assemblies. The updated FHA analysis was previously accepted by the NRC during adoption of Alternate Source Terms (AST) for ANO–2. The probability of a fuel assembly drop (or any load drop) is unchanged by the updated FHA analysis. Therefore, the updated FHA analysis does not involve a significant increase in the probability of an accident previously evaluated.

Entergy has reviewed station procedures and controls in order to verify that no other loads, other than a new or irradiated fuel assembly, need be addressed with regard to an FHA (*i.e.,* no other known load carried over irradiated fuel assemblies exists which would not be bounded by the fuel drop analysis or be expected to cause fuel damage if dropped). The proposed TS changes ensure required systems are operable during operations that could lead to an FHA. As previously approved by the NRC via the adoption of AST for ANO–2, the updated FHA analysis adequately bounds Control Room and offsite dose within federal limitations. Based on the above, the proposed FHA-related changes to the TSs do not result in a significant increase in the consequences of an accident previously evaluated. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

TSTF–51 and TSTF 471

The design basis accident (DBA) assumed for ANO–2 related to the proposed changes is the FHA. The boron dilution event is evaluated in the ANO–2 Safety Analysis Report (SAR), but [is] considered an unlikely event due to the time available for operator detection and response, along with prevalent administrative controls. A loss of Shutdown Cooling (SDC) event has little relationship to and minimal impact with regard to an FHA. TSTF–51 and TSTF–471 replace the use of the previously defined ''core alterations'' term with requirements associated with the movement of fuel assemblies, since the drop of a fuel assembly is the only event that could reasonably lead to an FHA or a significant challenge to the plant.

In addition, TSTF–51 reduces restrictions following sufficient radioactive decay of fuel assemblies since the offsite dose consequences of an FHA following this decay period (100 hours for ANO–2) would remain within 10 CFR 50.67 limits. Note that this allowance is not adopted for TS Control

Room ventilation or radiation monitoring systems (associated with meeting 10 CFR 50, appendix A, General Design Criteria (GDC) 19).

The removal of references to ''core alterations'' in favor of restrictions associated with the movement of fuel assemblies eliminates current restrictions associated with the manipulation of other core components (*i.e.,* sources or reactivity control components within the core) since such manipulation cannot result in an FHA, boron dilution event, or loss of SDC. In addition, manipulation of these other components cannot present a significant challenge to shutdown margin (SDM) because the TS required RCS boron concentration for Mode 6 operation provides substantial margin to criticality.

Changes associated with TSTF–51 and TSTF–471, as adopted, do not modify limitations in such a way that the consequences of an FHA would be greater than that assumed in the updated FHA analysis (*i.e.,* 10 CFR 50.67 and GDC 19 limitations are not exceeded following an FHA).

Based on the above, the proposed changes associated with the adoption of TSTF–51 and TSTF–471 do not result in a significant increase in the probability or consequences of an accident previously evaluated.

TSTF–272

Changes associated with TSTF–272 place additional restrictions on Mode 6 operations by ensuring the boron concentration of the water in the refueling canal meets the same TS limits required for the Reactor Coolant System (RCS) when the RCS is in direct hydraulic communication with the refueling canal (*i.e.,* reactor vessel head removed and refueling canal filled). These changes are unrelated to any accident initiator and further prohibit any challenge to the fuel in the reactor vessel by ensure sufficient boron concentration is maintained during Mode 6 operations. Therefore, these changes do not result in a significant increase in the probability or consequences of an accident previously evaluated.

TSTF–286

Changes associated with TSTF–286 permit operator control of RCS inventory and temperature when certain TS requirements are not met, provide[d] the overall required SDM of the RCS is maintained. The activities that involve inventory makeup from sources with boron concentrations less than the current RCS concentration (*i.e.,* boron dilution) need not be precluded in the TSs provided the required SDM is maintained for the worst-case overall effect on the core. Note that an unexpected boron dilution event is considered unlikely for ANO–2 due to the significant period of time for operator detection and response before SDM would be significantly challenged (reference ANO–2 Safety Analysis Report Section 15.1.4.3). In addition, while a boron dilution event is evaluated in the accident analysis, the only ''accident'' assumed for ANO–2 during Mode 6 operations is the FHA. Permitting RCS inventory and temperature adjustments is unrelated to any assumptions associated with an FHA. Therefore, these changes do not result in a significant increase in the probability an accident (or a boron dilution event) previously evaluated. Because an unexpected boron dilution event provides sufficient opportunity for detection and recovery, the proposed changes associated with TSTF–286 likewise do not result in a significant increase in the consequences of an accident (or boron dilution event) previously evaluated.

TSTF–571–T

The proposed change revises the Actions for inoperable source range neutron flux monitors to prohibit the movement of fuel assemblies, sources, and reactivity control components when [a] monitor is inoperable. The Actions taken when a monitor is inoperable are not initiators to any accident previously evaluated. The monitors are not credited to mitigate any previously evaluated accident. The proposed change restricts the licensee's actions while a monitor is inoperable beyond the current requirements. Therefore, the consequences of an accident previously evaluated are not significantly increased.

Administrative/Editorial/Miscellaneous Changes

Enhancements and administrative changes proposed for TSs affected by the previously discussed updated FHA or changes associated with increasing consistency with the ITS [improved technical specifications] are unrelated to any accident initiator. Administrative changes likewise cannot impact the consequences of any accident previously evaluated.

The following is a listing of other changes proposed in this amendment request which modify the TSs (not considered within the editorial/administrative realm).

- A new Note 3 is proposed that clarifies the original intent of the TS requirements for radiation monitoring and automatic isolation of the Containment Purge system. As written, the TS would require the radiation monitoring and isolation capability to remain operable even when the Containment Purge system is secured. The addition of Note 3 specifies that operability is required only during (1) Containment Purge operations, or (2) ongoing Containment Building continuous ventilation operations when moving recently irradiated fuel assemblies or moving new fuel assemblies over irradiated fuel assemblies in the Containment Building, consistent with the updated FHA and TSTF–51. Other associated enhancements are made to the Containment Purge requirements in support of the above changes or to provide additional clarification.
- The phrase ''elevation corresponding to the'' top of irradiated fuel is added to the Limiting Condition for Operation (LCO) of TS 3.9.9, ''Water Level—Reactor Vessel.'' This ensures that proper water level is established prior to initiating refueling of the reactor core following a defueled condition.
- The movement of fuel ''within the reactor vessel'' contained in the Applicability and Action of TS 3.9.9 is revised to ''within the Containment Building.'' This reference is also added to the Surveillance Requirement. The required water level should be met even when fuel is being moved in other areas of the refueling canal, not just in the reactor vessel. In addition, the phrase ''while in Mode 6'' is deleted from the Applicability since fuel assemblies cannot physically be removed from the reactor until Mode 6 has been achieved.

Enhancements associated with the Containment Purge system radiation instrumentation ensure Surveillance testing is performed when the system is in service, regardless if an actual Purge is taking place. In addition, the proposed changes ensure appropriate testing is performed prior to placing the system in service each refueling outage. The proposed changes are neutral or more restrictive and, therefore, cannot increase the consequences of an accident previously evaluated.

Clarifications to limitations on refueling water level and the location of fuel assemblies are more restrictive changes, ensuring proper controls have been established before activities are commenced. No impact to the consequences of any accident result from these changes. The changes to these TSs, in addition to the aforementioned changes to Containment Purge requirements, do not increase the probability of an accident occurring.

Based on the above, the proposed changes do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Updated FHA [Analysis]

TS changes associated with the updated FHA [analysis] involve no physical changes to the plant. These changes act to ensure required structures, systems, and components (SSCs) are operable when moving irradiated fuel assemblies or new fuel assemblies over irradiated fuel assemblies to limit any Control Room or offsite dose consequences to within acceptable limits. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

TSTF–51 and TSTF 471

TS changes associated with ITS improvements related to these TSTFs involve no physical changes to the plant. The removal of references to ''core alterations'' in favor of restrictions associated with the movement of fuel assemblies eliminates current restrictions associated with the manipulation of other core components (*i.e.,* sources or reactivity control components within the core). Such manipulations cannot result in an FHA, boron dilution event, or loss of SDC. In addition, such manipulations cannot result in an appreciable change in core reactivity due to the high RCS boron concentration required during refueling operations by the TSs. TSTF–51 changes associated with a reduction in restrictions following sufficient radioactive decay of fuel assemblies are not considered accident precursors. The proposed changes do not introduce a new accident initiator, accident precursor, or accident-related malfunction

mechanism. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

TSTF–272

Changes associated with TSTF–272 place additional restrictions on Mode 6 operations by ensuring the boron concentration of the water in the refueling canal meets the same TS limits required for the RCS when the RCS is in direct hydraulic communication with the refueling canal (*i.e.,* reactor vessel head removed and refueling canal filled). These changes are unrelated to any accident initiator and further prohibit any challenge to the fuel in the reactor vessel by [ensuring] sufficient boron concentration is maintained during Mode 6 operations. The proposed changes do not introduce a new accident initiator, accident precursor, or accident-related malfunction mechanism. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

TSTF–286

Changes associated with TSTF–286 permit operator control of RCS inventory and temperature when certain TS requirements are not met, provide[d] the overall required SDM of the RCS is maintained. No physical plant changes are related to these TS changes. The only accident or event that could be affected by this change is the boron dilution event, which has been previously evaluated. The proposed changes do not introduce a new accident initiator, accident precursor, or accident-related malfunction mechanism. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

TSTF–571–T

The proposed change revises the Actions for inoperable source range neutron flux monitors to prohibit the movement of fuel assemblies, sources, and reactivity control components when a monitor is inoperable. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). No credible new failure mechanisms, malfunctions, or accident initiators that would have been considered a design basis accident in the ANO–2 Safety Analysis Report (SAR) are created.

Administrative/Editorial/Miscellaneous Changes

Enhancements and administrative changes proposed for TSs affected by the above updated FHA or ITS improvements are unrelated to any accident initiator and involve no physical changes to the plant.

Enhancements associated with the Containment Purge system radiation instrumentation ensure Surveillance testing is performed when the system is in service, regardless if an actual Purge is taking place. In addition, the proposed changes ensure appropriate testing is performed prior to placing the system in service each refueling outage. Clarifications to limitations on refueling water level and the location of fuel assemblies are more restrictive changes, ensuring proper controls have been established before activities are commenced.

The proposed changes do not introduce a new accident initiator, accident precursor, or accident-related malfunction mechanism. Based on the above, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Updated FHA [Analysis]

TS changes associated with the updated FHA [analysis] act to ensure required SSCs are operable when moving irradiated fuel assemblies or new fuel assemblies over irradiated fuel assemblies to limit any Control Room or offsite dose consequences to within acceptable limits. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

TSTF–51 and TSTF 471

The removal of references to ''core alterations'' in favor of restrictions associated with the movement of fuel assemblies eliminates current restrictions associated with the manipulation of other core components (*i.e.,* sources or reactivity control components within the core). Such manipulations cannot result in an FHA, boron dilution event, or loss of SDC. In addition, such manipulations cannot result in an appreciable change in core reactivity due to the high RCS boron concentration required during refueling operations by the TSs. TSTF–51 also reduces restrictions following sufficient radioactive decay of fuel assemblies since the consequence of an FHA following this decay period would remain within 10 CFR 50.67 limits. Note that this allowance is not adopted for Control Room ventilation or radiation monitoring systems (governed under GDC 19). Changes associated with TSTF–51 and TSTF–471, as adopted, do not modify limitations in such a way that the consequences of an FHA would be greater than that assumed in the FHA analysis (*i.e.,* 10 CFR 50.67 and GDC 19 limitations are not exceeded following an FHA). Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

TSTF–272

Changes associated with TSTF–272 place additional restrictions on Mode 6 operations by ensuring the boron concentration of the water in the refueling canal meets the same TS limits required for the RCS when the RCS is in direct hydraulic communication with the refueling canal (*i.e.,* reactor vessel head removed and refueling canal filled). These changes are more restrictive than the current TS and, therefore, do not involve a significant reduction in a margin of safety.

TSTF–286

Changes associated with TSTF–286 permit operator control of RCS inventory and temperature when certain TS requirements are not met, provide the overall required SDM of the RCS is maintained. The only accident or event that could be affected by this change is the boron dilution event which has been previously evaluated. While the margin between existing boron concentration and that required to meet SDM requirements may be reduced, margin is gained by permitting operators to take corrective action to maintain RCS inventory and temperature within limits during periods when such operations are otherwise prohibited. While not quantifiable, the changes associated with TSTF–286 have a general balanced effect in relation to the margin of safety. Because an unexpected boron dilution event provides sufficient opportunity for detection and recovery, the proposed changes associated with TSTF–286 do not involve a significant reduction in a margin of safety.

TSTF–571–T

The proposed change revises the Actions for inoperable source range neutron flux monitors to prohibit the movement of fuel assemblies, sources, and reactivity control components when a monitor is inoperable. No safety limits are affected. No Limiting Conditions for Operation or Surveillance limits are affected. The design, operation, surveillance methods, and acceptance criteria specified in applicable codes and standards (or alternatives approved for use by the NRC) continue to be met as described in the plants' [plant's] licensing basis. The proposed change does not adversely affect existing plant safety margins, or the reliability of the equipment assumed to operate in the safety analysis. As such, there are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Administrative/Editorial/Miscellaneous Changes

Enhancements and administrative changes proposed for TSs affected by the above updated FHA or ITS improvements are unrelated to any accident initiator or mitigation strategy. Enhancements associated with the Containment Purge system radiation instrumentation ensure Surveillance testing is performed when the system is in service, regardless if an actual Purge is taking place. In addition, the proposed changes ensure appropriate testing is performed prior to placing the system in service each refueling outage. Clarifications to limitations on refueling water level and the location of fuel assemblies are more restrictive changes, ensuring proper controls have been established before activities are commenced. Based on the above, these proposed changes do not involve a significant reduction in a margin of safety.

Therefore, the proposed changes contained within this amendment request do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Anna Vinson Jones, Senior Counsel, Entergy Services, LLC, 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Jennifer L. Dixon-Herrity.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: September 12, 2019. A publicly available version is in ADAMS under Accession No. ML19255D988.

Description of amendment request: The amendment would revise Technical Specifications related to primary containment hydrodynamic loads.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise operating limits for containment systems during normal operation that provide the initial conditions at which containment performance to mitigate loss-of-coolant accidents is evaluated. The affected parameters are unrelated to the Reactor Coolant Pressure Boundary or reactivity control systems and therefore are unrelated to accident initiation or probability of occurrence.

Analysis has demonstrated that the containment will continue to operate within design limits in the event of an accident. Therefore, the consequences of an accident are not significantly affected by the proposed change.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not alter the protection system design, create new failure modes, or change any modes of operation. The proposed changes do not involve a physical alteration of the plant; and no new or different kind of equipment will be installed. Consequently, there are no new initiators that could result in a new or different kind of accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will eliminate the 1.7 psi [pounds per square inch] differential pressure requirement between the drywell and wetwell, raise the maximum torus water level to 14.25 ft, and raise the HPCI [high pressure coolant injection] ''Suppression Pool Water Level—High'' Allowable Value to ≤ [less than or equal to] 14.75 ft. Technical Report ''13–0541–TR–002'' evaluated use of these operating parameters and determined that all structural elements continue to meet code requirements with adequate margin. Other design aspects such as Emergency Core Cooling System Pump Net Positive Suction Head, Equipment Qualification, and accident radiological dose impacted by the proposed changes were also evaluated and found to have negligible to no impact.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

NRC Branch Chief: James G. Danna.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station (CNS), Nemaha County, Nebraska

Date of amendment request: August 19, 2019. A publicly-available version is in ADAMS under Accession No. ML19238A065.

Description of amendment request: The proposed amendment would revise CNS Technical Specification 5.5.12, ''Primary Containment Leakage Rate Testing Program,'' to allow for an exception to certain leak rate testing interval requirements of the program. Specifically, the proposed amendment would permit the 10 CFR part 50, appendix J, Option B leak testing of Type C residual heat removal system heat exchanger relief valves and their associated Type B testable discharge flange tests be performed at the same frequency as the visual examination, seat leakage testing, and set pressure testing performed for these valves under the requirements of the Inservice Testing Program per 10 CFR 50.55a(f).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows certain leak testing intervals required by the CNS primary containment leakage rate testing program to be aligned with certain testing intervals required by the Inservice Testing Program under 10 CFR50.55a(f). The containment function is solely to mitigate the consequences of an accident. No design basis accident is initiated by a failure of the containment leakage mitigation function. Aligning the testing interval requirements of the two programs does not create any adverse interactions with other systems that could result in initiation of a design basis accident. Continued containment integrity is assured by the established programs for local leakage rate testing and inservice testing which are unaffected by the proposed change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change allows certain leak testing intervals required by the CNS primary containment leakage rate testing program to be aligned with certain testing intervals required by the Inservice Testing Program under 10 CFR 50.55a(f). This proposed change does not modify existing structures, systems, or components (SSC) of the plant, and it does not introduce new SSC's. The plant will continue to be operated in the same manner. Thus, it does not affect the design function or operation of SSC's involved, and it does not introduce a new accident initiator.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change allows certain leak testing intervals required by the CNS primary containment leakage rate testing program to be aligned with certain testing intervals required by the Inservice Testing Program under 10 CFR 50.55a(f). The proposed alignment of testing intervals will not result in a change to the design or operation of any plant SSC used to shutdown the plant, initiate Emergency Core Cooling systems, or isolate the ability of CNS to mitigate any accident or transient. There is no impact on safety limits or limiting safety system settings. The change does not affect any plant safety parameters or setpoints.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Branch Chief: Jennifer Dixon-Herrity.

NextEra Energy Duane Arnold (NEDA), LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: June 20, 2019, as supplemented by letters dated September 12, 2019, and November 4, 2019. Publicly-available versions are in ADAMS under Accession Nos. ML19176A356, ML19261A141, and ML19308A085, respectively.

Description of amendment request: The NRC staff has previously made a proposed determination that the amendment request dated June 20, 2019, involves no significant hazards consideration (84 FR 45544; August 29, 2019). Subsequently, the licensee provided additional information that expanded the scope of the amendment request as originally noticed. In the supplemental letter dated September 12, 2019, the licensee provided no significant hazards consideration for the supplemental changes only. This notice combines the two no significant hazards considerations provided by the licensee. Accordingly, this notice supersedes the previous notice in its entirety.

By letter dated June 20, 2019, NEDA submitted a request for an amendment to the operating license (OL) and technical specifications (TSs) for the DAEC. The submittal requested revisions to the OL and TSs consistent with the permanent cessation of reactor operation and permanent defueling of the reactor. The revised TSs will be identified as the DAEC post defueled technical specifications (PDTS). Following the June 20, 2019, submittal, the licensee supplemented the original application by letters dated September 12, 2019, and November 4, 2019. NEDA performed an analysis of a fuel handling accident (FHA) in the spent fuel pool (SFP). This analysis determined that, following a decay period of 19 days, control building emergency ventilation is not required to maintain FHA dose consequences for control room occupants below the acceptance criteria of 10 CFR 50.67(b)(2)(iii). Consequently, NEDA hereby requests supplemental changes to the DAEC TSs to reflect the revised FHA analysis. Specifically, those TSs associated with control building emergency ventilation are proposed for deletion by this supplemental submittal.

The proposed supplemental changes to the DAEC TSs are in accordance with 10 CFR 50.36(c)(1) through (c)(5). The proposed supplemental changes also include administrative changes to content format and revised page numbering. The TS Table of Contents will be revised accordingly.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes would not take effect until DAEC has certified to the NRC that it has permanently ceased operation and entered a permanently defueled condition. Because the 10 CFR part 50 license for DAEC will no longer authorize operation of the reactor, or emplacement or retention of fuel into the reactor vessel with the certifications required by 10 CFR part 50.82(a)(1) submitted, as specified in 10 CFR part 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. DAEC's accident analyses are contained in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). In a permanently defueled condition, the only credible UFSAR described accident that remains is the Fuel Handling Accident (FHA). Other Chapter 15 accidents will no longer be applicable to a permanently defueled reactor.

The UFSAR-described FHA analyses for DAEC shows that, following the required decay time after reactor shutdown and provided the SFP water level requirement of TS LCO [limiting condition for operation] 3.7.8 is met, the dose consequences are acceptable without relying on secondary containment or the Standby Gas Treatment System. The control building envelop is credited for reduction of operator dose. Consequently, the TS requirements for the Standby Filter Unit and Control Building Chillers are retained.

The probability of occurrence of previously evaluated accidents is not increased, since safe storage and handling of fuel will be the only operations performed, and therefore, bounded by the existing analyses. Additionally, the occurrence of postulated accidents associated with reactor operation will no longer be credible in the permanently defueled condition. This significantly reduces the scope of applicable accidents. The deletion of TS definitions and rules of usage and application requirements that will not be applicable in a defueled condition has no impact on facility SSCs [structures, system, and components] or the methods of operation of such SSCs. The deletion of design features and safety limits not applicable to the permanently shut down and defueled DAEC has no impact on the remaining applicable DBA [design-basis accident].

The removal of LCOs or SRs [surveillance requirements] that are related only to the operation of the nuclear reactor or only to the prevention, diagnosis, or mitigation of reactor-related transients or accidents do not affect the applicable DBAs previously evaluated since these DBAs are no longer applicable in the permanently defueled condition.

The proposed changes, as supplemented, would not take effect until DAEC has certified to the NRC that it has permanently ceased operation, entered a permanently defueled condition, and a period of 19 days has transpired since shutdown. Because the 10 CFR part 50 license for DAEC will no longer authorize operation of the reactor, or emplacement or retention of fuel into the reactor vessel with the certifications required by 10 CFR part 50.82(a)(1) submitted, as specified in 10 CFR part 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. DAEC's accident analyses are contained in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). In a permanently defueled condition, the only credible UFSAR described accident that remains is the Fuel Handling Accident (FHA). Other Chapter 15 accidents will no longer be applicable to a permanently defueled reactor.

The UFSAR-described FHA analyses for DAEC shows that, provided the SFP water level requirement of TS LCO 3.7.8 is met, the dose consequences are acceptable without relying on secondary containment or the Standby Gas Treatment System.

Once the DAEC has permanently shut down and defueled, the only credible FHA is a fuel drop in the SFP. NEDA performed an analysis of the SFP FHA. This analysis determined that, following a decay period of 19 days, Control Building emergency ventilation is not required to maintain FHA dose consequences for control room occupants below the acceptance criteria of 10 CFR 50.67(b)(2)(iii). Consequently, the TS requirements for the systems supporting the Control Building emergency ventilation are proposed for deletion.

The probability of occurrence of previously evaluated accidents is not increased, since safe storage and handling of fuel will be the only operations performed, and therefore, bounded by the existing analyses. Additionally, the occurrence of postulated accidents associated with reactor operation will no longer be credible in the permanently defueled condition. This significantly reduces the scope of applicable accidents. The deletion of TS definitions and rules of usage and application requirements that will not be applicable in a defueled condition has no impact on facility SSCs or the methods of operation of such SSCs. The deletion of design features and safety limits not applicable to the permanently shut down and defueled DAEC has no impact on the remaining applicable DBA.

The removal of LCOs or SRs that are related only to the operation of the nuclear reactor or only to the prevention, diagnosis, or mitigation of reactor-related transients or

accidents do not affect the applicable DBAs previously evaluated since these DBAs are no longer applicable in the permanently defueled condition.

Therefore, the proposed change, as supplemented, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to delete or modify certain DAEC Operating License, TS, and current licensing bases (CLB) have no impact on facility SSCs affecting the safe storage of spent irradiated fuel, or on the methods of operation of such SSCs, or on the handling and storage of the spent irradiated fuel itself. The removal of TS that are related only to the operation of the nuclear reactor, or only to the prevention, diagnosis, or mitigation of reactor related transients or accidents, cannot result in different or more adverse failure modes or accidents than previously evaluated because the reactor will be permanently shut down and defueled.

The proposed modification or deletion of requirements of the DAEC Operating License, TS, and CLB do not affect systems credited in the accident analysis for the remaining credible DBA at DAEC. The proposed Operating License and PDTS will continue to require proper control and monitoring of safety significant parameters and activities. The TS regarding SFP water level and spent fuel storage is retained to preserve the current requirements for safe storage of irradiated fuel. The proposed amendment does not result in any new mechanisms that could initiate damage to the remaining relevant safety barriers for defueled plants (fuel cladding, spent fuel racks, SFP integrity, and SFP water level). Since extended operation in a defueled condition and safe fuel handling will be the only operation allowed, and therefore bounded by the existing analyses, such a condition does not create the possibility of a new or different kind of accident.

The proposed changes, as supplemented, to delete or modify certain DAEC TS, and current licensing bases (CLB) have no impact on facility SSCs affecting the safe storage of spent irradiated fuel, or on the methods of operation of such SSCs, or on the handling and storage of the spent irradiated fuel itself. The removal of TS that are related only to the operation of the nuclear reactor, or only to the prevention, diagnosis, or mitigation of reactor related transients or accidents, cannot result in different or more adverse failure modes or accidents than previously evaluated because the reactor will be permanently shut down and defueled.

The proposed modification or deletion of requirements of the DAEC TS, and CLB do not affect systems credited in the accident analysis for the remaining credible DBA at DAEC. The proposed TS will continue to require proper control and monitoring of safety significant parameters and activities. The TS regarding SFP water level is retained to preserve the current requirements for safe storage of irradiated fuel. The proposed amendment, as supplemented, does not result in any new mechanisms that could initiate damage to the remaining relevant safety barriers for defueled plants (fuel cladding, spent fuel racks, SFP integrity, and SFP water level). Since extended operation in a defueled condition and safe fuel handling will be the only operation allowed, and therefore bounded by the existing analyses, such a condition does not create the possibility of a new or different kind of accident.

Therefore, the proposed change, as supplemented, does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are to delete or modify certain Operating License, TS and CLB once the DAEC facility has been permanently shut down and defueled. As specified in 10 CFR 50.82(a)(2), the 10 CFR 50 license for DAEC will no longer authorize operation of the reactor or emplacement or retention of fuel into the reactor vessel following submittal of the certifications required by 10 CFR 50.82(a)(1). As a result, the occurrence of certain design basis postulated accidents are no longer considered credible when the reactor is permanently defueled.

The only remaining credible UFSAR described accident is a[n] FHA. The proposed changes do not adversely affect the inputs or assumptions of any of the design basis analyses that impact the FHA.

The proposed changes are limited to those portions of the Operating License, TS, and CLB that are not related to the safe storage of irradiated fuel. The requirements proposed to be revised or deleted from the Operating License, TS, and CLB are not credited in the existing accident analysis for the remaining postulated accident (*i.e.,* FHA); and, as such, do not contribute to the margin of safety associated with the accident analysis. Certain postulated DBAs involving the reactor are no longer possible because the reactor will be permanently shut down and defueled and DAEC will no longer be authorized to operate the reactor.

The proposed changes, as supplemented, are to delete or modify certain TS and CLB once the DAEC facility has been permanently shut down and defueled and a period of no less than 19 days has transpired since shutdown. As specified in 10 CFR 50.82(a)(2), the 10 CFR 50 license for DAEC will no longer authorize operation of the reactor or emplacement or retention of fuel into the reactor vessel following submittal of the certifications required by 10 CFR 50.82(a)(1). As a result, the occurrence of certain design basis postulated accidents are no longer considered credible when the reactor is permanently defueled.

The only remaining credible UFSAR described accident is a[n] FHA. Further, an FHA in the reactor core is no longer credible. An FHA in the SFP is the only remaining credible accident. NEDA has performed a revised analysis for an FHA in the SFP. This analysis determined that, following a decay period of 19 days, Control Building emergency ventilation is not required to maintain FHA dose consequences for control room occupants below the acceptance criteria of 10 CFR 50.67(b)(2)(iii). Consequently, TS LCOs and SRs associated with CBEV [Control Building emergency ventilation] and support equipment are proposed for deletion. The proposed changes, as supplemented, do not adversely affect the inputs or assumptions of the revised FHA analysis.

The proposed changes, as supplemented, are limited to those portions of the TS, and CLB that are not related to the safe storage of irradiated fuel. The requirements proposed to be revised or deleted from the TS, and CLB are not credited in the existing accident analysis for the remaining postulated accident (*i.e.,* FHA in the SFP); and, as such, do not contribute to the margin of safety associated with the accident analysis. Certain postulated DBAs involving the reactor are no longer possible because the reactor will be permanently shut down and defueled and DAEC will no longer be authorized to operate the reactor.

Therefore, the proposed changes, as supplemented, have no impact to the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Steven Hamrick, Managing Attorney—Nuclear, Florida Power Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Nancy L. Salgado.

NextEra Energy Duane Arnold (NEDA), LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: September 25, 2019, as supplemented by letter dated November 4, 2019. Publicly-available versions are in ADAMS under Accession Nos. ML19290G447, and ML19308A085, respectively.

Description of amendment request: The amendment would delete the DAEC Operating License Condition 2.C.(3), ''Fire Protection Program,'' which requires that NEDA implement and maintain a fire protection program that complies with the requirements of 10 CFR 50.48(a) and 10 CFR 50.48(c). NEDA will maintain a Fire Protection Program in accordance with 10 CFR 50.48(f), as required for licensees that have submitted certification of permanent cessation of operations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not alter, degrade or prevent action described or assumed in any accident in the UFSAR [updated final safety analysis report] from being performed. The proposed change does not alter any assumptions previously made in evaluating radiological consequences. The proposed change does not affect the integrity of any fission product barrier.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter any safety limits or safety analysis assumptions associated with the operation of the plant. The proposed change does not introduce any new accident initiators, nor does the change reduce or adversely affect the capabilities of any plant structure or system in the performance of its safety function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits or limiting safety system settings are determined. The safety analysis acceptance criteria are not affected by the proposed change. The proposed change does not change the design function of any equipment assumed to operate in the event of an accident.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Steven Hamrick, Managing Attorney—Nuclear, Florida Power Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Nancy L. Salgado.

Northern States Power Company—Minnesota (NSPM), Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant (PINGP), Unit Nos.1 and 2, Goodhue County, Minnesota

Date of amendment request: October 7, 2019. A publicly-available version is in ADAMS under Accession No. ML19280B335.

Description of amendment request: The amendments would revise technical specifications (TSs) for the PINGP, Units 1 and 2. The proposed change revises TS 5.5.14, ''Containment Leakage Rate Testing Program,'' to increase the containment integrated leakage rate test program Type A test interval from 10 to 15 years and extend the containment isolation valve Type C leakage rate test frequency from 60 to up to 75 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change adopts the NRC-accepted guidelines of NEI [Nuclear Energy Institute] 94–01 for the development of the NSPM performance-based containment testing program for PINGP Units 1 and 2. NEI 94–01 allows, based on risk and performance, an extension of the Type A and Type C containment leak test intervals. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components will limit leakage rates to less than the values assumed in the plant safety analyses.

The findings of the PINGP risk assessment confirm the general findings of previous studies that the risk impact with extending the containment leak rate is small. In accordance with the guidance provided in Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' an extension of the leak test interval in accordance with NEI 94–01, Revision 3–A results in an estimated change within the very small change region.

Since the change is implementing a performance-based containment testing program, the proposed amendment does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The requirement for containment leakage rate acceptance will not be changed by this amendment. Therefore, the containment will continue to perform its design function as a barrier to fission product releases.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to implement a performance-based containment testing program, associated with integrated leakage rate test frequency, does not change the design or operation of structures, systems, or components of the plant. The proposed change would continue to ensure containment integrity and would ensure operation within the bounds of existing accident analyses. There are no accident initiators created or affected by this change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to confidence in the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. The proposed change to implement a performance-based containment testing program, associated with integrated leakage rate test and local leak rate testing frequency, does not affect plant operations, design functions, or any analysis that verifies the capability of a structure, system, or component of the plant to perform a design function. In addition, this change does not affect safety limits, limiting safety system setpoints, or limiting conditions for operation.

The specific requirements and conditions of the TS Containment Leakage Rate Testing Program exist to ensure that the degree of containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by the TSs is maintained. This ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Type A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met with the acceptance of this proposed change since these are not affected by implementation of a performance-based containment testing program.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Nancy L. Salgado.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: September 30, 2019. A publicly-available version is in ADAMS under Accession No. ML19273A953.

Description of amendment request: The amendment request proposes changes to the Combined License (COL) Numbers NPF–91 and NPF–92 for VEGP, Units 3 and 4, and proposes to depart from Updated Final Safety Analysis Report (UFSAR) Tier 2 information (which includes the plant-specific Design Control Document (DCD) Tier 2 information). The proposed changes involve related changes to plant-specific Tier 1 information, with corresponding changes to the associated COL Appendix C information, and involves related changes to COL Appendix A, Technical Specifications. Specifically, the requested amendment proposes changes to reflect revisions in the design parameters of (a) the maximum stroke times for the automatic depressurization system (ADS) Stages 1, 2 and 3 valves, (b) the minimum effective flow areas for the ADS Stages 2 and 3 valves, and (c) the core makeup tank minimum volume. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, appendix D, design certification rule is also requested for the plant-specific DCD Tier 1 material departures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed revisions to the automatic depressurization system (ADS) and core makeup tank (CMT) design parameters have been found to continue to provide the required functional capability of the safety systems for previously evaluated accidents and anticipated operational occurrences. The ADS and CMT design parameters are not an initiator of any accident analyzed in the Updated Final Safety Analysis Report (UFSAR), nor do the changes involve an interface with any structure, system or component (SSC) accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the UFSAR are not affected. The proposed changes do not involve a change to any mitigation sequence or the predicted radiological releases due to postulated accident conditions, thus, the consequences of the accidents evaluated in the UFSAR are not affected.

The UFSAR describes the analyses of various design basis transients and accidents to demonstrate compliance of the design with the acceptance criteria for these events. The acceptance criteria for the various events are based on meeting the relevant regulations, general design criteria, and the Standard Review Plan, and are a function of the anticipated frequency of occurrence of the event and potential radiological consequences to the public. The revised accident analyses maintain their plant conditions, and thus their frequency designation and consequence level as previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed revisions to the ADS and CMT design parameters have been found to continue to provide the required functional capability of the safety systems for previously evaluated accidents and anticipated operational occurrences. The proposed revisions to the ADS and CMT design parameters do not change the function of the related systems, and thus, the changes do not introduce a new failure mode, malfunction or sequence of events that could adversely affect safety or safety-related equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed revisions to the ADS and CMT design parameters have been found to continue to provide the required functional capability of the safety systems for previously evaluated accidents and anticipated operational occurrences. The proposed revisions to the ADS and CMT design parameters does not change the function of the related systems nor significantly affect the margins provided by the systems. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Victor Hall.

IV. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Tennessee Valley Authority, Docket Nos. 50–390 and 50–391, Watts Bar Nuclear Plant, Units 1 and 2, Rhea County, Tennessee

Date of amendment request: October 23, 2019. A publicly-available version is in ADAMS under Accession No. ML19296C538.

Description of amendment request: The amendments would revise the Watts Bar Nuclear Plant, Units 1 and 2, Technical Specification Table 3.3.5–1, ''LOP [Loss of Power] DG [Diesel Generator] Start Instrumentation,'' Function 5, ''6.9 kV [kilovolt] Emergency Bus Undervoltage (Unbalanced Voltage),'' to correct the values for the allowable value for the unbalanced voltage relay (UVR) low trip voltage, the allowable value for the UVR high trip time delay, and the trip setpoint for the UVR high trip time delay.

*Date of publication of individual notice in **Federal Register**:* November 6, 2019 (84 FR 59846).

Expiration date of individual notice: December 6, 2019 (public comments); January 6, 2020 (hearing requests).

V. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: February 8, 2019.

Brief description of amendment: The amendment adopted Technical Specifications Task Force (TSTF)-564, ''Safety Limit MCPR (Minimum Critical Power Ratio),'' Revision 2, and revises the Fermi 2 technical safety limit on MCPR to reduce the need for cycle-specific changes to the value while still meeting the regulatory requirement for a safety limit. In addition, TS 5.6.5, Core Operating Limits Report (COLR), was revised to require the current safety limit MCPR value to be included in the cycle specific COLR.

Date of issuance: November 5, 2019.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment No.: 214. A publicly-available version is in ADAMS under Accession No. ML19189A004; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–43: The amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* April 9, 2019 (84 FR 14144).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 2019.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 4, 2018, as supplemented by letter dated September 30, 2019.

Description of amendment request: The amendment revised the technical specifications to adopt changes provided in Technical Specifications Task Force (TSTF)-234, ''Add Action for More than One (Digital Rod Position Indication) [D]RPI Inoperable''; TSTF–547, ''Clarification of Rod Position Requirements''; and made various other changes to align the Seabrook TSs more closely with NUREG–1431, ''Standard Technical Specifications Westinghouse Plants.''

Date of issuance: November 18, 2019.

Effective date: As of its date of issuance and shall be implemented by May 28, 2020.

Amendment No.: 162. A publicly-available version is in ADAMS under Accession No. ML19224A563; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–86: The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* April 9, 2019 (84 FR 14151). The supplemental letter dated September 30, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 2019.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: July 20, 2018, as supplemented by letters dated April 29, 2019 and August 5, 2019.

Brief description of amendment: The amendments added a condition to the PINGP, Units 1 and 2, renewed facility operating licenses to allow the implementation of 10 CFR 50.69, ''Risk informed categorization and treatment of structures, systems and components for nuclear power reactors.''

Date of issuance: November 12, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 230 (Unit 1); 218 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19276F684; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–42 and DPR–60: The amendments revised the Renewed Facility Operating Licenses.

*Date of initial notice in **Federal Register**:* September 11, 2018 (83 FR 45986). The supplemental letters dated April 29, 2019 and August 5, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 12, 2019.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: October 2, 2018, as supplemented by letter dated December 4, 2018.

Brief description of amendment: The amendments revised the design basis accident dose threshold for designation of certain fuel handling equipment as Quality Type I (safety-related) to greater than 10 percent of the dose limits specified in 10 CFR part 100, ''Reactor Site Criteria.''

Date of issuance: November 7, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 229 (Unit 1); 217 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19232A151; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–42 and DPR–60: The amendments revised the Updated Safety Analysis Report.

*Date of initial notice in **Federal Register**:* January 31, 2019 (84 FR 812).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2019.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 27, 2019.

Brief description of amendment: The amendment adopted Technical Specifications Task Force (TSTF) Traveler TSTF–546, ''Revise APRM [Average Power Range Monitor] Channel Adjustment Surveillance Requirement,'' which revises the Hope Creek Generating Station technical specification surveillance requirement to verify that calculated power is no more than 2 percent greater than the APRM channel output. This change revised the surveillance requirement to distinguish between APRM indications that are consistent with the accident analyses and those that provide additional margin.

Date of issuance: November 7, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 220. A publicly-available version is in ADAMS under Accession No. ML19289A886; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–57: The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* April 9, 2019 (84 FR 14152).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2019.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC and Exelon Generation Company, LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 4, 2019, as supplemented by letter dated June 11, 2019.

Brief description of amendments: The amendments revised the Technical Specification requirements on control and shutdown rods and rod and bank position indication, consistent with NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–547, Revision 1, ''Clarification of Rod Position Requirements,'' dated March 4, 2016.

Date of issuance: November 18, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 330 (Unit No. 1) and 311 (Unit No. 2). A publicly-available version is in ADAMS under Accession No. ML19275D694; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* March 26, 2019 (84 FR 11339). The supplemental letter dated June 11, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 2019.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: July 23, 2019.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) actions for inoperable residual heat removal (RHR) shutdown cooling subsystems in the RHR shutdown cooling system limiting conditions for operation. The proposed changes are based on Technical Specifications Task Force (TSTF) traveler TSTF–566, Revision 0, ''Revise Actions for Inoperable RHR Shutdown Cooling Subsystems,'' dated January 19, 2018.

Date of issuance: November 13, 2019.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 300 (Unit No. 1) and 245 (Unit No. 2). A publicly-available version is in ADAMS under Accession No. ML19267A023; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* September 10, 2019 (84 FR 47551).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 2019.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: February 1, 2019.

Brief description of amendments: The amendments adopted Technical Specifications Task Force (TSTF) Traveler TSTF–563, Revision 0, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.''

Date of issuance: November 18, 2019.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 347 (Unit 1) and 341 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19281B554; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–77 and DPR–79: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* April 9, 2019 (84 FR 14153).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 2019.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: November 19, 2018, as supplemented by letter dated August 22, 2019.

Brief description of amendments: The amendments approved installation of

two non-safety-related water headers within a safety-related flood protection dike.

Date of issuance: November 13, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 283 (Unit No. 1) and 266 (Unit No. 2). A publicly-available version is in ADAMS under Accession No. ML19274C998; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License No. NPF–4 and NPF–7: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* March 26, 2019 (84 FR 11342). The supplement dated August 22, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 2019.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 25th day of November 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–25972 Filed 12–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0178]

Proposed Revisions to Standard Review Plan Section 2.5.3 Surface Deformation

AGENCY: Nuclear Regulatory Commission

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to Section 2.5.3, ''Surface Deformation'' of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.''

DATES: The update to this SRP takes effect on December 3, 2019.

ADDRESSES: Please refer to Docket ID NRC–2018–0178 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–2018–0178. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual 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 Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- The NRC posts its issued staff guidance on the NRC's public website at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.*

FOR FURTHER INFORMATION CONTACT: Mark D. Notich, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3053, email: *Mark.Notich@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 28, 2018 (83 FR 49139), the NRC published for public comment a proposed revision of Section 2.5.3, ''Surface Deformation'' of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.'' The NRC re-issued Standard Review Plan (SRP 2.5.3) on November 16, 2018 (83 FR 57753) in order to give the public more time to provide comment. The public comment period closed on November 26, 2018. No public comments were received regarding draft Revision 6 of SRP 2.5.3. The final Revision 6 to NUREG–0800, Section 2.5.3, ''Surface Deformation'' is available in ADAMS under Accession No. ML19009A314.

II. Backfitting and Issue Finality

Chapter 2 of the SRP provides guidance to the staff for reviewing hydrologic and hydrogeologic information provided in application for licensing actions. Section 2.5.3 of the SRP provides guidance for the review of information addressing surface deformations.

Issuance of this SRP section revision does not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The SRP positions do not constitute backfitting, inasmuch as the SRP is guidance directed to the NRC staff with respect to its regulatory responsibilities.*

The SRP provides guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in guidance intended for use by only the staff are not matters that constitute backfitting as that term is defined in 10 CFR 50.109(a)(1) or involve the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality—with certain exceptions discussed below—do not apply to current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, the subject of either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions of 10 CFR part 52 were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever a 10 CFR part 50 operating license applicant references a construction permit or a 10 CFR part 52 combined license applicant references a license (*e.g.,* an early site permit) and/or an NRC regulatory approval (*e.g.,* a design certification rule) for which specified issue finality provisions apply.

The NRC staff does not currently intend to impose the positions represented in this final SRP section in a manner that constitutes backfitting or is inconsistent with any issue finality provision of 10 CFR part 52. If in the future the NRC staff seeks to impose positions stated in this SRP section in a manner that would constitute backfitting or be inconsistent with these issue finality provisions, the NRC staff must make the showing as set forth in

the Backfit Rule or address the regulatory criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

3. *The NRC staff has no intention to impose the SRP positions on existing nuclear power plant licensees either now or in the future (absent a voluntary request for a change from the licensee, holder of a regulatory approval or a design certification applicant).*

The staff does not intend to impose or apply the positions described in this final SRP section to existing (already issued) licenses (*e.g.,* operating licenses and combined licenses) and regulatory approvals. Hence, the issuance of this SRP guidance—even if considered guidance subject to the Backfit Rule or the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that would constitute backfitting or does not provide issue finality as described in the applicable issue finality provision, then the staff must make a showing as set forth in the Backfit Rule or address the criteria set forth in the applicable issue finality provision, as applicable, that would allow the staff to impose the position.

III. Congressional Review Act

This action is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

Dated at Rockville, Maryland, this 26th day of November, 2019.

For the Nuclear Regulatory Commission.

Dennis C. Morey,

Chief, Licensing Project Branch, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–26060 Filed 12–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0235]

Revised Format for Biweekly Notices of Applications and Amendments to Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of revised format for Biweekly Notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) is notifying the public of its revised format for Biweekly Notices of Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations.

DATES: The revised format described in this document takes effect on December 17, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0235 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–2019–0235. Address questions about NRC docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Eva Brown, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2315, email: *Eva.Brown@nrc.gov;* or Andy Imboden, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9055, email: *Andy.Imboden@nrc.gov.*

SUPPLEMENTARY INFORMATION: Section 189a.(2)(A) grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Section 189a.(2)(B) of the Atomic Energy Act of 1954, as amended, requires that the Commission periodically publish notice of any amendments issued, or proposed to be issued. To fulfill this requirement, the NRC issues a document entitled, ''Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations,'' in the **Federal Register**.

Instead of quoting each licensee's amendment application, the revised format will provide tables that state the proposed no significant hazards considerations determination and provide the location of the NRC's rationale for each determination in each of the listed applications. The revised format will also use tables to provide notice of license amendments issued. This streamlined format will provide efficiency to the public and stakeholders locating pertinent information and will be a government cost savings in time and print expenses. The public and stakeholders can still access all the information provided in each licensee's amendment application by going to the ADAMS accession numbers that will be provided in the tables.

Dated at Rockville, Maryland, this 22nd day of November, 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–25826 Filed 12–2–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–17 and CP2019–155; Order No. 5323]

Transfer of Inbound Letter Post Small Packets and Bulky Letters

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service motion to effectuate the transfer of Inbound Letter Post Small Packets and Bulky Letters to the Competitive product list on January 1, 2020. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 10, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://*

www.prc.gov. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Background
III. Proposed Prices
IV. Administrative Actions
V. Ordering Paragraphs

I. Introduction

On November 20, 2019, the Postal Service filed a motion to effectuate the transfer of Inbound Letter Post Small Packets and Bulky Letters to the Competitive product list on January 1, 2020.[1] With its Motion, the Postal Service filed proposed prices for the Inbound Letter Post Small Packets and Bulky Letters product that become effective on January 1, 2020. Motion at 4. The Postal Service intends to implement specific per-item and per-kilogram self-declared prices for Inbound Letter Post Small Packets and Bulky Letters on July 1, 2020.[2] Given that the Motion proposes prices and implicates both of the above captioned dockets, the Commission issues this Notice and Order to provide notice of the Postal Service's proposal and provide for an opportunity for comment.

II. Background

In Order No. 4980, the Commission conditionally approved the transfer of Inbound Letter Post Small Packets and Bulky Letters items from the Market Dominant to Competitive products list.[3] Before Inbound Letter Post Small Packets and Bulky Letters may be added to the Competitive product list, the Postal Service must propose and the Commission must approve prices that satisfy 39 U.S.C. 3633(a) and 39 CFR part 3015. Order No. 4980 at 19.

In Order No. 5152, the Commission approved a range of self-declared prices for Inbound Letter Post Small Packets and Bulky Letters from Universal Postal Union (UPU) group I, II, and III countries and from group IV countries with mail flows that exceed a certain annual tonnage threshold.[4] The Commission also approved the application of default terminal dues established in the Universal Postal Convention to mail flows from group IV countries that do not exceed the annual tonnage threshold. Order No. 5152 at 5. When approving the range of self-declared prices, the Commission directed the Postal Service to provide notice of specific per-item and per-kilogram prices at least 15 days before the effective date of those prices. *Id.* at 19. On October 29, 2019, the Postal Service provided notice of specific per-item and per-kilogram self-declared prices that it intends to implement on July 1, 2020.[5]

III. Proposed Prices

In the Motion, the Postal Service requests that the Commission approve the addition of Inbound Letter Post Small Packets and Bulky Letters to the Competitive product list, effective January 1, 2020. Motion at 1. The Motion identifies two sets of prices that would be in effect in Calendar Year (CY) 2020. First, terminal dues established by the Universal Postal Convention and its Regulations will apply from January 1, 2020, to June 30, 2020. *See id.* at 4. Second, for countries with mail flows that exceed applicable annual tonnage thresholds, the Postal Service proposes self-declared prices, which it intends to implement on July 1, 2020. *Id.*

The Postal Service's Motion includes redacted financial workpapers supporting these proposed prices and a certification pursuant to 39 CFR 3015.5(c)(2). *Id.* at 1; *id.* Attachment 2. In addition, the Postal Service includes the proposed prices and underlying workpapers under seal. *See* Motion at 1–2. The Postal Service states that the specific per-item and per-kilogram prices and supporting unredacted workpapers should remain confidential. *Id.* at 1–2 n.2. The Postal Service further explains its request for non-public treatment in its application for non-public treatment, filed pursuant to 39 CFR part 3007. *Id.* Attachment 1.

The Postal Service states that prices for the Inbound Letter Post Small Packets and Bulky Letters pieces and associated Inbound Competitive International Registered Mail Service would conform to the requirements for competitive products under 39 U.S.C. 3633. *Id.* at 6–8. The Postal Service states that, for a 12-month forward looking period, the revenue generated by the proposed prices for CY 2020 cover attributable costs, avoid cross-subsidization, and do not impede competitive products' collective ability to cover the appropriate share of institutional costs. *Id.* at 6. The Postal Service asserts that the Commission should evaluate compliance based on the 12-month period following the transfer, which includes both the CY 2020 terminal dues, which go into effect on January 1, 2020, and the self-declared prices, which the Postal Service intends to implement on July 1, 2020. *Id.* at 7.

IV. Administrative Actions

The Commission invites comments on whether the planned changes are consistent with the policies of 39 U.S.C. 3632, 3633, and 3642; 39 CFR part 3015; and 39 CFR 3020.*30 et seq.* Comments are due by December 10, 2019.

The Request and related filings are available on the Commission's website (*http://www.prc.gov*). The Commission encourages interested persons to review the Motion and the Notice for further details.

Pursuant to 39 U.S.C. 505, Katalin K. Clendenin will serve as Public Representative to represent the interests of the general public in these dockets.

V. Ordering Paragraphs

It is ordered:

1. The Commission invites interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with the policies of 39 U.S.C. 3632, 3633, and 3642; 39 CFR part 3015; and 39 CFR 3020.*30 et seq.*

2. Comments are due no later than December 10, 2019.

3. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these dockets.

[1] Docket No. MC2019–17, Motion of the United States Postal Service to Effectuate Transfer on January 1, 2020, and Application for Non-Public Treatment, November 20, 2019, at 1 (Motion).

[2] *Id.* at 3. *See generally* Docket No. CP2019–155, Notice of the United States Postal Service of Effective Date and Specific Rates Not of General Applicability for Inbound E-Format Letter Post, and Application for Non-Public Treatment, October 29, 2019 (Notice).

[3] Docket No. MC2019–17, Order Conditionally Approving Transfer, January 9, 2019 (Order No. 4980).

[4] Docket No. CP2019–155, Order Approving Range of Rates for Inbound Letter Post Small Packets and Bulky Letters and Associated International Registered Mail Service, July 12, 2019, at 5 (Order No. 5152). The Postal Service applied an annual tonnage threshold of 100 tonnes. *See* Docket No. CP2019–155, Responses of the United States Postal Service to Questions 1–10 of Chairman's Information Request No. 1, question 3.a, June 7, 2019.

[5] The Commission previously issued a notice of these specific per-item and per-kilogram self-declared prices and invited comments regarding these self-declared prices in Docket No. CP2019–155. Docket No. CP2019–155, Notice and Order Concerning Rates Not of General Applicability for Inbound E Format Letter Post, October 30, 2019 (Order No. 5288). The Commission will evaluate the comments submitted in response to Order No. 5288 in a future order addressing the proposed prices for Inbound Letter Post Small Packets and Bulky Letters in the above captioned dockets.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–26061 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–37 and CP2020–35; MC2020–38 and CP2020–36; MC2020–39 and CP2020–37; MC2020–40 and CP2020–38; MC2020–41 and CP2020–39]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 5, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–37 and CP2020–35; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 129 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 26, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 5, 2019.

2. *Docket No(s).:* MC2020–38 and CP2020–36; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 130 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 26, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 5, 2019.

3. *Docket No(s).:* MC2020–39 and CP2020–37; *Filing Title:* USPS Request to Add Priority Mail Contract 566 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 26, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 5, 2019.

4. *Docket No(s).:* MC2020–40 and CP2020–38; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 131 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 26, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 5, 2019.

5. *Docket No(s).:* MC2020–41 and CP2020–39; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 132 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 26, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 5, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–26098 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service 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:* December 3, 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 November 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 130 to Competitive Product List.* Documents are available at

www.prc.gov, Docket Nos. MC2020–38, CP2020–36.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26050 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–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:* December 3, 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 November 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 566 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–39, CP2020–37.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26051 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service 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:* December 3, 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 November 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 132 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–41, CP2020–39.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26053 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service 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:* December 3, 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 November 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 131 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–40, CP2020–38.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26052 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service 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:* December 3, 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 November 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 129 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–37, CP2020–35.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–26049 Filed 12–2–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87635; File No. SR–CboeEDGX–2019–059]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Introduce a Small Retail Broker Distribution Program

November 26, 2019.

I. Introduction

On October 1, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the EDGX fee schedule to introduce a Small Retail Broker Distribution Program (the ''Program''). The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on October 17, 2019.[4] The Commission received no comment letters regarding the proposed rule change. Under Section 19(b)(3)(C) of the Act,[5] the Commission is hereby: (i) Temporarily suspending the proposed rule change; and (ii) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 86678 (October 11, 2019), 84 FR 55624 (''Notice'').

[5] 15 U.S.C. 78s(b)(3)(C).

II. Description of the Proposed Rule Change

The Exchange proposes to amend its fee schedule to introduce a pricing program that would allow certain Distributors [6] to purchase top of book market data from the Exchange at discounted fees. Currently, the Exchange offers two top of book data feeds that provide quote and trade information. First, the Exchange charges a fee of $1,500 per month for external distribution of EDGX Top Feed [7] and a fee of $4 per month for each Professional User and $0.10 per month for each Non-Professional User.[8] Second, the Exchange charges $5,000 per month for external distribution of Cboe One Summary Feed [9] and a Data Consolidation Fee of $1,000 per month. The Exchange also charges a fee $10 per month for each Professional User and $0.25 for each Non-Professional User.

Under the Exchange's proposal, Distributors that qualify for the Program would be charged a discounted fee of $750 per month for the distribution of EDGX Top Feed and $3,500 per month for the distribution of Cboe One Summary Feed. Distributors that qualify for the Program would also be charged a discounted Data Consolidation Fee of $350 for Cboe One Summary Feed. The Exchange would continue to charge the current Professional and Non-Professional User fees for both data feeds.

In order to qualify for the Program, a Distributor must meet the following criteria for each respective data feed: (i) Distributor is a broker-dealer distributing EDGX Top Data Feed or Cboe One Summary Feed to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) more than 50% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving EDGX Top Data/Cboe One Summary Feed; and (iii) Distributor distributes EDGX Top Data/Cboe One Summary Feed to no more than 5,000 Non-Professional Data Users.

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[10] at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,[11] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') 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. As discussed below, the Commission believes a temporary suspension of the proposed rule change is necessary and appropriate to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder.

A fee change to introduce the Program was originally filed on August 1, 2018. That proposal, CboeEDGX–2019–048, was published for comment in the **Federal Register** on August 20, 2019.[12] The Commission received no comment letters regarding the proposed rule change. On September 30, 2019, the Division of Trading and Markets (the ''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending CboeEDGX–2019–048 pursuant to Section 19(b)(3)(C) of the Act [13] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act [14] to determine whether to approve or disapprove that proposal.[15]

The Exchange continues to assert that the proposed fees for the Program ''are reasonable as they represent a significant cost reduction for smaller, primarily regional, retail brokers that provide top of book data from EDGX and its affiliated exchanges to their retail investor clients.'' [16] The Exchange also asserts that the ''proposed fees are equitable and not unfairly discriminatory as the proposed fee structure is designed to decrease the price and increase the availability of U.S. equities market data to retail investors.'' [17] Finally, the Exchange states that while the proposed fees are limited to smaller firms that distribute data to no more than 5,000 Non-Professional data users, it does not believe that the proposed fees for the Program are inequitable or unfairly discriminatory.[18]

When exchanges file their proposed rule changes with the Commission, including fee filings like the Exchange's present proposal, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[19] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements.'' [20]

Among other things, exchange proposed rule changes are subject to Section 6 of the Act, including Sections 6(b)(4), (5), and (8), which requires the rules of an exchange to: (1) Provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities; [21] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; [22] and (3) not impose any burden on competition not necessary or

[6] A Distributor of an Exchange market data product is any entity that receives the Exchange market data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party. *See* EDGX Fee Schedule.

[7] EDGX Top is an uncompressed data feed that offers top of book quotations and execution information based on equity orders entered in the Exchange. *See* Notice, *supra* note 4, 84 FR at 55624.

[8] A ''Professional User'' of an Exchange market data product is any user other than a Non-Professional User. *See* EDGX Fee Schedule. A ''Non-Professional User'' of an Exchange market data product is a natural person or qualifying trust that uses data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. *Id.*

[9] Cboe One Summary Feed is a data feed that offers top of book quotations and execution information based on equity orders submitted to the Exchange and its affiliated equities exchanges, *i.e.,* Cboe EDGA Exchange, Inc., Cboe BZX Exchange, Inc., and Cboe BYX Exchange, Inc. *See* Notice, *supra* note 4, 84 FR at 55624–25.

[10] 15 U.S.C. 78s(b)(3)(C).

[11] 15 U.S.C. 78s(b)(1).

[12] *See* Securities Exchange Act Release No. 86678 (August 14, 2019), 84 FR 43246.

[13] 15 U.S.C. 78s(b)(3)(C).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *See* Securities Exchange Act Release No. 87163 (September 30, 2019), 84 FR 53203.

[16] *See* Notice, *supra* note 4, 84 FR at 55627.

[17] *Id.*

[18] *See id.* at 55628.

[19] *See* 17 CFR 240.19b–4 (Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[20] *See id.*

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78f(b)(5).

appropriate in furtherance of the purposes of the Act.[23]

In temporarily suspending the Exchange's fee change, the Commission intends to further consider whether the establishment of the Program is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[24]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule changes.[25]

IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C)[26] and 19(b)(2)(B) of the Act[27] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[28] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities,''[29]
- Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to perfect the operation of a free and open market and a national market system'' and ''protect investors and the public interest,'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,''[30] and
- Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].''[31]

As noted above, the proposal establishes new discounted fees for Distributors of the Exchange's two top of book data feeds. The Commission notes that the Exchange's statements in support of the proposed rule change are general in nature and lack detail and specificity. The Exchange states that it operates in a highly competitive environment, and its ability to price top of book data products is constrained by (i) competition among other national securities exchanges that offer similar data products to their customers; and (ii) real-time consolidated data disseminated by the securities information processors.[32] The Exchange also states that the proposed Program would reduce fees charged to small retail brokers that provide access to two top of book data products, the EDGX Top Feed and the Cboe One Summary Feed.[33] The Exchange notes that it has one distributor that qualifies and is taking advantage of the Program's pricing,[34] and notes that Program's fees are often lower than Nasdaq's fees.[35] The Exchange also notes that ''[w]hile there is no 'exact science' to choosing one eligibility threshold compared to another, the Exchange believes that having more Non-Professional Data Users across a firm's entire business . . . is indicative of a broker-dealer that is primarily engaged in the business of serving retail investors.''[36] The Exchange states that larger broker-dealers and/or vendors benefit from lower subscriber fees and enterprise licenses, that Distributors that provide data to more than 5,000 Non-Professional data users ''enjoy cost savings compared to competitor products,'' and that the proposed fees would ''ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing . . .''[37]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.''[38] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[39] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[40]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that exchange fees be reasonable and equitably allocated; be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[41]

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by December 24, 2019. Rebuttal comments should be submitted by January 7, 2020. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any

[23] 15 U.S.C. 78f(b)(8).

[24] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[25] For purposes of temporarily suspending the 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).

[26] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 15 U.S.C. 78s(b)(2)(B).

[29] 15 U.S.C. 78f(b)(4).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(8).

[32] *See* Notice, *supra* note 4, 84 FR at 55625–26.

[33] *See id.* at 55626.

[34] *See id.* at 55626–28.

[35] *See id.* at 55628–29.

[36] *Id.* at 55627.

[37] *Id.* at 55628.

[38] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[39] *See id.*

[40] *See id.*

[41] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

request for an opportunity to make an oral presentation.[42]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–059 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–2019–059. 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–2019–059 and should be submitted on or before December 24, 2019. Rebuttal comments should be submitted by January 7, 2020.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[43] that File No. SR–CboeEDGX–2019–059 be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26055 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

[42] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[43] 15 U.S.C. 78s(b)(3)(C).

[44] 17 CFR 200.30–3(a)(57) and (58).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87629; File No. SR–CboeBZX–2019–086]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Introduce a Small Retail Broker Distribution Program

November 26, 2019.

I. Introduction

On October 1, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the BZX fee schedule to introduce a Small Retail Broker Distribution Program (the ''Program''). The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on October 21, 2019.[4] The Commission received no comment letters regarding the proposed rule change. Under Section 19(b)(3)(C) of the Act,[5] the Commission is hereby: (i) Temporarily suspending the proposed rule change; and (ii) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend its fee schedule to introduce a pricing program that would allow certain Distributors[6] to purchase the Cboe One Summary Feed[7] from the Exchange at discounted fees. Currently, the Exchange charges $5,000 per month for external distribution of Cboe One Summary Feed, and a Data Consolidation Fee of $1,000 per month. The Exchange also charges a fee $10 per month for each Professional User and $0.25 for each Non-Professional User.[8]

Under the Exchange's proposal, Distributors that qualify for the Program would be charged a discounted fee of $3,500 per month for the distribution of Cboe One Summary Feed. Distributors that qualify for the Program would also be charged a discounted Data Consolidation Fee of $350 for Cboe One Summary Feed. The Exchange would

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 87312 (October 15, 2019), 84 FR 56235 (''Notice'').

[5] 15 U.S.C. 78s(b)(3)(C).

[6] A Distributor of an Exchange market data product is any entity that receives the Exchange market data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party. *See* BZX Fee Schedule.

[7] Cboe One Summary Feed is a data feed that offers top of book quotations and execution information based on equity orders submitted to the Exchange and its affiliated equities exchanges, *i.e.,* Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., and Cboe BYX Exchange, Inc. *See* Notice, *supra* note 4, 84 FR at 56235.

[8] A ''Professional User'' of an Exchange market data product is any user other than a Non-Professional User. *See* BZX Fee Schedule. A ''Non-Professional User'' of an Exchange market data product is a natural person or qualifying trust that uses data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. *Id.*

continue to charge the current Professional and Non-Professional User fees for Cboe One Summary Feed.

In order to qualify for the Program, a Distributor must meet the following criteria: (i) Distributor is a broker-dealer distributing Cboe One Summary Feed Data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) more than 50% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving Cboe One Summary Feed; and (iii) Distributor distributes Cboe One Summary Feed to no more than 5,000 Non-Professional Data Users.

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[9] at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,[10] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') 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. As discussed below, the Commission believes a temporary suspension of the proposed rule change is necessary and appropriate to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder.

A fee change to introduce the Program was originally filed on August 1, 2019. That proposal, CboeBZX–2019–069, was published for comment in the **Federal Register** on August 20, 2019.[11] The Commission received no comment letters regarding the proposed rule change. On September 30, 2019, the Division of Trading and Markets (the ''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending CboeBZX–2019–069 pursuant to Section 19(b)(3)(C) of the Act[12] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[13] to determine whether to approve or disapprove that proposal.[14]

The Exchange continues to assert that the proposed fees for the Program ''are reasonable as they represent a significant cost reduction for smaller, primarily regional, retail brokers that provide top of book data from BZX and its affiliated exchanges to their retail investor clients.''[15] The Exchange also asserts that the ''proposed fees are equitable and not unfairly discriminatory as the proposed fee structure is designed to decrease the price and increase the availability of U.S. equities market data to retail investors.''[16] Finally, the Exchange states that while the proposed fees are limited to smaller firms that distribute data to no more than 5,000 Non-Professional data users, it does not believe that the proposed fees for the Program are inequitable or unfairly discriminatory.[17]

When exchanges file their proposed rule changes with the Commission, including fee filings like the Exchange's present proposal, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[18] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements.''[19]

Among other things, exchange proposed rule changes are subject to Section 6 of the Act, including Sections 6(b)(4), (5), and (8), which requires the rules of an exchange to: (1) Provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities;[20] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers;[21] and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[22]

In temporarily suspending the Exchange's fee change, the Commission intends to further consider whether the establishment of the Program is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[23]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule changes.[24]

IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C)[25] and 19(b)(2)(B) of the Act[26] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[27] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities,''[28]
- Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange

[9] 15 U.S.C. 78s(b)(3)(C).

[10] 15 U.S.C. 78s(b)(1).

[11] *See* Securities Exchange Act Release No. 86667 (August 14, 2019), 84 FR 43233.

[12] 15 U.S.C. 78s(b)(3)(C).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] *See* Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208.

[15] *See* Notice, *supra* note 4, 84 FR at 56237.

[16] *Id.* at 56238.

[17] *Id.*

[18] *See* 17 CFR 240.19b–4 (Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[19] *See id.*

[20] 15 U.S.C. 78f(b)(4).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(8).

[23] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[24] For purposes of temporarily suspending the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 15 U.S.C. 78f(b)(4).

be ''designed to perfect the operation of a free and open market and a national market system'' and ''protect investors and the public interest,'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,'' [29] and

• Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].'' [30]

As noted above, the proposal establishes new discounted fees for Distributors of the Exchange's Cboe One Summary data feed. The Commission notes that the Exchange's statements in support of the proposed rule change are general in nature and lack detail and specificity. The Exchange states that it operates in a highly competitive environment, and its ability to price these products is constrained by (i) competition among other national securities exchanges that offer similar data products to their customers; and (ii) real-time consolidated data disseminated by the securities information processors.[31] The Exchange also states that the proposed Program would reduce fees charged to small retail brokers that provide access to the Cboe One Summary Feed.[32] The Exchange notes that it has one distributor that qualifies and is taking advantage of the Program's pricing,[33] and notes that Program's fees are often lower than Nasdaq's fees.[34] The Exchange also notes that ''[w]hile there is no 'exact science' to choosing one eligibility threshold compared to another, the Exchange believes that having more Non-Professional Data Users across a firm's entire business . . . is indicative of a broker-dealer that is primarily engaged in the business of serving retail investors.'' [35] The Exchange states that larger broker-dealers and/or vendors benefit from lower subscriber fees and enterprise licenses, that Distributors that provide data to more than 5,000 Non-Professional data users ''enjoy cost savings compared to competitor products,'' and that the proposed fees would ''ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing . . .'' [36]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [37] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[38] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[39]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that exchange fees be reasonable and equitably allocated; be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[40]

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by December 24, 2019. Rebuttal comments should be submitted by January 7, 2020. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[41]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–086 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–086. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–086 and should be submitted on or before December 24, 2019. Rebuttal comments should be submitted by January 7, 2020.

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] *See* Notice, *supra* note 4, 84 FR at 56239.

[32] *See id.* at 56237.

[33] *See id.* at 56236.

[34] *See id.* at 56238–39.

[35] *See id.* at 56238.

[36] *Id.*

[37] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[38] *See id.*

[39] *See id.*

[40] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

[41] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[42] that File No. SR–CboeBZX–2019–086 be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26056 Filed 12–2–19; 8:45 am]

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[42] 15 U.S.C. 78s(b)(3)(C).

[43] 17 CFR 200.30–3(a)(57) and (58).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87636; File No. SR–CboeBZX–2019–023]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 14.11(c) (Index Fund Shares) To Adopt Generic Listing Standards for Index Fund Shares Based on an Index of Municipal Securities

November 27, 2019.

I. Introduction

On April 3, 2019, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Cboe BZX Rule 14.11(c) to adopt generic listing standards for Index Fund Shares (''Shares'') based on an index or portfolio of municipal securities. The proposed rule change was published for comment in the **Federal Register** on April 22, 2019.[3] On May 30, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On July 18, 2019, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On October 15, 2019, the Commission extended the period for issuing an order approving or disapproving the proposed rule change.[8] On October 31, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced in its entirety the original proposed rule change.[9] The Commission has received no comment letters on the proposed rule change.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

Rule 14.11(c) permits the Exchange to list a series of Index Fund Shares based on an index or portfolio of underlying securities. Currently, Rule 14.11(c)(4)(B)(i) provides generic listing standards for Index Fund Shares based on an index or portfolio of fixed income securities. The Exchange proposes to amend the Rule to add a new subsection Rule 14.11(c)(4)(B)(ii) to provide quantitative generic listing standards for Index Fund Shares based on an index or portfolio of Municipal Securities[10] that do not meet the generic listing standards under Rule 14.11(c)(4)(B)(i).[11] All other standards, however, not included in Rule 14.11(c)(4)(B)(i) applicable to series of Index Fund Shares based on an index composed of fixed income securities will continue to apply to a series of Index Fund Shares based on an index or portfolio of Municipal Securities listed pursuant to Rule 14.11(c)(4)(B)(ii). The Exchange also proposes to add language that would prohibit the listing of Shares under proposed Rule 14.11(c)(4)(B)(ii) that would seek to provide investment results, before fees and expenses, in an amount exceeding −300% of the percentage performance on a given day.

According to the Exchange, indices of Municipal Securities are able to satisfy all of the generic listing requirements applicable to fixed income indices in Rule 14.11(c)(4)(b)(i) except the requirement that component securities in an index have a minimum original principal amount outstanding of $100 million or more. The Exchange provides that Municipal Securities are generally issued with individual maturities of relatively small size, although they generally are constituents of a much larger municipal bond offering. Therefore, Municipal Securities are unable to satisfy the Rule's requirement that ''at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.'' Notwithstanding the inability of a Municipal Securities index to meet this aspect of the generic listing standards, the Exchange notes that the Commission previously approved for listing and trading Index Fund Shares based on such indices.[12]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85656 (April 16, 2019), 84 FR 16753.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 85966, 84 FR 26172 (June 5, 2019). The Commission designated July 21, 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.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 86410, 84 FR 35698 (July 24, 2019).

[8] *See* Securities Exchange Act Release No. 87300, 84 FR 56209 (October 21, 2019). The Commission designated December 18, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change.

[9] In Amendment No. 1, the Exchange: (1) Clarified that its proposed requirement that an underlying index or portfolio must include a minimum of 13 ''non-affiliated'' issuers means a minimum of 13 ''unique'' issuers; and (2) prohibited its generic listing of Index Fund Shares based on Municipal Securities (defined below) that seeks to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a given day of an index of Municipal Securities. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-cboebzx-2019-023/srcboebzx2019023-6388601-198128.pdf.* In view of the Commission's recent approval of another exchange's substantively identical proposal, Amendment No. 1 raises no novel issues and is therefore not subject to notice and comment. *See* Securities Exchange Act Release Nos. 85170 (February 21, 2019), 84 FR 6451 (February 27, 2019) and 87382 (October 22, 2019), 84 FR 57789 (October 28, 2019) (SR–NYSEArca–2019–04) (''NYSE Arca Proposal'').

[10] According to the proposal, the term ''Municipal Securities'' has the definition given to it in Section 3(a)(29) of the Act.

[11] The Exchange notes that its proposal is substantively identical to the NYSE Arca Proposal. *See supra* note 9.

[12] *See* Securities Exchange Act Release Nos. 84107 (September 13, 2018), 83 FR 47210 (September 18, 2018) (SR–CboeBZX–2018–070) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the iShares iBonds Dec 2025 Term Muni Bond ETF of iShares Trust Under BZX Rule 14.11(c)(4) (Index Fund Shares)); 79381 (November 22, 2016), 81 FR 86044 (November 29, 2016) (SR–BatsBZX–2016–48) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2 Thereto, To List and Trade Shares of the iShares iBonds Dec 2023 Term Muni Bond ETF and iShares iBonds Dec 2024 Term Muni Bond ETF of the iShares U.S. ETF Trust Pursuant to BZX Rule 14.11(c)(4); 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02); 67729 (August 24, 2012), 77 FR 52776 (August 30, 2012) (SR–NYSEArca–2012–92) (notice of proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02); 72523 (July 2, 2014), 79 FR 39016 (July 9, 2014) (SR–NYSEArca–2014–37) (order approving proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-

In light of the characteristics of Municipal Securities as described above, the Exchange proposes in its filing to apply existing Rule 14.11(c)(4)(b)(i) and proposed Rule 14.11(c)(4)(B)(ii) in a ''waterfall'' manner. Specifically, the Exchange proposes that every series of Index Fund Shares based on an index of fixed income securities and cash (including an index that contains Municipal Securities) would initially be evaluated against the generic listing standards of the existing Rule 14.11(c)(4)(b)(i). If the index underlying a series of Index Fund Shares satisfies the existing criteria of Rule 14.11(c)(4)(b)(i), the Exchange would proceed with listing the Index Fund Shares under that provision. However, if the index does not meet the requirements of Rule 14.11(c)(4)(b)(i) and such index contains only Municipal Securities and cash, the Exchange would apply the proposed Rule 14.11(c)(4)(B)(ii) to such index.

The Exchange believes that proposed Rule 14.11(c)(4)(B)(ii) includes many requirements that are more stringent than those applicable to an index of fixed income securities and cash under existing Rule 14.11(c)(4)(B)(i). The Exchange accordingly believes these heightened requirements would deter potential manipulation of such Municipal Securities indices, even though the indices may include securities that have smaller original principal amounts outstanding. Below is a comparison of the existing quantitative requirements for Index Fund Shares based on an index of fixed income securities (existing Rule 14.11(c)(4)(B)(i)) versus the Exchange's proposed alternative quantitative requirements for Index Fund Shares based on an index of Municipal Securities (proposed Rule 14.11(c)(4)(B)(ii)). The Exchange proposes that the quantitative requirements described below would apply to a Municipal Securities index underlying a series of Index Fund Shares on both an initial and continued basis.

ORIGINAL PRINCIPAL AMOUNT OUTSTANDING

Existing Requirement for Fixed Income Securities.	Fixed Income Security components that in aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.
Proposed Requirement for Municipal Securities.	Municipal Security components that in aggregate account for at least 90% of the Municipal Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of at least $5 million and have been issued as part of a transaction of at least $20 million.

As discussed above, according to the Exchange, Municipal Securities are typically issued with individual maturities of relatively small size, although they generally are constituents of a much larger municipal bond offering. In recognition of these smaller offering sizes, the Exchange proposes to reduce the minimum original principal amount outstanding requirement for component securities to at least $5 million. However, the Exchange proposes that qualifying securities must have been issued as part of a transaction of at least $20 million. Lastly, the Exchange proposes to increase the percentage weight of an index that must satisfy the original principal amount outstanding requirement from 75% to 90%.

The Exchange does not believe that reducing the requirement for minimum original principal amount outstanding will make an index of Municipal Securities more susceptible to manipulation. The Exchange believes that the requirement that component securities in a fixed income index have a minimum principal amount outstanding, in concert with the other requirements of Rule 14.11(c)(4)(B)(i), is to ensure that such index is sufficiently broad-based in scope as to minimize potential manipulation of the index. However, based on empirical analysis, the Exchange does not believe that an index of Municipal Securities with lower original principal amounts outstanding is necessarily more susceptible to manipulation.[13] According to the Exchange, in 2016, Blackrock, Inc. analyzed the potential for manipulation of Municipal Securities to affect an exchange traded fund and found that such manipulation ''may be uneconomical and is unsupported in practice.'' [14] In addition, the Exchange believes that its proposal to require that 90% of the weight of a Municipal Securities index meet the original principal amount outstanding requirement (as opposed to 75% for fixed income indices) will further deter potential manipulation by ensuring that a greater portion of the index meet this minimum size requirement.

The Exchange further notes that the Commission previously approved the listing and trading of several series of Index Fund Shares where the component securities representing at least 90% of the weight of the

Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary.02); 72172 (May 15, 2014), 79 FR 29241 (May 21, 2014) (SR–NYSEArca–2014–37) (notice of proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary.02); 72464 (June 25, 2014), 79 FR 37373 (July 1, 2014) (File No. SR–NYSEArca–2014–45) (order approving proposed rule change governing the continued listing and trading of shares of the PowerShares Insured California Municipal Bond Portfolio, PowerShares Insured National Municipal Bond Portfolio, and PowerShares Insured New York Municipal Bond Portfolio); 75468 (July 16, 2015), 80 FR 43500 (July 22, 2015) (SR–NYSEArca–2015–25) (order approving proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Equities Rule 5.2(j)(3)); 74730 (April 15, 2015), 76 FR 22234 (April 21, 2015) (notice of proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02); 74730 75376 (July 7, 2015), 80 FR 40113 (July 13, 2015) (SR–NYSEArca–2015–18) (order approving proposed rule change relating to the listing and trading of Vanguard Tax-Exempt Bond Index Fund under NYSE Arca Equities Rule 5.2(j)(3)).

[13] *See* Letter from Samara Cohen, Managing Director, U.S. Head of iShares Capital Markets, Joanne Medero, Managing Director, Government Relations & Public Policy, and Deepa Damre, Managing Director, Legal and Compliance, BlackRock, Inc., to Brent J. Fields, Secretary, Commission, dated October 18, 2017, in support of the Exchange's proposal to facilitate the listing and trading of Index Fund Shares listed pursuant to NYSE Arca Rule 5.2–E(j)(3) (SR–NYSEArca–2017–56).

[14] *See id.* at 3 and accompanying note 11. In the letter, Blackrock states that Blackrock's ''empirical analysis indicated that: (1) given the over-the-counter dealer-centric market for municipal bonds, the bid-ask spread decreases with trade size; therefore, trading many small lots to move matrix prices is likely to be costly; (2) large trades move prices significantly and this effect is incorporated into prices quickly; for manipulation to work by affecting bond prices, the trades must be large, implying greater dollar cost and more likelihood of detection even if markets were segmented; (3) while pricing agents apply matrix pricing techniques to value non-traded bonds, the effect is likely too small to permit price manipulation of the corresponding index or ETF; and (4) market participants will use all intraday data to come up with their own valuations independently of pricing providers; ultimately, the price of an ETF at a point in time reflects these estimates in a manner that balances supply and demand.''

underlying index must have a minimum original principal amount outstanding of at least $5 million and have been issued as part of a transaction of at least $20 million.[15]

MAXIMUM WEIGHT OF COMPONENT SECURITIES

Existing Requirement for Fixed Income Securities.	No component fixed income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the Fixed Income Securities portion of the weight of the index or portfolio, and the five most heavily weighted component fixed income securities in the index or portfolio shall not in the aggregate account for more than 65% of the Fixed Income Securities portion of the weight of the index or portfolio.
Proposed Requirement for Municipal Securities.	No component Municipal Security shall represent more than 10% of the Municipal Securities portion of the weight of the index or portfolio, and the five most heavily weighted component Municipal Securities in the index or portfolio shall not in the aggregate account for more than 30% of the Municipal Securities portion of the weight of the index or portfolio.

The Exchange proposes to reduce the maximum weight that any individual Municipal Security, or group of five Municipal Securities, can have in a Municipal Securities index. The current generic listing rules for Index Fund Shares based on a fixed income index permit individual component securities to account for up to 30% of the weight of such index and the top five weighted component securities to account for up to 65% of the weight of such index. The Exchange proposes to reduce these criteria to 10% for individual Municipal Securities and 30% for the top five weighted Municipal Securities in an index.

The Exchange believes that its proposal will reduce the likelihood that a Municipal Securities index underlying a series of Index Fund Shares could be subject to manipulation by ensuring that no individual Municipal Security, or group of five Municipal Securities, represents an outsized weight of a Municipal Securities index.

DIVERSIFICATION OF ISSUERS

Existing Requirement for Fixed Income Securities.	An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers.
Proposed Requirement for Municipal Securities.	An underlying index or portfolio must include a minimum of 13 unique issuers.

The current generic listing rules for Index Fund Shares based on an index of fixed income securities require that such index must include securities from at least thirteen non-affiliated[16] issuers. Notably, the current Rule does not apply the issuer diversification requirement to indices consisting entirely of exempted securities. Municipal Securities are included in the definition of exempted securities.[17] Therefore, an index of Municipal Securities that otherwise meets the requirements of Rule 14.11(c)(4)(b)(i) would not be required to satisfy the minimum issuer diversification requirement.

Under the proposed Rule 14.11(c)(4)(b)(ii), the Exchange proposes that a Municipal Securities index be required to include securities from at least 13 unique issuers. The Exchange believes that requiring such diversification will reduce the likelihood that an index can be manipulated by ensuring that securities from a variety of issuers are represented in an index of Municipal Securities.

NUMBER OF COMPONENTS

Existing Requirement for Fixed Income Securities.	Thirteen.
Proposed Requirement for Municipal Securities.	Five hundred.

The current generic listing requirements for Index Fund Shares based on an index of fixed income securities do not have an explicit requirement that an index contain a minimum number of securities. However, given that such requirements also specify that an index must contain securities from at least thirteen non-affiliated issuers, there is a de facto requirement that an index of fixed income securities contain at least thirteen component securities. As described above, however, a fixed income index comprised entirely of exempted securities (including Municipal Securities) is not required to satisfy the issuer diversification requirement, thereby allowing it to have no minimum number of component securities.

Under the proposed Rule 14.11(c)(4)(b)(ii), the Exchange proposes to require that a Municipal Securities index contain at least 500 component securities. The Exchange believes that such requirement will ensure that a Municipal Securities index is sufficiently broad-based and diversified to make it less susceptible to manipulation.

In addition to these changes, the Exchange proposes to amend Rule 14.11(c)(5) to specify that the Exchange may approve a series of Index Fund Shares for listing based on a combination of indexes, including an index of Municipal Securities. To the extent that an index of Municipal Securities is included in a combination, amended Rule 14.11(c)(5) will specify that the Municipal Securities index must meet all requirements of proposed Rule 14.11(c)(4)(B)(ii). In addition, amended Rule 14.11(c)(5) will specify that requirements related to index dissemination and related continued listing standards will apply to indexes of Municipal Securities. The Exchange notes that a combination index (including one that includes an index of Municipal Securities) will not be permitted to seek to provide investment results, before fees and expenses, in an amount that exceeds −300% of the percentage performance on a given day of any index included in such combination index.

Finally, as noted above, the Exchange proposes that existing rules applicable

[15] *See, e.g.,* Securities Exchange Act Release No. 84049 (September 6, 2018), 83 FR 46228 (September 12, 2018) (SR–NYSEArca–2018–38) (order approving, among other things, revisions to the continued listing criteria applicable to the iShares New York AMT-Free Muni Bond ETF).

[16] The Exchange notes that Rule 405 under the Securities Act of 1933 defines an affiliate as a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with such person. Rule 405 defines control as the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

[17] *See* Section 3(a)(12) of the Act.

to Index Fund Shares based on fixed income securities will continue to apply to any series of Index Fund Shares listed pursuant to proposed Rule 14.11(c)(4)(B)(ii), including: (i) Index methodology and calculation; [18] (ii) dissemination of information; [19] (iii) initial shares outstanding; [20] (iv) hours of trading; [21] (v) surveillance procedures; [22] and (vi) all continued listing requirements under Rule 14.11(c)(9)(B).

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

With respect to the quantitative requirements of proposed Rule 14.11(c)(4)(B)(ii), the original principal amount outstanding requirement is lower than what is currently applicable to Index Fund Shares based on an index or portfolio of fixed income securities. The Commission notes, however, that the other proposed quantitative requirements (*i.e.,* component concentration, issuer diversification, and minimum number of components) are more stringent than the existing generic listing requirements. Accordingly, the Commission believes that, taken together, the proposed criteria are sufficiently designed to prevent fraudulent and manipulative acts and practices. Specifically, the Commission believes that the proposed generic listing requirements for an index or portfolio of Municipal Securities, in aggregate, should help to ensure that an index underlying a series of Index Fund Shares will be sufficiently large, not concentrated, and diversified to prevent manipulation of that benchmark. Additionally, the Commission notes that it recently approved a proposal by another national securities exchange to adopt substantially similar generic listing standards.[25]

The Commission also finds that the proposed amendments to Rule 14.11(c)(5) are designed to extend the requirements related to the generic listing and trading of Index Fund Shares based on a combination of two or more types of indexes to an index of Municipal Securities.

In support of its proposal, the Exchange represents the following:

(1) Index Fund Shares listed pursuant to proposed Rule 14.11(c)(4)(B)(ii) will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[26] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[27] FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.[28] FINRA also can access data obtained from the Municipal Securities Rulemaking Board (''MSRB'') relating to municipal bond trading activity for surveillance purposes.[29] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine.[30]

(2) Index Fund Shares listed pursuant to the proposed generic listing rule will comply with all other requirements applicable to Index Fund Shares including, but not limited to, the applicable rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers, and the Information Circular to members, as set forth in Exchange rules applicable to Index Fund Shares.[31]

(3) The Exchange has in place surveillance procedures relating to trading in the Index Fund Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[32] In addition, investors will have ready access to information regarding the intraday indicative value and quotation and last-sale information for the Index Fund Shares. Trade price and other information relating to municipal bonds is available through the MSRB's Electronic Municipal Market Access.[33]

This approval order is based on all of the Exchange's representations, including those set forth above. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act [34] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–CboeBZX–2019–023), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26157 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

[18] *See* Rule 14.11(c)(4)(C).

[19] *See* Rule 14.11(c)(6)(A).

[20] *See* Rule 14.11(c)(6)(B).

[21] *See* Rule 14.11(c)(7).

[22] *See* Rule 14.11(c)(6)(C).

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

[25] *See* NYSE Arca Proposal, *supra* note 9.

[26] *See* Amendment No. 1, *supra* note 9, at 14–15.

[27] *See id.* at 15.

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.* at 16.

[32] *See id.* at 18–19.

[33] *See id.* at 19.

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87633; File No. SR–NYSEAMER–2019–51]

Self-Regulatory Organizations; NYSE American, LLC.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 960NY To Extend the Penny Pilot

November 26, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 15, 2019, NYSE American, LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 960NY to extend the Penny Pilot in options classes in certain issues (''Pilot'') previously approved by the Securities and Exchange Commission (''Commission'') through June 30, 2020. The Pilot is currently scheduled to expire on December 31, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .02 to Rule 960NY to extend the time period of the Pilot,[4] which is currently scheduled to expire on December 31, 2019, until June 30, 2020. The Exchange believes that extending the Pilot would allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future.

This filing does not propose any substantive changes to the Pilot: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Pilot for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot prior to its expiration on December 31, 2019. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot, the proposed rule change will allow for further analysis of the Pilot and a determination of how this program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

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[7] and Rule 19b–4(f)(6) thereunder.[8] 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.[9]

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

[4] *See* Securities and Exchange Act Release No. 86061 (June 7, 2019) 84 FR 27665 (June 13, 2019) (SR–NYSEAMER–2019–22).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A)(iii). Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange satisfied this requirement.

under Section 19(b)(2)(B) [10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–51. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–51 and should be submitted on or before December 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26062 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87637; File No. SR–BOX–2019–33]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add IM–7620–1 (Sub-Penny Cabinet) To Allow Transactions To Take Place at a Price That is Below $1 per Option Contract

November 27, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 13, 2019, BOX Exchange LLC (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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add IM–7620–1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below $1 per option contract. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to add Rule IM–7620–1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below $1 per option contract. An ''accommodation'' or ''cabinet'' trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is conducted in accordance with the Exchange Rule 7620 which sets forth the terms and conditions for engaging in cabinet trades. Currently, a cabinet order is defined as a closing limit order at a price of $1 per option contract for the account of a customer or Floor Market Maker. In certain cases opening orders [3] may be matched with a cabinet order.[4] Only Floor brokers may represent cabinet orders on the BOX Trading Floor. Cabinet transactions occur via open outcry at a cabinet price of $1 per option contract in any options series open for trading in the Exchange. Once the cabinet order has been either crossed or matched, the Floor Broker must submit the designated cabinet form as soon as possible but no later than the close of business that trading day. Cabinet order transactions are reported as late trades on the Exchange.[5]

The purpose of this rule change is to add Rule IM–7620–1 to allow for transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract (''sub-penny cabinet orders''). These lower priced transactions would be traded pursuant to the same procedures applicable to $1 cabinet trades, except that (i) bids and offers for opening transactions would only be permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures would also be made available for trading in option classes participating in the Penny Pilot

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes an ''opening order'' is a contra-side opening order in response to a Customer who submits a closing order to clear their position.

[4] *See* BOX Rule 7620(c), (d), and (e).

[5] The Exchange notes there have been no issues in processing and clearing cabinet trade transactions since Rule 7620 has been implemented.

Program.[6] The Exchange notes that the rule proposal is consistent with cabinet trading rules of other exchanges, previously approved by the Commission,[7] and supports the purpose of cabinet trading by facilitating liquidations of worthless or inactive positions. The Exchange believes that allowing sub-penny cabinet orders will better accommodate the closing of options positions in series that are worthless or not actively traded, particularly due to market conditions which may result in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of $100 and the underlying stock might now be trading at $30. In such a case, there might not otherwise be a market for that person to close-out its position even at the $1 cabinet price (*e.g.,* the series might be quoted no bid).

As with other cabinet trades, all transactions for less than $1 must be reported to the Exchange no later than the close of business each day. The Exchange represents that there would be no operational issues in processing and clearing sub-penny cabinet trades. The Exchange does not believe that the Options Clearing Corporation (''OCC'') will have any operational issues with processing sub-penny cabinet trades, as they will be reported to and submitted by the Exchange like all other cabinet trades. Additionally, the Exchange notes that because sub-penny cabinets will be reported and processed like all other cabinet trades, market participants will not be impacted nor have to take on any additional reporting or processing burden.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that sub-penny cabinet trades will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, by allowing all market participants to submit and execute accommodation transactions at a price that is below $1 per option contract. Specifically, the rule proposal will offer market participants additional opportunities to trade away unwanted worthless option positions priced even lower than current cabinet trades. The Exchange believes this will help remove impediments to and better provides a free and open market because it facilitates the closing of options positions that are worthless or not actively traded. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because all market participants may avail themselves of sub-penny cabinet orders.

The proposed rule does not propose to implement new or unique functionality that has not been previously filed with the Commission, found to be consistent with the Act, or is not available on other exchanges. The proposed change facilitates transactions in securities by ensuring that the rule covers cabinet trades in all series, not only those with a price of $1 per option contract. The Exchange also believes that the proposed change will protect investors because there would be no operational issues in processing and clearing sub-penny cabinet trades because sub-penny cabinet trades would be reported to the Exchange and submitted to the OCC like current cabinet trades. Additionally, because sub-penny cabinets will be reported and processed like all other cabinet trades, market participants will not be impacted nor have to take on any additional reporting or processing burden. As such, BOX believes the proposed rule change protects investors, and is therefore, consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that liquidation trades promote competition and afford market participants the opportunity to close out their worthless options positions. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition because the proposed sub-penny cabinet orders will be available to all market participants to execute in the same manner as they execute cabinet orders currently. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition. As discussed above, the basis for the proposed rule change regarding sub-penny cabinets are the rules of other options exchanges, which have already been found consistent with the Act and approved by the Commission.[11] In addition to this, other exchanges have substantially similar rules regarding sub-penny cabinet trading.[12]

As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes

[6] The $1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as $0.01 per share (or $1.00 per option contract with a 100 share multiplier). Because this proposal would allow trading below $0.01 per share (or $1.00 per option contract with a 100 share multiplier), the procedures would be made available for all classes, including those classes participating in the Penny Pilot Program.

[7] *See, e.g.,* NYSE Arca Options Commentary .01 to Rule 6.80–O; and NASDAQ Phlx Options 8, Sec. 33(d).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *See supra* note 7.

[12] *See id.*

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

that sub-penny cabinet orders are already allowed on other exchanges and that waiver of the operative delay would permit the Exchange to compete for sub-penny cabinet order flow. As the proposal raises no novel issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2019–33 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–BOX–2019–33. 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–BOX–2019–33 and should be submitted on or before December 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26159 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

[17] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87632; File No. SR–BOX–2019–34]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7260 by Extending the Penny Pilot Program Through June 30, 2020

November 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 19, 2019, BOX Exchange LLC (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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the effective time period of the Penny Pilot Program until June 30, 2020. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the effective time period of the Penny Pilot Program that is currently scheduled to expire on December 31, 2019, until June 30, 2020.[3] The Penny Pilot Program permits certain classes to be quoted in

[3] The Penny Pilot Program has been in effect on the Exchange since its inception in May 2012. *See* Securities Exchange Act Release Nos. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No.10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), 67328 (June 29, 2012), 77 FR 40123 (July 6, 2012) (SR–BOX–2012–007), 68425 (December 13, 2012), 77 FR 75234 (December 19, 2013) (SR–BOX–2012–021), 69789 (June 18, 2013), 78 FR 37854 (June 24, 2013) (SR–BOX–2013–31), 71056 (December 12, 2013), 78 FR 76691 (December 18, 2013) (SR–BOX–2013–56), 72348 (June 9, 2014), 79 FR 33976 (June 13, 2014) (SR–BOX–2014–17), 73822 (December 11, 2014), 79 FR 75606 (December 18, 2014) (SR–BOX–2014–29), 75295 (June 25, 2015), 80 FR 37690 (July 1, 2015) (SR–BOX–2015–23), 78172 (June 28, 2016), 81 FR 43325 (July 1, 2016) (SR–BOX–2016–24), 79429 (November 30, 2016), 81 FR 87991 (December 6, 2016) (SR–BOX–2016–55), 80828 (May 31, 2017), 82 FR 26175 (June 6, 2017) (SR–BOX–2017–18), 82353 (December 19, 2017) 82 FR 61087 (December 26, 2017) (SR–BOX–2017–37), 83500 (June 22, 2018), 83 FR 30471 (June 28, 2018) (SR–BOX–2018–23), 84869 (December 19, 2018), 83 FR 66806 (December 27, 2018) (SR–BOX–2018–38), and 86053 (June 6, 2019), 84 FR 27388 (June 12, 2019) (SR–BOX–2019–20). The extension of the effective date is the only change to the Penny Pilot Program being proposed at this time.

penny increments. The minimum price variation for all classes included in the Penny Pilot program, except for PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), will continue to be $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY, and IWM will continue to be quoted in $0.01 increments for all options series.

The Exchange may replace any Pilot Program classes that have been delisted on the second trading day in the first month of each quarter. The Exchange notes that the replacement classes will be selected based on trading activity in the previous six months. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable under the Pilot Program, including excluding high-priced underlying securities. The Exchange will distribute a Regulatory Circular notifying Participants which replacement classes shall be included in the Penny Pilot Program.

BOX is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot until June 30, 2020, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2019–34 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–BOX–2019–34. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–BOX–2019–34 and should be submitted on or before December 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26059 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87634; File No. SR–CboeEDGA–2019–015]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Introduce a Small Retail Broker Distribution Program

November 26, 2019.

I. Introduction

On October 1, 2019, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the EDGA fee schedule to introduce a Small Retail Broker Distribution Program (the ''Program''). The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on October 17, 2019.[4] The Commission received no comment letters regarding the proposed rule change. Under Section 19(b)(3)(C) of the Act,[5] the Commission is hereby: (i) Temporarily suspending the proposed rule change; and (ii) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend its fee schedule to introduce a pricing program that would allow certain Distributors[6] to purchase the Cboe One Summary Feed[7] from the Exchange at discounted fees. Currently, the Exchange charges $5,000 per month for external distribution of Cboe One Summary Feed, and a Data Consolidation Fee of $1,000 per month. The Exchange also charges a fee $10 per month for each Professional User and $0.25 for each Non-Professional User.[8]

Under the Exchange's proposal, Distributors that qualify for the Program would be charged a discounted fee of $3,500 per month for the distribution of Cboe One Summary Feed. Distributors that qualify for the Program would also be charged a discounted Data Consolidation Fee of $350 for Cboe One Summary Feed. The Exchange would continue to charge the current Professional and Non-Professional User fees for Cboe One Summary Feed.

In order to qualify for the Program, a Distributor must meet the following criteria: (i) Distributor is a broker-dealer distributing Cboe One Summary Feed Data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) more than 50% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving Cboe One Summary Feed; and (iii) Distributor distributes Cboe One Summary Feed to no more than 5,000 Non-Professional Data Users.

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[9] at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,[10] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') 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. As discussed below, the Commission believes a temporary suspension of the proposed rule change is necessary and appropriate to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder.

A fee change to introduce the Program was originally filed on August 1, 2019. That proposal, CboeEDGA–2019–013, was published for comment in the **Federal Register** on August 20, 2019.[11] The Commission received no comment letters regarding the proposed rule change. On September 30, 2019, the Division of Trading and Markets (the ''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending CboeEDGA–2019–013 pursuant to Section 19(b)(3)(C) of the Act[12] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[13] to determine whether to approve or disapprove that proposal.[14]

The Exchange continues to assert that the proposed fees for the Program ''are reasonable as they represent a significant cost reduction for smaller, primarily regional, retail brokers that provide top of book data from EDGA and its affiliated exchanges to their retail investor clients.''[15] The Exchange also asserts that the ''proposed fees are equitable and not unfairly discriminatory as the proposed fee

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 87294 (October 11, 2019), 84 FR 55638 (''Notice'').

[5] 15 U.S.C. 78s(b)(3)(C).

[6] A Distributor of an Exchange market data product is any entity that receives the Exchange market data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party. *See* EDGA Fee Schedule.

[7] Cboe One Summary Feed is a data feed that offers top of book quotations and execution information based on equity orders submitted to the Exchange and its affiliated equities exchanges, *i.e.,* Cboe EDGX Exchange, Inc., Cboe BZX Exchange, Inc., and Cboe BYX Exchange, Inc. *See* Notice, *supra* note 4, 84 FR at 55638.

[8] A ''Professional User'' of an Exchange market data product is any user other than a Non-Professional User. *See* EDGA Fee Schedule. A ''Non-Professional User'' of an Exchange market data product is a natural person or qualifying trust that uses data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. *Id.*

[9] 15 U.S.C. 78s(b)(3)(C).

[10] 15 U.S.C. 78s(b)(1).

[11] *See* Securities Exchange Act Release No. 86678 (August 14, 2019), 84 FR 43218.

[12] 15 U.S.C. 78s(b)(3)(C).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] *See* Securities Exchange Act Release No. 87163 (September 30, 2019), 84 FR 53203.

[15] *See* Notice, *supra* note 4, 84 FR at 55641.

structure is designed to decrease the price and increase the availability of U.S. equities market data to retail investors.'' [16] Finally, the Exchange states that while the proposed fees are limited to smaller firms that distribute data to no more than 5,000 Non-Professional data users, it does not believe that the proposed fees for the Program are inequitable or unfairly discriminatory.[17]

When exchanges file their proposed rule changes with the Commission, including fee filings like the Exchange's present proposal, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[18] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements.'' [19]

Among other things, exchange proposed rule changes are subject to Section 6 of the Act, including Sections 6(b)(4), (5), and (8), which requires the rules of an exchange to: (1) Provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities; [20] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; [21] and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[22]

In temporarily suspending the Exchange's fee change, the Commission intends to further consider whether the establishment of the Program is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[23]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule changes.[24]

IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C) [25] and 19(b)(2)(B) of the Act [26] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[27] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities,'' [28]
- Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to perfect the operation of a free and open market and a national market system'' and ''protect investors and the public interest,'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,'' [29] and
- Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].'' [30]

As noted above, the proposal establishes new discounted fees for Distributors of the Exchange's Cboe One Summary data feed. The Commission notes that the Exchange's statements in support of the proposed rule change are general in nature and lack detail and specificity. The Exchange states that it operates in a highly competitive environment, and its ability to price these products is constrained by (i) competition among other national securities exchanges that offer similar data products to their customers; and (ii) real-time consolidated data disseminated by the securities information processors.[31] The Exchange also states that the proposed Program would reduce fees charged to small retail brokers that provide access to the Cboe One Summary Feed.[32] The Exchange notes that it has one distributor that qualifies and is taking advantage of the Program's pricing,[33] and notes that Program's fees are often lower than Nasdaq's fees.[34] The Exchange also notes that ''[w]hile there is no 'exact science' to choosing one eligibility threshold compared to another, the Exchange believes that having more Non-Professional Data Users across a firm's entire business . . . is indicative of a broker-dealer that is primarily engaged in the business of serving retail investors.'' [35] The Exchange states that larger broker-dealers and/or vendors benefit from lower subscriber fees and enterprise licenses, that Distributors that provide data to more than 5,000 Non-Professional data users ''enjoy cost savings compared to competitor products,'' and that the proposed fees would ''ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing . . .'' [36]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [37] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis

[16] *Id.*

[17] *See id.* at 55641–42.

[18] *See* 17 CFR 240.19b–4 (Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[19] *See id.*

[20] 15 U.S.C. 78f(b)(4).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(8).

[23] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[24] For purposes of temporarily suspending the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 15 U.S.C. 78f(b)(4).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] *See* Notice, *supra* note 4, 84 FR at 55639.

[32] *See id.*

[33] *See id.* at 55639–41.

[34] *See id.* at 55642–43.

[35] *See id.* at 55641.

[36] *See id.* at 55642.

[37] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[38] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[39]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that exchange fees be reasonable and equitably allocated; be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[40]

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by December 24, 2019. Rebuttal comments should be submitted by January 7, 2020. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[41]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, 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–CboeEDGA–2019–015 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–CboeEDGA–2019–015. 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–CboeEDGA–2019–015 and should be submitted on or before December 24, 2019. Rebuttal comments should be submitted by January 7, 2020.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[42] that File No. SR–CboeEDGA–2019–015 be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26057 Filed 12–2–19; 8:45 am]

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[38] *See id.*

[39] *See id.*

[40] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

[41] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding–either oral or notice and opportunity for written comments–is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[42] 15 U.S.C. 78s(b)(3)(C).

[43] 17 CFR 200.30–3(a)(57) and (58).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87631; File No. SR-CboeBYX–2019–015]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Introduce a Small Retail Broker Distribution Program

November 26, 2019.

I. Introduction

On October 1, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the BYX fee schedule to introduce a Small Retail Broker Distribution Program (the ''Program''). The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on October 21, 2019.[4] The Commission received no comment letters regarding the proposed rule change. Under Section 19(b)(3)(C) of the Act,[5] the Commission is hereby: (i) Temporarily suspending the proposed rule change; and (ii) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend its fee schedule to introduce a pricing program that would allow certain Distributors[6] to purchase top of book

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 87305 (October 15, 2019), 84 FR 56210 (''Notice'').

[5] 15 U.S.C. 78s(b)(3)(C).

[6] A Distributor of an Exchange market data product is any entity that receives the Exchange

Continued

market data from the Exchange at discounted fees. Currently, the Exchange offers two top of book data feeds that provide quote and trade information. First, the Exchange charges a fee of $1,000 per month for external distribution of BYX Top Feed [7] and a fee of $1 per month for each Professional User and $0.025 per month for each Non-Professional User.[8] Second, the Exchange charges $5,000 per month for external distribution of Cboe One Summary Feed [9] and a Data Consolidation Fee of $1,000 per month. The Exchange also charges a fee $10 per month for each Professional User and $0.25 for each Non-Professional User.

Under the Exchange's proposal, Distributors that qualify for the Program would be charged a discounted fee of $250 per month for the distribution of BYX Top Feed and $3,500 per month for the distribution of Cboe One Summary Feed. Distributors that qualify for the Program would also be charged a discounted Data Consolidation Fee of $350 for Cboe One Summary Feed. The Exchange would continue to charge the current Professional and Non-Professional User fees for both data feeds.

In order to qualify for the Program, a Distributor must meet the following criteria for each respective data feed: (i) Distributor is a broker-dealer distributing BYX Top Data Feed or Cboe One Summary Feed to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) more than 50% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving BYX Top Data/Cboe One Summary Feed; and (iii) Distributor distributes BYX Top Data/Cboe One Summary Feed to no more than 5,000 Non-Professional Data Users.

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[10] at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,[11] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') 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. As discussed below, the Commission believes a temporary suspension of the proposed rule change is necessary and appropriate to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder.

A fee change to introduce the Program was originally filed on August 1, 2018. That proposal, CboeBYX–2019–012, was published for comment in the **Federal Register** on August 20, 2019.[12] The Commission received no comment letters regarding the proposed rule change. On September 30, 2019, the Division of Trading and Markets (the ''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending CboeBYX–2019–012 pursuant to Section 19(b)(3)(C) of the Act [13] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act [14] to determine whether to approve or disapprove that proposal.[15]

The Exchange continues to assert that the proposed fees for the Program ''are reasonable as they represent a significant cost reduction for smaller, primarily regional, retail brokers that provide top of book data from BYX and its affiliated exchanges to their retail investor clients.'' [16] The Exchange also asserts that the ''proposed fees are equitable and not unfairly discriminatory as the proposed fee structure is designed to decrease the price and increase the availability of U.S. equities market data to retail investors.'' [17] Finally, the Exchange states that while the proposed fees are limited to smaller firms that distribute data to no more than 5,000 Non-Professional data users, it does not believe that the proposed fees for the Program are inequitable or unfairly discriminatory.[18]

When exchanges file their proposed rule changes with the Commission, including fee filings like the Exchange's present proposal, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[19] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements.'' [20]

Among other things, exchange proposed rule changes are subject to Section 6 of the Act, including Sections 6(b)(4), (5), and (8), which requires the rules of an exchange to: (1) Provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities; [21] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; [22] and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[23]

In temporarily suspending the Exchange's fee change, the Commission intends to further consider whether the establishment of the Program is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards under the

market data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party. *See* BYX Fee Schedule.

[7] BYX Top is an uncompressed data feed that offers top of book quotations and execution information based on equity orders entered in the Exchange. *See* Notice, *supra* note 4, 84 FR at 56210.

[8] A ''Professional User'' of an Exchange market data product is any user other than a Non-Professional User. *See* BYX Fee Schedule. A ''Non-Professional User'' of an Exchange market data product is a natural person or qualifying trust that uses data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. *Id.*

[9] Cboe One Summary Feed is a data feed that offers top of book quotations and execution information based on equity orders submitted to the Exchange and its affiliated equities exchanges, *i.e.,* Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., and Cboe EDGA Exchange, Inc. *See* Notice, *supra* note 4, 84 FR at 56210.

[10] 15 U.S.C. 78s(b)(3)(C).

[11] 15 U.S.C. 78s(b)(1).

[12] *See* Securities Exchange Act Release No. 86670 (August 14, 2019), 84 FR 43207.

[13] 15 U.S.C. 78s(b)(3)(C).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *See* Securities Exchange Act Release No. 87166 (September 30, 2019), 84 FR 53197.

[16] *See* Notice, *supra* note 4, 84 FR at 56213.

[17] *Id.*

[18] *Id.*

[19] *See* 17 CFR 240.19b–4 (Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[20] *See id.*

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78f(b)(8).

Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[24]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule changes.[25]

IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C)[26] and 19(b)(2)(B) of the Act[27] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[28] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities,''[29]
- Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to perfect the operation of a free and open market and a national market system'' and ''protect investors and the public interest,'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,''[30] and
- Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].''[31]

As noted above, the proposal establishes new discounted fees for Distributors of the Exchange's two top of book data feeds. The Commission notes that the Exchange's statements in support of the proposed rule change are general in nature and lack detail and specificity. The Exchange states that it operates in a highly competitive environment, and its ability to price top of book data products is constrained by (i) competition among other national securities exchanges that offer similar data products to their customers; and (ii) real-time consolidated data disseminated by the securities information processors.[32] The Exchange also states that the proposed Program would reduce fees charged to small retail brokers that provide access to two top of book data products, the BYX Top Feed and the Cboe One Summary Feed.[33] The Exchange notes that it has one distributor that qualifies and is taking advantage of the Program's pricing,[34] and notes that Program's fees are often lower than Nasdaq's fees.[35] The Exchange also notes that ''[w]hile there is no 'exact science' to choosing one eligibility threshold compared to another, the Exchange believes that having more Non-Professional Data Users across a firm's entire business . . . is indicative of a broker-dealer that is primarily engaged in the business of serving retail investors.''[36] The Exchange states that larger broker-dealers and/or vendors benefit from lower subscriber fees and enterprise licenses, that Distributors that provide data to more than 5,000 Non-Professional data users ''enjoy cost savings compared to competitor products,'' and that the proposed fees would ''ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing . . .''[37]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.''[38] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[39] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[40]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that exchange fees be reasonable and equitably allocated; be designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory; or not impose an unnecessary or inappropriate burden on competition.[41]

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by December 24, 2019. Rebuttal comments should be submitted by January 7, 2020. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[42]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to

[24] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[25] For purposes of temporarily suspending the 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).

[26] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 15 U.S.C. 78s(b)(2)(B).

[29] 15 U.S.C. 78f(b)(4).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(8).

[32] *See* Notice, *supra* note 4, 84 FR at 56214.

[33] *See id.* at 56212.

[34] *See id.* at 56211.

[35] *See id.* at 56213–14.

[36] *Id.* at 56213.

[37] *Id.*

[38] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[39] *See id.*

[40] *See id.*

[41] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

[42] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

any other comments they may wish to submit about the proposed rule change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, 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–CboeBYX–2019–015 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–CboeBYX–2019–015. 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–CboeBYX–2019–015 and should be submitted on or before December 24, 2019. Rebuttal comments should be submitted by January 7, 2020.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[43] that File No. SR–CboeBYX–2019–015 be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–26058 Filed 12–2–19; 8:45 am]

BILLING CODE 8011–01–P

[43] 15 U.S.C. 78s(b)(3)(C).

[44] 17 CFR 200.30–3(a)(57) and (58).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2019–0051]

Agency Information Collection Activities: Proposed Request and 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 and extensions of OMB-approved information collections, and one new collection.

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*

(SSA) 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–2019–0051].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than February 3, 2020. Individuals can obtain copies of the collection instruments by writing to the above email address.

Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—20 CFR 404.720 & 404.721—0960–NEW. Section 202(d)–(i) of the Social Security Act (Act) provides for the payment of various monthly survivor benefits, and a lump sum death payment, to certain survivors upon the death of an individual who dies while fully or currently insured. In cases where insured wage earners have been absent from their homes for at least seven years, and there is no evidence these individuals are alive, SSA may presume they are deceased and pay their survivors the appropriate benefits. SSA uses the information from Form SSA–723 to determine if we may presume a missing wage earner is deceased, and, if so, establish a date of presumed death. The respondents are relatives, friends, neighbors, or acquaintances of the presumed deceased wage earner, or the person who is filing for survivors benefits.

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–723	3,000	1	30	1,500	*22.50	**33,750

*We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data.
**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

II. 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 January 2, 2020. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Incorporation by Reference of Oral Findings of Fact and Rationale in Wholly Favorable Written Decisions (Bench Decision Regulation)—20 CFR 404.953 and 416.1453—0960–0694.* If an administrative law judge (ALJ) makes a wholly favorable oral decision, including all the findings and rationale for the decision for a claimant of Title II or Title XVI payments, at an administrative appeals hearing, the ALJ sends a Notice of Decision (Form HA–82), as the records from the oral hearing preclude the need for a written decision. We call this the incorporation-by-reference process. In addition, the regulations for this process state that if the involved parties want a record of the oral decision, they may submit a written request for these records. SSA collects identifying information under the aegis of Sections 20 CFR 404.953 and 416.1453 of the Code of Federal Regulations to determine how to send interested individuals written records of a favorable incorporation-by-reference oral decision made at an administrative review hearing. Since there is no prescribed form to request a written record of the decision, the involved parties send SSA their contact information and reference the hearing for which they would like a record. The respondents are applicants for Social Security Disability Insurance benefits (SSDI) or Supplemental Security Income (SSI) payments, or their representatives, to whom SSA gave a wholly favorable oral decision under the regulations cited above.

Type of Request: Extension 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)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
HA–82	2,500	1	5	208	*10.22	**2,126

*We based this figure on average DI payments, as reported in SSA's disability insurance payment data.
**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Request for Waiver of Special Veterans Benefits (SVB) Overpayment Recovery or Change in Repayment Rate—20 CFR 408.900–408.950—0960–0698.* Title VIII of the Act requires SSA to pay a monthly benefit to qualified World War II veterans who reside outside the United States. When an overpayment in this SVB occurs, the beneficiary can request a waiver of recovery of the overpayment or a change in the repayment rate. SSA uses the SSA–2032–BK to obtain the information necessary to establish whether the claimant meets the waiver of recovery provisions of the overpayment, and to determine the repayment rate if we do not waive repayment. Respondents are SVB beneficiaries who have overpayments on their Title VIII record and wish to file a claim for waiver of recovery or change in repayment rate.

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)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–2032–BK	134	1	120	268	*7.67	**2,056

*We based this figure on average SVB payments, as per SSA's data.
**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. *Protection and Advocacy for Beneficiaries of Social Security (PABSS)—20 CFR 435.51–435.52—0960–0768.* The PABSS projects are part of Social Security's strategy to increase the number of SSDI or SSI recipients

who return to work and achieve financial independence and self-sufficiency as the result of receiving support, representation, advocacy, or other services. PABSS provides: (1) Information and advice about obtaining vocational rehabilitation and employment services; and (2) advocacy or other services a beneficiary with a disability may need to secure, maintain, or regain gainful employment. The PABSS Annual Program Performance Report collects statistical information from each of the PABSS projects in an effort to manage and capture program performance and quantitative data. Social Security uses the information to evaluate the efficiency of the program, and to ensure beneficiaries are receiving quality services. The project data is valuable to Social Security in its analysis of and future planning for the SSDI and SSI programs. The respondents are the 57 PABSS project sites, and recipients of SSDI and SSI programs.

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)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
PABSS Program Grantees	57	1	60	57	* 42.66	** 2,432
Beneficiaries	8,284	1	30	4,142	* 10.22	** 42,331
Totals	8,341			4,199		** $44,763

* We based these figures on average Computer Systems Analyst hourly salary, as reported by Bureau of Labor Statistics data, and average DI payments, as reported in SSA's disability insurance payment data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Methods for Conducting Personal Conferences When Waiver of Recovery of a Title II or Title XVI Overpayment Cannot Be Approved—20 CFR 404.506(e)(3), 404.506(f)(8), 416.557(c)(3), and 416.557(d)(8)—0960–0769.* SSA conducts personal conferences when we cannot approve a waiver of recovery of a Title II or Title XVI overpayment. The Act and our regulatory citations require SSA to give overpaid Social Security beneficiaries and SSI recipients the right to request a waiver of recovery and automatically schedule a personal conference if we cannot approve their request for waiver of overpayment. We conduct these conferences face-to-face, via telephone, or through video teleconferences. Social Security beneficiaries and SSI recipients, or their representatives, may provide documents to demonstrate they are without fault in causing the overpayment, and do not have the ability to repay the debt. They may submit these documents by completing Form SSA–632, Request for Waiver of Overpayment Recovery (OMB No. 0960–0037); Form SSA–795, Statement of Claimant or Other Person (OMB No. 0960–0045); or through a personal statement submitted by mail, telephone, personal contact, or other suitable method, such as fax or email. This information collection satisfies the requirements for request for waiver of recovery of an overpayment, and allows individuals to pursue further levels of administrative appeal via personal conference. Respondents are Social Security beneficiaries and SSI recipients, or their representatives, seeking reconsideration of an SSA waiver decision.

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)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Title II, Personal Conference, 404.506(e)(3) and 404.506(f)(8): Submittal of documents, additional mitigating financial information, and verifications for consideration at personal conferences.	30,271	1	45	22,703	* 22.50	** 510,818
Title XVI, Personal Conference, 416.557(c)(3) and 416.557(d)(8): Submittal of documents, additional mitigating financial information, and verifications at personal conferences.	51,192	1	45	38,394	* 10.22	** 392,387
Totals	81,463			61,097		** 903,205

* We based these figures on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data; and average DI payments, as reported in SSA's disability insurance payment data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: November 27, 2019.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2019–26148 Filed 12–2–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10958]

Report to Congress Pursuant to Section 1245(e) of the National Defense Authorization Act for Fiscal Year 2013 (FY13 NDAA)

ACTION: Notice of report.

FOR FURTHER INFORMATION CONTACT: On general issues: Rachael Jagielski, Office of Counterproliferation Initiatives, Department of State, Tel: (202) 647–5193.

Report (October 29, 2019)

Section 1245(e) of the FY13 NDAA, known as the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA), as delegated, requires that the Secretary of State, in consultation with the Secretary of the Treasury, determine (1) whether Iran is (A) using any of the materials described in subsection (d) of Section 1245 of IFCA as a medium for barter, swap, or any other exchange or transaction, or (B) listing any of such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran; (2) which sectors of the economy of Iran are controlled directly or indirectly by Iran's Islamic Revolutionary Guard Corps (IRGC); and (3) which of the materials described in subsection (d) are used in connection with the nuclear, military, or ballistic missile programs of Iran. Materials described in subsection (d) of Section 1245 are graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes.

The previous report under Section 1245(e) of IFCA was dated February 10, 2014. The information available for the time period from January 1, 2014 to December 31, 2016 has been reviewed, and this report provides a determination for each item identified in Section 1245(e) for that period.

Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has determined that Iran is not using the materials described in Section 1245(d) as a medium for barter, swap, or any other exchange or transaction; nor is Iran listing any such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran.

Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has not identified a sector of the Iranian economy that is controlled directly or indirectly by the IRGC. This finding reflects a change in the IRGC's influence over the energy sector since the previous report under Section 1245(e).

As previously determined, of the 31 materials expected to be included within the scope of Section 1245(d) of IFCA, certain types of the following materials are used in connection with the nuclear, military, or ballistic missile programs of Iran: Aluminum, beryllium, boron, cobalt, copper, copper-infiltrated tungsten, copper-beryllium, graphite, hastelloy, Inconel, magnesium, molybdenum, nickel, niobium, silver-infiltrated tungsten, steels (including, but not limited to, maraging steels and stainless steels), titanium diboride, tungsten, tungsten carbide, and zirconium.

Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has determined that, of the materials listed above, the following certain types of those materials are used in connection with the nuclear, military, or ballistic missile programs of Iran: Stainless steel 304L tubes, MN40 manganese brazing foil, MN70 manganese brazing foil, and stainless steel CrNi60WTi ESR+VAR (chromium, nickel, 60 percent tungsten, titanium, electro-slag remelting, vacuum arc remelting). Subsequent to this determination, if the Secretary of State, in consultation with the Secretaries of the Treasury and Commerce and the U.S. Trade Representative, and other agencies as appropriate, determines that a person knowingly sells, supplies, or transfers, directly or indirectly, to or from Iran, any of the materials listed in this paragraph, sanctions would be applicable pursuant to Section 1245(a)(1)(C)(i)(III) of IFCA.

Dated: October 29, 2019.

Michael R. Pompeo,

Secretary of State.

[FR Doc. 2019–26069 Filed 12–2–19; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice: 10962]

Report to Congress Pursuant to Section 1245(e) of the National Defense Authorization Act for Fiscal Year 2013 (FY13 NDAA)

ACTION: Notice of report.

FOR FURTHER INFORMATION CONTACT: On general issues: Rachael Jagielski, Office of Counterproliferation Initiatives, Department of State, Tel: (202) 647–5193.

Report (October 29, 2019)

Section 1245(e) of the FY13 NDAA, known as the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA), as delegated, requires that the Secretary of State, in consultation with the Secretary of the Treasury, determine (1) whether Iran is (A) using any of the materials described in subsection (d) of Section 1245 of IFCA as a medium for barter, swap, or any other exchange or transaction, or (B) listing any of such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran; (2) which sectors of the economy of Iran are controlled directly or indirectly by Iran's Islamic Revolutionary Guard Corps (IRGC); and (3) which of the materials described in subsection (d) are used in connection with the nuclear, military, or ballistic missile programs of Iran. Materials described in subsection (d) of Section 1245 are graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes.

This report under Section 1245(e) of IFCA covers the period from January 1, 2017 to December 31, 2018.

Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has determined that Iran is not using the materials described in Section 1245(d) as a medium for barter, swap, or any other exchange or transaction; nor is Iran listing any such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran.

Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has determined that the construction sector of Iran is controlled directly or indirectly by the IRGC.

As previously determined, of the 31 materials expected to be included within the scope of Section 1245(d) of IFCA, certain types of the following materials are used in connection with the nuclear, military, or ballistic missile programs of Iran: Aluminum, beryllium, boron, cobalt, copper, copper-infiltrated tungsten, copper-beryllium, graphite, hastelloy, Inconel, magnesium, molybdenum, nickel, niobium, silver-infiltrated tungsten, steels (including, but not limited to, maraging steels and stainless steels), titanium diboride,

tungsten, tungsten carbide, and zirconium.

Additionally, a report under Section 1245(e) of IFCA for an earlier time period included a determination that identified four certain types of those materials that are used in connection with the nuclear, military, or ballistic missile programs of Iran. Following a review of the available information, and in consultation with the Department of the Treasury, the Secretary of State has not identified any additional certain types of those materials that are used in connection with the nuclear, military, or ballistic missile programs of Iran.

Dated: October 29, 2019.

Michael R. Pompeo,

Secretary of State.

[FR Doc. 2019–26070 Filed 12–2–19; 8:45 am]

BILLING CODE 4710–27–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 34936]

Port of Moses Lake—Construction Exemption—Moses Lake, Wash.

On August 28, 2008, the Port of Moses Lake (the Port) filed a petition seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct approximately 7.6 miles of rail line as part of its Northern Columbia Basin Railroad Project (NCBRP) in the City of Moses Lake, Wash. The Port's petition involved construction of two lines, the first between the community of Wheeler, Wash., and Parker Horn, Wash. (Segment 1), and the second between existing trackage of the Columbia Basin Railroad Company, Inc. (CBRW), and the east side of the Grant County International Airport (Segment 2). Following the completion of the environmental review process, which was conducted in conjunction with the Washington State Department of Transportation, the Board authorized construction of the environmentally preferred routes for Segments 1 and 2, subject to environmental mitigation measures, finding that the construction project met the standards for an exemption under 49 U.S.C. 10502.[1] *Port of Moses Lake—Constr. Exemption—Moses Lake, Wash.* (*August 2009 Decision*), FD 34936 et al. (STB served Aug. 27, 2009).

On November 2, 2018, the Port filed a petition to reopen. In that petition, the Port requested authorization from the Board under 49 U.S.C. 10502 for route modifications that account for land development that has occurred along and near the proposed rail line since the Board's *August 2009 Decision.*[2] (Port Pet. 5–6, Nov. 2, 2018.) The Port also sought to enable the Federal Railroad Administration (FRA) to participate in a supplemental environmental review process for a modified route.[3] By decision served on January 28, 2019, the Board reopened this proceeding to consider the Port's proposed route modifications. *Port of Moses Lake—Constr. Exemption—Moses Lake, Wash.,* FD 34936 (STB served Jan. 28, 2019). The Board found that the Port had presented new evidence and changed circumstances that warranted reopening. *Id.* at 3. The Board found that it could not have considered the proposed route modifications previously, as the proposed revisions to the original route were designed to consider development of the land along and near the originally proposed rail line that had not occurred before the *August 2009 Decision. Port of Moses Lake,* FD 34936, slip op. at 3. OEA, along with the FRA participating as a cooperating agency, then prepared a Supplemental EA to consider what, if any, environmental impacts the proposed route modifications would have and whether additional or different environmental conditions should be recommended to mitigate those impacts.

In this decision, the Board authorizes the proposed modifications to the Port's construction project, subject to OEA's final recommended environmental mitigation measures. The environmental mitigation measures are set forth in the Final Supplemental EA, as discussed below.

Background

The Port is a noncarrier municipality of the State of Washington that is chartered for economic development. It operates the Grant County International Airport and the Grant County International Airport Industrial Park, which has over one million square feet of building space and over 1,000 acres of industrial and commercial land. (Port Pet. 2, Aug. 28, 2008.) The Port states that NCBRP is one of the means by which the Port seeks to promote economic development on industrial lands near the airport and on land zoned for industry along Wheeler Road. (Port Pet. 2, Nov. 2, 2018.) The Port further states that NCBRP serves the purpose of moving rail traffic out of the downtown area of the City of Moses Lake. (*Id.*)

Prior to the Board authorizing construction in 2009, OEA conducted an environmental review that analyzed the environmental impacts associated with the proposed project. After preparing, issuing, and receiving public comment on a Preliminary EA, OEA issued a Final EA recommending the environmentally preferred alignments for Segments 1 and 2 as well as proposed mitigation measures.[4] OEA also issued a Post EA that contained an executed Programmatic Agreement setting forth the process to address any adverse effects to historic properties.

In its *August 2009 Decision,* the Board adopted the analysis and conclusions of the Preliminary EA, Final EA, and Post EA, and imposed the recommended mitigation measures. As noted above, the Board authorized construction of the environmentally preferred routes for Segment 1 and Segment 2. The Board found that, subject to the Port's compliance with the mitigation measures, the construction, acquisition, and operation of the proposed line would not significantly affect the quality of the human environment. *See August 2009 Decision,* FD 34936 et al., slip op. at 6–7.

According to the Port, the Board's authorization of the construction of the route in 2009 coincided with a significant economic downturn, which slowed implementation of the project and hampered the Port's efforts to secure funding. (Port Pet. 3, Nov. 2, 2018.) The Port indicates that it received state funding in 2015 and federal

[1] In the same 2008 petition, the Port also sought an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire from CBRW approximately three miles of rail line from Parker Horn near Stratford Road to a point near the Grant County International Airport (Segment 3), which would connect Segments 1 and 2. *See Port of Moses Lake—Constr. Exemption—Moses Lake, Wash.,* FD 34936 et al., slip op. at 1, 3 (STB served Aug. 27, 2009). The Board considered the acquisition request in Docket No. FD 34936 (Sub-No. 1) and granted the acquisition exemption in its *August 2009 Decision.*

[2] The petition sought to reopen only the proceeding relating to construction authority (Docket No. FD 34936); the part of the Port's project involving acquisition of the existing rail line (Docket No. FD 34936 (Sub-No. 1)) remains unchanged.

[3] To meet the Board's obligations under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4370i, and related environmental laws, the Board prepares an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) addressing the potential environmental impacts of all proposed rail constructions. 49 CFR 1105.6(a) & (b). The environmental review process, which is undertaken by the Board's Office of Environmental Analysis (OEA), is separate from the agency's consideration of the transportation merits of the proposed modified project.

[4] For full descriptions of Segment 1 and Segment 2, see Final EA 3–19 to 3–20, May 8, 2009, *Port of Moses Lake—Constr. Exemption—Moses Lake, Wash.,* FD 34936 et al. OEA's 2009 environmental review included analysis of the environmental impacts associated with the proposed acquisition of Segment 3. As stated above, however, the acquisition of Segment 3 is not at issue here.

funding from the U.S. Department of Transportation (USDOT) (administered by the FRA) in 2017 and is now ready to proceed with the NCBRP. (*Id.*) However, according to the Port, in the years since the Board's authorization, the land along and near the proposed rail line has been developed, and some modifications to the route originally proposed are necessary to avoid the relocation of several new commercial enterprises. (*Id.* at 3, 5.) Additionally, the Port states that new development near the end of Segment 2 warrants a minor route modification to ensure that the NCBRP can access all of the businesses that would make use of rail service. (*Id.* at 5.)

Specifically, the Port proposes the following adjustments to the proposed route, which it claims would reduce the impacts of the rail project on the environment and the local community: (1) An adjustment westward of the western end of Segment 1 to avoid buildings and reduce the acreage of wetlands affected; (2) adjustments to Segment 1 to enable the rail line to cross local roads at right angles, rather than diagonally, which the Port claims would improve visibility, increase safety, and otherwise reduce local impacts; and (3) modifications to Segment 2 to better reach existing and future development in the Grant County International Airport area, minimize impacts, and slightly reduce the amount of track required. According to the Port, the proposed route modifications would reduce the impact of the rail line on existing land uses and better fulfill the objectives of the NCBRP. (*Id.* at 3, 5–6.)

Discussion and Conclusions

Rail Transportation Analysis

The construction of new railroad lines requires prior Board authorization, through either a certificate under 49 U.S.C. 10901 or, as requested here, an exemption under 49 U.S.C. 10502 from the prior approval requirements of § 10901. Section 10901(c) directs the Board to grant authority for rail line construction proposals unless it finds the proposal ''inconsistent with the public convenience and necessity.'' *See Alaska R.R.—Constr. & Operation Exemption—A Rail Line Extension to Port MacKenzie, Alaska,* FD 35095, slip op. at 5 (STB served Nov. 21, 2011), *aff'd sub nom. Alaska Survival* v. *STB,* 705 F.3d 1073 (9th Cir. 2013).

Under § 10502(a), the Board must exempt a proposed rail line construction from the prior approval requirements of section 10901 when it finds that: (1) Those procedures are not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not needed to protect shippers from an abuse of market power.

In the *August 2009 Decision,* the Board found that the Port met the standards of 49 U.S.C. 10502 for an exemption from the prior approval requirements of 49 U.S.C. 10901 for the construction of the proposed rail line. The Board concluded that the requested exemption would reduce the need for federal regulation (49 U.S.C. 10101(2)), ensure the development of a sound rail transportation system with effective competition to meet the needs of the shipping public (49 U.S.C. 10101(4)), foster sound economic conditions in transportation (49 U.S.C. 10101(5)), and reduce regulatory barriers to entry (49 U.S.C. 10101(7)). *See August 2009 Decision,* FD 34936 et al., slip op. at 4. The Board also found that other aspects of the rail transportation policy would not be affected. Finally, the Board found that regulation of the proposed construction is not necessary to protect shippers from the abuse of market power. *Id.*

No party has challenged the Board's 2009 conclusions on the transportation merits of the proposal, and nothing in the record developed since then calls those conclusions into question.[5] The Board therefore reaffirms those conclusions here and now turns to consideration of the environmental aspects of the proposed modifications to the project.

Environmental Analysis

NEPA requires Federal agencies to examine the environmental effects of proposed federal actions and to inform the public concerning those effects. *Balt. Gas & Elec. Co.* v. *Nat. Res. Def. Council,* 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, the Board must consider significant potential beneficial and adverse environmental impacts in deciding whether to authorize railroad construction as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). *Lone Star R.R.—Track Constr. & Operation Exemption—in Howard Cty., Tex.,* FD 35874, slip op at 4 (STB served Mar. 3, 2016). While NEPA prescribes the process that must be followed, it does not mandate a particular result. *Robertson* v. *Methow Valley Citizens Council,* 490 U.S. 332, 350 (1989). Once the adverse environmental effects, if any, of a proposed action have been adequately identified and evaluated, an agency may conclude that other values outweigh the environmental costs. *Id.*

The Environmental Review Process. On July 11, 2019, following the reopening of this proceeding, OEA, with the FRA as a cooperating agency, issued for public review and comment a Draft Supplemental EA focusing on potential impacts arising from the Port's proposed modifications to the original alignments of Segments 1 and 2 that had been authorized by the Board in 2009. (Draft Supp. EA 1–2.) The Draft Supplemental EA did not reevaluate components of the project that were unchanged from those evaluated in the prior EA, including any potential environmental impacts associated with Segment 3, which the Port is not proposing to modify. (*Id.* at 1–3.) OEA preliminarily found the proposed modifications to Segments 1 and 2, designated as Modification 1B for Segment 1 and Modification 2B or 2C for Segment 2, to be preferable to the original alignment that the Board authorized in 2009. (*Id.* at 7–1.) OEA determined that the proposed modifications would avoid or limit the project's impacts to the land development that has occurred in the vicinity since 2009 and would increase the project's effectiveness by ensuring that the new rail line is constructed near existing businesses and facilities that are likely to use freight rail transportation. (*Id.*) To avoid or minimize the potential environmental impacts of the proposed project, the Draft Supplemental EA preliminarily recommended revising certain mitigation measures imposed in the *August 2009 Decision,* removing one condition, and adding three new environmental mitigation measures. (*See* Draft Supp. EA 6–1 to 6–12.) Based on the analysis in the Draft Supplemental EA, OEA preliminarily concluded that the proposed project, as conditioned, would not result in any significant environmental impacts and that, therefore, an EIS would be unnecessary in this proceeding. (*Id.* at 7–1.) OEA received five comments on the Draft Supplemental EA.

On November 5, 2019, OEA issued the Final Supplemental EA. In the Final Supplemental EA, OEA identified the environmentally preferred alternative

[5] On February 19, 2019, Ronald S. Piercy filed a comment proposing an alternative route for Segment 1. On March 11, 2019, the Port replied to Mr. Piercy's comment, noting that the issues raised by Mr. Piercy are not relevant to the transportation merits of the proposal. The Port further notes that the Board previously considered and rejected an alternative routing, known as the ''Piercy Alternative,'' almost identical to that proposed now by Mr. Piercy, in the Final EA, published in May 2009. (Port Reply 1–2.) OEA addressed Mr. Piercy's comment in the Final Supplemental EA, as discussed below.

for the proposed modifications to the rail line—Modification 1B for Segment 1 and Modification 2C for Segment 2 (incorporating design changes the Port proposed in comments on the Draft Supplemental EA) [6]—based on the entire environmental record, including the comments received on the Draft Supplemental EA and the final recommended mitigation measures. (Final Supp. EA 5–1 to 5–2.) OEA considered and responded to the five comments received on the Draft Supplemental EA, which raised issues pertaining to fish, wildlife, and vegetation; hazardous materials; socioeconomics and environmental justice; traffic and transportation; water resources; and wetlands. (*Id.* at 3–1 to 3–11.) OEA also responded to Mr. Piercy's comment on the Port's petition to reopen, which raised issues pertaining to alternatives and traffic and transportation. (*Id.* at 3–1 to 3–2.) Lastly, OEA set forth its final recommended mitigation measures in Chapter 6 of the Final Supplemental EA. (*Id.* at 6–1 to 6–12.)

The Board's Analysis of the Environmental Issues. The Board adopts the analysis and conclusions in both the Draft Supplemental EA and Final Supplemental EA, and the final recommended mitigation measures. The Board is satisfied that OEA, together with the FRA, has taken the requisite hard look at the potential environmental impacts associated with the Port's proposal and properly determined that, with the recommended environmental mitigation in the Final Supplemental EA, the proposed project will not have potentially significant environmental impacts, and that preparation of an EIS is unnecessary.

Conclusion

In conclusion, after weighing the transportation merits and environmental issues, and considering the entire record, the Board authorizes the proposed route modifications to the Port's project that have been assessed in the Draft and Final Supplemental EAs, subject to compliance with the mitigation measures listed in Chapter 6 of the Final Supplemental EA.

This action, as conditioned, will not significantly impact the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts construction of the Port's proposed route modifications from the prior approval requirements of 49 U.S.C. 10901.

2. The Board adopts the environmental mitigation measures set forth in the Final Supplemental EA and imposes them as conditions to the exemption granted here.

3. Notice will be published in the **Federal Register** on December 3, 2019.

4. Petitions for reconsideration must be filed by December 23, 2019.

5. This decision is effective January 2, 2020.

Decided: November 26, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2019–26089 Filed 12–2–19; 8:45 am]

BILLING CODE 4915–01–P

[6] Final Supp. EA 1–3 to 1–6, 5–1 to 5–6.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: San Diego and Orange Counties, California

AGENCY: Federal Highway Administration, U.S. Department of Transportation.

ACTION: Notice of Intent.

SUMMARY: The Federal Highway Administration (FHWA), on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that a Draft Environmental Impact Statement (Draft EIS) will be prepared for a proposed highway project in Orange County and San Diego County, California.

DATES: The formal scoping period has been extended and will occur from November 8, 2019 through January 8, 2020. The deadline for comments is now 5:00 p.m. on January 8, 2020. One scoping meeting was held on Wednesday, November 20, 2019, from 5:00 p.m. to 8:00 p.m. and the second one will be held on Wednesday, December 4, 2019 from 5:00 p.m. to 8:00 p.m.

ADDRESSES: The Wednesday, November 20, 2019 public scoping meeting was held at Norman P. Murray Community Center, 24932 Veterans Way, Mission Viejo, CA 92692. The Wednesday, December 4, 2019 public scoping meeting will be held at the Ocean Institute, 24200 Dana Point Harbor Drive, Dana Point, CA 92629.

FOR FURTHER INFORMATION CONTACT: Caltrans District 12, 1750 East 4th Street, Santa Ana, CA 92705, Attn: Env/SCTRE Scoping. Formal scoping comments can also be submitted via email at *scoping@SCTRE.org.* More information can also be found at the project website at *http://www.SCTRE.org.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the assigned National Environmental Policy Act (NEPA) agency, in cooperation with the Foothill/Eastern Transportation Corridor Agency (F/ETCA), will prepare a Draft EIS on a proposal for a highway improvement project in Orange County and San Diego County, California. The proposed improvements intended to address north-south regional mobility and accommodation of travel demand include the extension of the tolled State Route (SR) 241 lanes to Interstate (I) 5, the extension of Crown Valley Parkway to SR 241, new connections between Ortega Highway, Antonio Parkway, Avery Parkway, and SR–73, new general purpose lanes on I–5, new managed lanes on I–5, or combinations of these preliminary alternatives. Currently, the following alternatives are being considered, ranging from approximately 4 to 22 miles in length:

- Alternative 1/No Build Alternative; taking no action.
- Alternative 13; connect SR 241 to I–5 via a connection from Los Patrones Parkway to La Novia Avenue, I–5 widening and improvements, and the addition of HOT lanes in each direction on I–5
- Alternative 17; connect SR 241 to I–5 via a connection from Los Patrones Parkway to Avenida Vaquero, I–5 widening and improvements, and the addition of HOT lanes in each direction on I–5
- Alternative 14; connect SR 241 to I–5 via a connection from Los Patrones Parkway to Avenida Pico, I–5 widening and improvements, and the addition of HOT lanes in each direction on I–5
- Alternative 11; add I–5 general purpose lanes from I–405 to San Diego County
- Alternative 12; add I–5 HOT/toll lanes from I–405 to San Diego County
- Alternative 9; connect Ortega Highway and Antonio Parkway to Avery Parkway and SR 73
- Alternative 18; connect SR–241 to SR–73 and extend Crown Valley Parkway to SR 241
- Alternative 21; extend Los Patrones Parkway to Avenida La Pata and add HOT lanes in each direction on I–5
- Alternative 22; extend Los Patrones Parkway to Avenida La Pata
- Alternative 23; extend I–5 managed lanes from SR 73 to Basilone Road or from Avenida Pico to Basilone Road (depending on the design option)

Anticipated Federal approvals include permits under the National Pollutant Discharge Elimination System (NPDES), Clean Water Act (CWA) Section 401 Water Quality, CWA Section 404 Nationwide Permit from the United States Army Corps of Engineers (USACE), CWA Section 10 Permit from the USACE, California Fish and Game Code Section 1602 Lake or Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW), Section 7 Consultation with the United States Fish and Wildlife Service (USFWS) for listed species under the Federal Endangered Species Act (FESA), CDFW 2080.1 Consistency Determination for listed species under the California Endangered Species Act (CESA), and Coastal Zone Management Act (CZMA) Consistency Determination from the California Coastal Commission (CCC).

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, Participating Agencies, tribal governments, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. The public scoping process will officially begin in November 2019. In addition, a public hearing will be held once the Draft EIS is completed. Public notice will be given of the time and place of the meeting and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing to ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, and comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Caltrans at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Maiser Khaled,

Director, Technical Services, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–26117 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0369]

Hours of Service of Drivers: Republic Services; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Republic Services requesting an exemption from the requirement that drivers of commercial motor vehicles (CMVs) qualifying for the ''short-haul'' exception must return to the original work reporting location and be released within 12 hours of coming on duty. Republic Services asks that its short-haul CMV drivers be permitted to return within 14 hours without losing their short-haul status. Furthermore, Republic Services requests relief from the current electronic logging device (ELD) regulations for its affiliated companies. FMCSA requests public comment on the Republic Services application for exemption.

DATES: Comments must be received on or before January 2, 2020.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2018–0369 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number of this notice. DOT posts all comments received without change to *www.regulations.gov,* including personal information in a comment. Please see the *Privacy Act* heading below.

Docket: To read background documents or comments, go to *www.regulations.gov* or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS) at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, please contact Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366–2722; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2018–0369), the specific section of this document to which the comment applies, and provide reasons for suggestions or recommendations. You may submit online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in your document so the Agency can contact you if it has questions about your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2018–0369'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on the ''Submit a Formal Comment'' button and type your comment into the text box in the following screen. Indicate whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA

will consider all comments and material received during the comment period and may grant or deny this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

Drivers qualifying for the hours-of-service (HOS) short-haul exception in 49 CFR 395.1(e)(1) do not have to maintain a record of duty status (RODS) on board the vehicle provided that (among other things) they return to their normal work reporting location and are released from work within 12 hours after coming on duty. A driver who exceeds the 12-hour limit loses the short-haul exception and must prepare RODS immediately for the entire day, often by means of an electronic logging device (ELD)(49 CFR 395.8(a)(1)(i)).

Republic Services seeks an exemption for approximately 16,000 CMVs and approximately 15,500 drivers. Republic Services is a leading provider of non-hazardous solid waste collection, transfer, disposal, recycling and other environmental services, operating in more than 40 states and Puerto Rico. It is one of the largest such fleets in the country. Republic Services drivers qualify routinely for the short-haul exception in § 395.1(e)(1), however, occasionally they cannot complete their duty day within 12 hours. Republic Services therefore seeks an exemption to allow its drivers to continue to qualify for the short-haul exception up to the 14th hour after coming on duty. In conjunction with this request, Republic Services requests further relief from the electronic logging device (ELD) requirements for their affiliated companies, which they state in their application is reasonable and consistent with current exemptions FMCSA has granted.

Republic Services states that the 14-hour rule is appropriate to certain industries and operations, including sanitation/solid waste and recycling collection. According to the applicant, the HOS regulations recognize the reasonableness of a 14-hour, rather than a 12-hour, return/release period in appropriate transport industries and other operations. Section 395.1(e)(1)(ii)(B) in the Federal regulations codifies the statutory 14-hour short-haul period for ready-mixed concrete drivers, and other subparts of the rules provide industry-specific HOS exemptions for certain operations, including oilfield operations and pipeline welding trucks. Republic Services' CMV drivers on solid waste and recycling routes generally meet the current short-haul exemption requirements and utilize the exception to written records of duty status (RODS). Exceptions to this that can occur are usually by no fault of the driver. Increasing the requirement to 14 hours will ensure that Republic Services' CMV drivers will meet the requirements of the short-haul operations exception in nearly all cases.

Regarding the other portion of its application for exemption, Republic Services indicates that ELDs were not designed for short-haul CMVs and that application of ELDs to CMVs that operate within a 100-mile radius and make multiple stops represents an inefficient use of ELD technology. The devices may work well for long-haul trucking because these drivers operate the controls of their CMVs for extended periods of time without need to stop multiple times during a single shift. Unlike sanitation truck drivers, long-haul drivers are not away from the controls of their CMVs for significant periods of time during a shift. In contrast, Republic Services' solid waste and recycling collection drivers make numerous stops per shift and spend significant portions of their day performing a non-driving function. Its short-haul drivers have an average route distance of between 85 and 180 miles, much of which is generated when traveling to and from their service areas as opposed to servicing customers/collecting waste and recyclables from containers. On average, Republic's drivers spend approximately 30–50% of their on-duty time servicing customer containers as opposed to driving.

Republic Services further notes that on two prior occasions this year, FMCSA has recognized the reasonableness of extending the 14-hour return/release rule allowed the ready-mixed concrete industry to other industries. In January, the agency granted the application for exemption filed by the National Asphalt Paving Association, Inc. (NAPA), permitting CMV drivers transporting asphalt and related materials to return to the reporting location and be released within 14, instead of 12 hours [83 FR 3864]. In October, FMCSA granted Waste Management's (WM) similar request, recognizing the extension of the 14-hour rule to the solid waste/recycling drivers of a sanitation industry participant like Republic Services [83 FR 53940].

IV. Equivalent Level of Safety

To ensure an equivalent level of safety, Republic Services offers extensive formal classroom and field operations training. Its application references a company safety program that concentrates on driver's attention and the most common risks associated with sanitation driver operations. Republic uses one-on-one in-cab observations in which its collection operations supervisors ride along with short-haul CMV drivers on their routes, providing real time coaching and feedback. According to Republic, these in-cab observations create positive relationships with the drivers where concerns such as hours, safety, and fatigue are addressed. Republic states that it covers increasing driver awareness about safety and fatigue and associated dangers and how to avoid and mitigate fatigue and remain alert behind the wheel. Republic Services utilizes event data recording devices to cover potential safety risks.

Republic Services requests a 5-year exemption. Republic Services' application for exemption, including a list of its 71 affiliated operating companies, is available for review in the docket for this notice.

Issued on: November 22, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–26096 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0244]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Lytx, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Lytx, Inc. (Lytx) to allow its Advanced Driver Assistance Systems (ADAS) to be mounted lower in the windshield on commercial motor vehicles (CMV) than is currently permitted.

DATES: Comments must be received on or before January 2, 2020.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2019–0244 using any of the following methods:

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Jose R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 CFR 381.315(a), FMCSA must publish a notice of each exemption request in the **Federal Register**. The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Lytx Application for Exemption

The Federal Motor Carrier Safety Regulations (FMCSR) require devices meeting the definition of ''vehicle safety technology,'' including Lytx's ADAS, to be mounted (1) not more than 4 inches below the upper edge of the area swept by the windshield wipers, or (2) not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Lytx has applied for an exemption from 49 CFR 393.60(e)(1) to allow its ADAS to be mounted lower in the windshield than is currently permitted. A copy of the application is included in the docket referenced at the beginning of this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Lytx's application for an exemption from 49 CFR 393.60. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: November 22, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–26097 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Public Transportation Emergency Relief Funds for Transit Systems Affected by Major Declared Disasters Occurring in Calendar Year 2018

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Emergency Relief Funding (NAERF).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for $10,462,935 in non-competitive grants under the Public

Transportation Emergency Relief Program (Emergency Relief Program) to States, Territories, local governmental authorities, Indian tribes, and other FTA recipients affected by major declared disasters occurring in calendar year 2018. Projects may include costs for disaster response, recovery, and rebuilding activities. FTA will distribute these funds in a manner consistent with the eligibility requirements of this program on a non-competitive basis, subject to the priorities set forth below.

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern time on January 17, 2020. Prospective applicants should initiate the process by registering on the *GRANTS.GOV* website promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *http://transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV.* The funding opportunity ID is FTA–2020–002–TPM–ER. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: For program-specific questions about applying for the funds through *GRANTS.GOV* as outlined in this notice, please contact Thomas Wilson, Office of Program Management, 1200 New Jersey Ave SE, Washington, DC 20590, phone: (202) 366–5279, or email, *Thomas.Wilson@dot.gov.* For legal questions, contact Bonnie Graves, Office of Chief Counsel, 90 Seventh St., Ste 15–300, San Francisco, CA 94103, phone: (202) 366–0944, or email, *Bonnie.Graves@dot.gov.*

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A. Program Description

Extreme weather and other destructive events occurring during calendar year 2018 resulted in 62 major disasters across the United States. Transit systems in some of the disaster-affected areas provided emergency transportation services or sustained damage to capital assets.

FTA's Emergency Relief Program provides FTA with primary responsibility for reimbursing public transportation emergency response and recovery costs after an emergency or major disaster that affects public transportation systems. As such, public transportation agencies, States, Territories, local governmental authorities, Indian tribes, and other FTA grant recipients that provide or fund public transportation service in the affected areas are eligible for Emergency Relief funding under the program. FTA will allocate funds consistent with the requirements of the final rule for the Emergency Relief Program (49 CFR part 602), published in the **Federal Register** on October 7, 2014.

B. Federal Award Information

The Additional Supplemental Appropriations for Disaster Relief Act of 2019 (Disaster Relief Act) (Pub. L. 116–20), signed into law on June 6, 2019, appropriated $10,542,000 for FTA's Emergency Relief Program (49 U.S.C. 5324) for transit systems affected by major declared disasters occurring in calendar year 2018.

Of the $10,542,000 million appropriated, three-quarters of 1 percent, or a total of $79,065 is set aside for administrative expenses and ongoing program management oversight activities as authorized under the Disaster Relief Act, leaving $10,462,935 available for allocation to eligible recipients.

C. Eligibility Information

1. Eligible Applicants

Public transportation agencies, States, Territories, local governmental authorities, Indian tribes, and other FTA grant recipients that provide or fund public transportation service are eligible for Emergency Relief funding under the program. To be considered eligible to apply for the funding described in this NAERF, such entities must provide or fund public transportation services in counties designated as eligible for any category of Federal Emergency Management Agency (FEMA) Public Assistance for a major declared disaster with an incident period partially or entirely occurring within calendar year 2018. Entities that generally receive transit funding directly from FTA may apply for these funds according to the instructions in this NAERF. Public transit systems that are not FTA direct recipients (*i.e.,* are subrecipients) but have incurred eligible expenses may receive Emergency Relief funding through a pass-through entity, such as a State or designated recipient. Please see *www.fema.gov/disasters* for a list of major disaster declarations, areas designated for Public Assistance, and incident periods.

2. Cost Sharing or Matching

The maximum Federal share for all grants awarded via this NAERF is 80 percent with the following exceptions:

1. The project is for the purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 or the Clean Air Act (49 U.S.C. 5323(i)).

a. Vehicles procured for such purposes are eligible for a Federal share of 85 percent.

b. Vehicle-related equipment and facilities (or parts thereof) procured or constructed for such purposes are eligible for a Federal share of 90 percent.

2. The project is in response to or recovery from a major declared disaster in an insular area. Such projects are eligible for a Federal share of 100 percent (48 U.S.C. 1469a).

3. The project is in response to or recovery from the following major declared disasters: Oklahoma Wildfires (FEMA Disaster No. DR–4373), California Wildfires (FEMA Disaster No. DR–4382), or California Wildfires (FEMA Disaster No. DR–4407). To be consistent with the FEMA Public Assistance special cost-sharing arrangements authorized for these major disaster declarations, debris removal, emergency protective measures, emergency repairs, and emergency operations expenses are eligible for a Federal share of 90 percent.

4. The project is in response to or recovery from major declared disaster Florida Hurricane Michael (FEMA Disaster No. DR–4399). To be consistent with the FEMA Public Assistance special cost-sharing arrangements authorized for this major disaster declaration, debris removal, emergency protective measures, emergency repairs, and emergency operations:

a. Completed on or before November 24, 2018 are eligible for a Federal share of 100 percent.

b. Completed on or after November 25, 2018 are eligible for a Federal share of 90 percent.

5. In the event FEMA increases the Public Assistance Federal share for any

other major declared disasters occurring in calendar year 2018, FTA will increase the Federal share for Emergency Relief grants so that it is consistent with FEMA.

The non-Federal share of Emergency Relief grants may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. In addition, recipients may utilize the following provisions for complying with the non-Federal share requirement.

The Community Development Block Grant (CDBG) program (42 U.S.C. 5305(a)(9)) provides that ''payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under [chapter 53 of title 42]'' is an eligible activity. Since the CDBG statute specifically states it is available to fund the ''non-Federal share'' of other Federal grant programs, if the activity is eligible under the CDBG program, FTA will accept CDBG funds as local match.

Recipients may also utilize Transportation Development Credits (TDCs), formerly known as Toll Revenue Credits, in place of the non-Federal share. The use of TDCs must be approved by the State, which must send a letter to the FTA regional office certifying the availability of sufficient TDCs and approving their use prior to submitting a grant application. Recipients are advised that the use of TDCs means that no local funds will be required for projects in the grant, and that the funds allocated by the FTA may not alone be sufficient to fund the entirety of the proposed Emergency Relief projects. FTA may not allocate additional Federal funds to recipients that use TDCs in place of the non-Federal share, so sufficient alternative funds may need to be located to fully finance projects utilizing TDCs. FTA will not approve a retroactive application of TDCs. Recipients are advised to contact the applicable FTA regional office regarding any questions about eligible sources of local matching funds.

3. Eligible Projects

Eligible projects include public transportation emergency operations, emergency protective measures, emergency repairs, and permanent repairs. Recipients are strongly encouraged to review FTA's Emergency Relief Manual, found at *https://www.transit.dot.gov/funding/grant-programs/emergency-relief-program/emergency-relief-manual-reference-manual-states* to assist in the identification of potentially eligible projects and emergency expenses.

4. Transferring Unreimbursed Projects From FEMA to FTA

FTA's Emergency Relief Program provides FTA with primary responsibility for reimbursing public transportation emergency response and recovery costs after an emergency or major disaster that affects public transportation systems when appropriations for FTA's Emergency Relief Program are available. Per the March 2013 Memorandum of Agreement between FTA and FEMA, entities seeking funding for 2018 major declared disaster-related public transportation expenses from FEMA should transfer funding requests for eligible expenses that have not been disbursed or drawn down to FTA via the grant application process outlined in this NAERF. This includes expenses that are in an obligated but undisbursed FEMA Public Assistance grant. Documentation developed for the FEMA Public Assistance program may be used to satisfy applicable FTA grant application requirements.

D. Application and Submission Information

The application process will occur in two stages. First, applicants will submit proposals requesting reimbursement of eligible costs. Applications for funding must be submitted between the date of publication of this notice and January 17, 2020 through *GRANTS.GOV*. Second, after the application period closes, FTA will announce allocations of funds on its website at *www.transit.dot.gov.* Recipients with allocations will then enter a grant application in the FTA's Transit Award Management System (TrAMS).

1. Address To Request Application

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at *www.fta.dot.gov/howtoapply* along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. The SF–424 Application for Federal Assistance is available at *GRANTS.GOV* and the supplemental form for Public Transportation Emergency Relief Funds for Transit Systems Affected by Major Declared Disasters Occurring in Calendar Year 2018 can be downloaded from *GRANTS.GOV* or the FTA website at *https://www.transit.dot.gov/funding/grant-programs/emergency-relief-program.* Failure to submit the information as requested may delay review or disqualify the application.

2. Content and Form of *GRANTS.GOV* Application Submission

A complete proposal submission consists of two forms and supporting documentation. The two required forms are: (1) The SF–424 Application for Federal Assistance; and (2) the supplemental form for the Public Transportation Emergency Relief Funds for Transit Systems Affected by Major Declared Disasters Occurring in Calendar Year 2018 Program. The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF–424. The application must include responses to all sections of the SF–424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program. FTA encourages applicants to demonstrate the responsiveness of their application with the most relevant information the applicant can provide, regardless of whether FTA has specifically requested such information in this notice. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

A list of projects must be included in the submission to *GRANTS.GOV* that identifies emergency operations, emergency protective measures, and emergency repairs completed as well as permanent repairs needed to repair, reconstruct or replace the seriously damaged or destroyed rolling stock, equipment, facilities, and infrastructure to a state of good repair. FTA will then assess the extent to which the application addresses each of the three criteria below.

a. Documentation To Support Emergency Operating Requests

Applications to *GRANTS.GOV* must include the purpose of the emergency public transportation service provided, which may include: Evacuations; rescue operations; moving rolling stock to higher ground to protect it from storm surges; additional bus or ferry service to replace inoperable rail service or to detour around damaged areas; returning evacuees to their homes after the disaster; and the net project costs

related to reestablishing, expanding, or relocating public transportation service before, during, or after the disaster. The application must include the dates, hours, number and type of vehicles, and information relating to fares received for the emergency service. Only net project costs may be reimbursed.

b. Documentation To Support Capital Requests

Applications to *GRANTS.GOV* must include copies of detailed damage assessments to support the request for assistance for capital projects. Some applicants may have previously worked with FTA or FEMA to develop damage assessments which may be included in the application. Typically, a damage assessment involves on-the-ground visits to the damage sites to verify the extent of the damage and to estimate the cost of repairs eligible for Emergency Relief funding. The damage assessment should document: (1) The specific location, type of facility or equipment, nature and extent of damage; (2) the most feasible and practical method of repair or replacement; and (3) the estimated repair and replacement cost.

c. Other Relevant Items

Applicants must provide supporting documentation showing any other sources of funding available to address the damage resulting from a disaster, including, but not limited to, insurance policies and grant agreements with FEMA. FTA will not fund activities for which grant recipients have already drawn down funds obligated by FEMA. Any applicant to FTA's Emergency Relief Program that has also applied to FEMA for emergency funding must document the scope of any agreements with FEMA, including amounts obligated and drawn down, the dates for which FEMA agreed to fund any operating costs, and a list of any capital projects included in the FEMA application or equivalent document.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. Registration in SAM may take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if there is a need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *https://www.sam.gov/SAM/.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on January 17, 2020. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV*: (1) Confirmation of successful transmission to *GRANTS.GOV*, and (2) confirmation of successful validation by *GRANTS.GOV*. If confirmations of successful validation are not received or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled website maintenance.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

FTA Emergency Relief Program funds may not be used to reimburse project costs for which a transit system has received funding from payments from insurance policies or from another Federal agency, including FEMA. Please see the FTA's Emergency Relief Manual for a complete list and description of ineligible expenses.

6. Webinar

FTA will conduct a webinar that includes an overview of the application process for FTA recipients interested in applying for FTA Emergency Relief funds on a date to be determined. The webinar will be announced on FTA's website and through an email announcement to those who have signed up at *https://public.govdelivery.com/accounts/USDOTFTA/subscriber/new* to receive email updates from FTA regarding the Emergency Relief Program.

E. Allocation Methodology

Of the $10,542,000 million appropriated, three-quarters of 1 percent, or a total of $79,065 is set aside for administrative expenses and ongoing program management oversight activities as authorized under the Disaster Relief Act, leaving $10,462,935 available for allocation to eligible recipients.

FTA will allocate funds on a non-competitive basis. The FTA Administrator will determine the final allocation of funding for each applicant after validating damage assessments and cost estimates. FTA reserves the right to request additional information prior to making a determination as to Emergency Relief funding eligibility of any particular project. FTA may also seek clarification from any applicant about any statement in its proposal that FTA finds ambiguous. FTA intends to announce final allocations on the FTA website.

F. Pre-Award Authority

Pre-award authority allows recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. Pre-award authority as it relates to the Emergency Relief Program is described in the Emergency Relief Program final rule (49 CFR 602.11). In considering the use of pre-award authority, recipients should be aware of the following:

1. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a

legal or implied commitment that all activities undertaken by the applicant will be eligible for inclusion in the project.

2. Except as waived pursuant to the waiver process described in Section I.I.5 of this notice, all FTA statutory, procedural, and contractual requirements must be met.

3. The recipient must take no action that prejudices the legal and administrative findings that FTA must make in order to approve a project.

4. The Federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/non-Federal match ratio at the time the funds are obligated.

5. When FTA subsequently awards a grant for the project, the Federal Financial Report in TrAMS indicates the use of pre-award authority.

FTA grants pre-award authority to affected recipients for response, recovery, and rebuilding expenses incurred as a result of major declared disasters occurring in calendar year 2018. Pre-award authority applies to expenses incurred in preparation for such disasters when forecasts specific to the disasters were available. Expenses incurred for general disaster preparedness are not eligible.

If a recipient intends to use pre-award authority for recovery and rebuilding expenses, FTA recommends the recipient work with the appropriate FTA regional office to verify that all of the proposed costs are eligible under the Emergency Relief Program in advance of incurring any costs to the extent practicable. FTA regional office contact information can be found at *https://www.transit.dot.gov/about/regional-offices/regional-offices.*

G. Waiver of Remaining Useful Life Requirement

FTA is implementing a blanket waiver to relieve FTA recipients from its useful life requirement with respect to assets that were destroyed as a result of a major declared disaster in calendar year 2018 and taken out of service before the end of their useful life. Such assets are presumed to have no remaining useful life. As a result of this waiver, recipients may apply for funds to replace assets without regard to the Federal interest remaining in the destroyed asset.

Although FTA has determined that Federally-funded assets destroyed by major declared disasters have no remaining useful life, recipients may have a financial obligation to FTA for assets that have a fair market value (FMV) in excess of $5,000 at the time of disposition. For disposition requirements, please see FTA Circular 5010.1E, ''Award Management Requirements,'' Chapter IV, subsection 4.

H. Treatment of Insurance Proceeds

As described in the Emergency Relief Program Manual, and consistent with the Emergency Relief Program final rule (49 CFR part 602) and FTA Circular 5010.1E: ''Award Management Requirements'', if a recipient receives or allocates insurance proceeds to a cost for which FTA either allocated or awarded Emergency Relief Program funds, the recipient will be required to amend the grant to reflect a reduced Federal amount, and will be required to reimburse FTA for any FTA payments (drawdown of funds) in excess of the new Federal amount. FTA will deobligate any excess or unliquidated funds from the grant. FTA may subsequently reallocate these funds through the Emergency Relief Program for other eligible projects.

In the event a recipient receives insurance proceeds for an asset and decides not to replace that asset, the waiver of useful life described in Section I.G does not apply, and the recipient must reimburse FTA the remaining Federal interest in that asset in accordance with FTA Circular 5010.1E.

I. Emergency Relief From FTA Regulatory Requirements

Certain FTA regulatory requirements are waived during and after major declared disasters.

1. Charter

Transit agencies may take actions, such as providing service for evacuations, returning evacuees from shelters to their homes, transporting utility workers, and providing service to shelter residents, as long as these actions are directly related to a declaration of emergency by the President, governor, or mayor, without triggering the charter rule. Transit agencies may provide such services for up to 45 days from the declaration of emergency.

If transit agencies need to provide the type of emergency transportation services described above past those dates, they must follow the procedures described in Section I.I.5 below.

2. The National Environment Policy Act (NEPA)

FTA has determined that certain activities related to repairing transportation facilities damaged by an incident resulting in a Presidential disaster or emergency declaration are categorical exclusions and normally do not require any further NEPA approvals by FTA (23 CFR 771.118(c)(11)). These actions include:

a. Emergency repairs performed under FTA's Emergency Relief Program (49 U.S.C. 5324).

b. The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction).

3. Planning

In accordance with the planning regulation (23 CFR part 450), emergency relief projects that do not involve substantial functional, locational, or capacity changes are not required to be in the Transportation Improvement Program (TIP) or Statewide Transportation Improvement Program (STIP).

4. Procurement

Generally, procurement of goods and services by transit agencies must be completed via a competitive procurement. However, Federal regulations (2 CFR 200.320) permit sole source contracting when the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or the federal awarding agency expressly authorizes noncompetitive proposals in response to a written request from the transit agency.

The recipient must document its sole source justification in writing at the time of the procurement. FTA encourages grant recipients considering a sole source based on exigency or emergency to contact their FTA regional office for technical assistance and/or express authorization of a noncompetitive proposal.

5. Waiver Process

Recipients may request waivers of FTA administrative requirements by submitting a request to *www.regulations.gov,* FTA docket

number FTA–2019–0001, as described in the Emergency Relief Program final rule (49 CFR 602.15), however, recipients should not proceed with a project with the expectation that waivers will be provided. It is recommended that recipients discuss waiver requests with their FTA regional office prior to submission to the docket.

II. Federal Award Administration

A. TrAMS Grant Application

Once FTA allocates Emergency Relief funds to a recipient, the recipient will be required to submit a grant application electronically via FTA's TrAMS system.

FTA will assign distinct project identification numbers for recovery/rebuilding projects.

Recipients are required to maintain records, including but not limited to all invoices, contracts, time sheets, and other evidence of expenses to assist FTA in validating the eligibility and completeness of a recipient's reimbursement requests under the Improper Payment Information Act.

Upon application, the eligible recipient should provide the information outlined in the Emergency Relief final rule (49 CFR 602.17). For grant applications for reimbursement for emergency operations costs, applicants should include summary information as described in the final rule (dates, hours, number of vehicles, and total fare revenues, if any, received for the emergency service), as well as cost and a description of services in sufficient detail for FTA to identify the costs as reasonable and eligible under the Emergency Relief Program. Back-up or supporting documentation may be requested upon FTA's review of the application or at a later date. Any costs determined to be ineligible after disbursement of funds must be refunded to the FTA.

B. Payment

Upon award, payments to recipients will be made by electronic transfer to the recipient's financial institution through the FTA's Electronic Clearing House Operation (ECHO) system.

C. Grant Requirements

Emergency Relief funds may only be used for eligible purposes as defined in Federal public transportation law (49 U.S.C. 5324) and as described in the Emergency Relief Program final rule (49 CFR part 602) and this notice. Additional grant requirement information can be found in FTA's Emergency Relief Manual.

Recipients of Emergency Relief funds must comply with all applicable Federal requirements, including FTA's Master Agreement. Each grant for Emergency Relief funds will include special grant conditions, including but not limited to, application of insurance proceeds, application of any FEMA funds received, and Federal share. These special conditions will be incorporated into the grant agreement for all Emergency Relief funds obligated for 2018 disaster response and recovery.

D. Reporting

Post-award reporting requirements include submission of the Federal Financial Reports (FFRs) and Milestone Progress Reports (MPRs) in TrAMS consistent with the FTA's grants management Circular 5010.1E.

E. Oversight and Audits

FTA will provide oversight of grants funded through the Emergency Relief Program using its standard oversight programs, including Triennial Reviews and State Management Reviews. FTA may assign program level reviews such as Procurement System Reviews or Financial Management Oversight reviews. FTA will monitor the use of insurance proceeds to ensure the recipient meets program requirements. FTA may undertake other reviews of projects, such as Technical Capacity and Capability Assessments; Risk Assessments; Cost, Schedule, and Scope Reviews; and other reviews FTA determines are necessary.

F. Federal Awarding Agency Contact

For program-specific questions about applying for the funds through *GRANTS.GOV* as outlined in this notice, please contact Thomas Wilson, Office of Program Management, 1200 New Jersey Ave. SE, Washington, DC 20590, phone: (202) 366–5279, or email, *Thomas.Wilson@dot.gov.* For legal questions, contact Bonnie Graves, Office of Chief Counsel, 90 Seventh St., Ste 15–300, San Francisco, CA 94103, phone: (202) 366–0944, or email, *Bonnie.Graves@dot.gov.*

K. Jane Williams,

Acting Administrator.

[FR Doc. 2019–26068 Filed 12–2–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0071; Notice 1]

Toyota Motor North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Toyota Motor North America, Inc., (Toyota) has determined that certain model year (MY) 2013–2019 Toyota RAV4 and MY 2014–2019 Toyota Highlander motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 302, *Flammability of Interior Materials.* Toyota filed a noncompliance report dated June 19, 2019. Toyota subsequently petitioned NHTSA on July 12, 2019, and later amended that petition on August 13, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Toyota's petition.

DATES: Send comments on or before January 2, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary

attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Toyota has determined that certain MY 2013–2019 Toyota RAV4 and certain Toyota Highlander motor vehicles do not fully comply with paragraph S4 of FMVSS No. 302, *Flammability of Interior Materials* (49 CFR 571.302). Toyota filed a noncompliance report dated June 19, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Toyota subsequently petitioned NHTSA on July 12, 2019, and later amended its petition on August 13, 2019, for an exemption from the notification and remedy requirement of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Toyota's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Approximately 2,144,217 MY 2013–2019 Toyota RAV4 and MY 2014–2019 Toyota Highlander/Highlander HV motor vehicles, manufactured between December 21, 2012 and March 28, 2019, are potentially involved.

III. *Noncompliance:* Toyota explains that the noncompliance is that the subject vehicles are equipped with floor mats that contain hook and loop fasteners that do not meet the flammability requirements set forth in paragraphs S4.1 through S4.3(b) of FMVSS No. 302. Specifically, the loop side of the fastener that attaches the floor mat to the underlying padding is made from a material that is noncompliant.

IV. *Rule Requirements:* Paragraphs S4.1 through S4.3(b) of FMVSS No. 302 includes the requirements relevant to this petition. The portions described in paragraph S4.2 of the following components of vehicle occupant compartments shall meet the requirements of paragraph S4.3, seat cushions, seatbacks, seat belts, headlining, convertible tops, armrests, all trim panels including door, front, rear, and side panels, compartment shelves, head restraints, floor coverings, sun visors, curtains, shades, wheel housing covers, engine compartment covers, mattress covers, and any other interior materials, including padding and crash-deployed elements, that are designed to absorb energy on contact by occupants in the event of a crash. Any material that does not adhere to other material(s) at every point of contact shall meet the requirements of paragraph S4.3(a) when tested in accordance with paragraph S5, material described in paragraphs S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 102 mm per minute. The requirement concerning transmission of a flame front shall not apply to a surface created by cutting a test specimen for purposes of testing pursuant to paragraph S5. If a material stops burning before it has burned for 60 seconds from the start of timing, and has not burned more than 51 mm from the point where the timing was started, it shall be considered to meet the burn-rate requirement of paragraph S4.3(a).

V. *Summary of Toyota's Petition:*

The following views and arguments presented in this section, V. Summary of Toyota's Petition, are the views and arguments provided by Toyota. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Toyota described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Toyota submitted the following views and arguments in support of the petition:

1. When tested as a ''composite,'' FMVSS No. 302 criteria are met:

Toyota conducted FMVSS No. 302 burn testing of the loop fastener when assembled to the carpet as a ''composite.'' Toyota chose configurations to evaluate that were the most conservative in determining the material burn rate performance.

Toyota conducted burn rate testing using composite samples that were cut from mass production parts. Although the loop fasteners are not installed directly at the edge of the carpet, in order to test at the worst-case position for burn rate, Toyota tested with the fasteners aligned at the edge of the carpet.

As evidenced by the test data, the loop material complies with FMVSS No. 302 when tested as a ''composite'' as installed in the vehicle.

2. The loop fastener is not exposed directly to the occupant compartment air space:

As noted previously, the purpose of FMVSS No. 302 is to ''reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes.'' The noncomplying loop fastener material would normally not be exposed to open flame or an ignition source (like matches or cigarettes) in its installed application, because it is installed beneath and completely covered by the carpet material which complies with FMVSS No. 302.

The loop fastener is layered between other FMVSS No. 302 compliant materials. The fastener is attached to the underside of the carpet for the purpose of attaching it to the underlying padding. No portion of the loop fastener material is visible or directly exposed to the occupant compartment as installed in the vehicle. As constructed, it would be highly unlikely that the loop fastener material would ever be exposed to ignition sources such as matches or cigarettes, identified in paragraph S2 of FMVSS No. 302 as a stated purpose of the standard. Because the loop fastener material is covered and layered between FMVSS No. 302-compliant materials, it would be extremely unlikely that a vehicle occupant would ever be exposed to a risk of injury as a result of the noncompliance.

Given the stated purpose of FMVSS No. 302, Toyota believes that the

noncompliant loop fastener material, as installed in the vehicle, does not present a safety risk, and the chance of fire or flame propagation is essentially zero.

3. The loop fastener is a very small portion of the carpet assembly:

The loop fastener material is only a very small part of the overall mass of the soft material comprising the carpet assembly (*i.e.,* up to a maximum of 0.037% depending on the vehicle model), and is significantly less in relation to the entire vehicle interior surface area that could potentially be exposed to flame. Therefore, it would have an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire.

4. There are no relevant field incidents:

Toyota conducted a search of consumer complaints, field reports, dealer reports, Vehicle Owner Questionnaires (VOQs), and legal claims for the subject vehicles and found no reports relating to ignition of the loop fastener. As of July 10, 2019, Toyota is not aware of any fires, crashes, or injuries in connection with this component in the subject vehicles.

5. In similar situations, NHTSA has granted petitions for inconsequential noncompliance relating to the subject requirement of FMVSS No. 302:

Toyota stated NHTSA has previously granted at least ten FMVSS No. 302 petitions for inconsequential noncompliance, one of which was for a vehicle's console armrest, one of which was for large truck sleeper bedding, one of which was for seating material, and six of which were for issues related to child restraints. A citation to each is provided below:

- Paccar (57 FR 45868, October 5, 1992) (Noncompliant tape edging surrounding otherwise compliant bedding materials in a large truck sleeper bed was deemed by the agency to be inconsequential).
- Fisher-Price (60 FR 41152, August 11, 1995) (Noncompliant fabric used in CRS shoulder straps was deemed to be inconsequential by the agency).
- Century (60 FR 41148, August 11, 1995) (Noncompliant seat covers were determined unlikely to pose a flammability risk when securely sewn to the seat).
- Cosco (60 FR 41150, August 11, 1995) (Noncompliant fabric used in CRS shoulder straps was deemed to be inconsequential).
- Kolcraft (63 FR 24585, May 4, 1998) (One or more of the fitting, face, or backing materials of CRS seat covers were noncompliant).
- Cosco (63 FR 30809, June 5, 1998) (Noncomplying fiberfill incorporated into a pillow located in a child restraint was inconsequential to safety due to the unlikelihood of exposure to an ignition source).
- Ford (63 FR 40780, July 30, 1998) (A noncompliant center console armrest ''plus pad'' was determined by the Agency to be inconsequential to safety in that, because of its location under an exterior cover).
- Graco (77 FR 14055, March 8, 2012) (Certain noncompliant warning labels attached to the outside of detachable accessory pillows were deemed inconsequential by the Agency due to the relatively small size of the label).
- Toyota (80 FR 4035, January 26, 2015) (Certain noncompliant front and rear seat back and seat cushion seat heaters were determined by the Agency to be inconsequential to safety in that the seat heaters were unlikely to pose a flammability risk).
- Toyota (83 FR 16433, April 16, 2018) (Certain noncompliant needle punch felt material used in the front and rear seat covers and rear center armrest assemblies were determined by the Agency to be inconsequential to safety).

In support of Toyota's petition, Toyota submitted the following supplemental information in support of the petition:

Toyota stated that on July 31, 2019, Transport Canada (TC) notified Toyota Canada, Inc. (TCI) that it had evaluated information supplied by TCI in connection with a Notice of Noncompliance submitted to TC involving the same facts that gave rise to the part 573 Report that is subject of this inconsequentiality petition.

Transport Canada concluded that ''there is no real or implied degradation to motor vehicle safety'' presented by the noncompliance with FMVSS No. 302, and indicated that no further notification or remedy action is required.''

Toyota concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Toyota no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Toyota notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey Mark Giuseppe,

Associate Administrator for Enforcement.

[FR Doc. 2019–26086 Filed 12–2–19; 8:45 am]

BILLING CODE 4910–59–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 FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action

On November 26, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Entity

1. CORPORACION PANAMERICANA S.A., Ave. 7MA. No. 6209 E/62 Y 66, Playa, Miramar, Havana, Cuba (entity) [VENEZUELA–EO13850–16900] (Linked To: CUBAMETALES).

Designated pursuant to Executive Order 13850, ''Blocking Property of Additional Persons Contributing to the Situation in Venezuela,'' 83 FR 55243, 3 CFR, 2019 Comp., p. 881, as amended by Executive Order 13857, ''Taking Additional Steps To Address the National Emergency With Respect to Venezuela,'' 84 FR 509 (''E.O. 13850'') for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Cubametales, a person whose property and interests in property are blocked pursuant to E.O. 13850.

Dated: November 26, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–26138 Filed 12–2–19; 8:45 am]

BILLING CODE 4810–AL–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 (Committee) will meet on December 11–13, 2019 at the Jackson Regional Benefits Office located at 1600 E Woodrow Wilson Ave., Jackson, MS 39216. The meeting sessions will begin as follows:

Date:	Time:
December 11, 2019 ..	9:00 a.m. to 4:00 p.m. Central Standard Time (CST).
December 12, 2019 ..	9:00 a.m. to 5:00 p.m. CST.
December 13, 2019 ..	8:00 a.m. to 12:00 p.m. CST.

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 Former Prisoners of War (FPOW), and to make recommendations on the needs of such Veterans for compensation, health care, and rehabilitation.

The agenda will include discussions, briefings, updates from the Veterans Benefits Administration and Veterans Health Administration.

FPOWs or members of the public who wish to speak at the 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. 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 15–20 minutes before the meeting begins. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Leslie Williams, Designated Federal Officer, Advisory Committee on Former Prisoners of War at *Leslie.williams1@VA.gov* or via phone at (202) 530–9219.

Dated: November 27, 2019.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2019–26083 Filed 12–2–19; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

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