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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0105; Product Identifier 2019–NM–172–AD; Amendment 39–19851; AD 2020–04–12]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directives (ADs) 2012–22–05 and 2018–19–03, which applied to certain Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. AD 2012–22–05 required inspecting for cracks of the pistons on the main landing gear (MLG), and replacing the affected pistons if necessary. AD 2012–22–05 also required modifying the MLG, and revising the airplane maintenance program. AD 2018–19–03 required an inspection of the MLG, and replacement if necessary. This AD retains the requirements of AD 2012–22–05, expands the applicability, and requires a new modification or replacement of the MLG; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that the required heat treatment may not have been applied to certain MLG pistons. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective March 24, 2020.

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

The FAA must receive comments on this AD by April 23, 2020.

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

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

For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0105.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0105; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the 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: Tom Rodriquez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2012–22–05, Amendment 39–17241 (77 FR 68052, November 15, 2012) (''AD 2012–22–05''), and AD 2018–19–03, Amendment 39–19403 (83 FR 46859, September 17, 2018) (''AD 2018–19–03''), which applied to certain Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. AD 2012–22–05 required inspecting for cracks of the pistons on the MLG, and replacing the affected pistons if necessary. AD 2012–22–05 also required modifying the MLG, and revising the airplane maintenance program. AD 2018–19–03 required an inspection of the MLG, and replacement if necessary. The FAA issued these ADs to address MLG failure during the landing roll-out, which could result in damage to the airplane and injury to occupants.

Actions Since ADs 2012–22–05 and 2018–19–03 Were Issued

Since ADs 2012–22–05 and 2018–19–03 were issued, the FAA has received a report of a crack found in the lower portion of a left-hand MLG piston; one possible factor was hydrogen-assisted cracking. The FAA determined that the cracked piston was part of a batch of six MLG pistons on which the required heat treatments may not have been applied during overhaul. Another possible contributing factor is that the wire harness port of the MLG piston is a highly stressed area, prone to high-rate crack growth if small surface imperfections are present.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0224, dated September 6, 2019 (''EASA AD 2019–0224'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. EASA AD 2019–0224 supersedes EASA ADs 2011–0159 and 2017–0163 (which correspond to FAA ADs 2012–22–05 and 2018–19–03).

This AD was prompted by a report of a crack found in the lower portion of a left-hand MLG piston, and a determination that the required heat treatment may not have been applied to certain MLG pistons. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this AD does not explicitly restate the requirements of AD 2012–22–05 this AD retains all of the requirements of AD 2012–22–05. Those requirements are referenced in EASA AD 2019–0224, which, in turn, is referenced in paragraph (g) of this AD. This AD retains none of the requirements of AD 2018–19–03.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0224 describes procedures for repetitive inspections of the MLG pistons for cracks, replacing cracked MLG pistons, and modifying the MLG by replacing each affected part (MLG piston or MLG unit) with a serviceable part or replacing each affected MLG unit with a serviceable unit.

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD because the agency evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2019–0224 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0224 is incorporated by reference in this AD. This AD, therefore, requires compliance with EASA AD 2019–0224 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0224 that is required for compliance with EASA AD 2019–0224 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0105 after the FAA final rule is published.

FAA's Justification and Determination of the Effective Date

Since there are currently no domestic operators of these products, notice and opportunity for public comment before issuing this AD are unnecessary. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0105; Product Identifier 2019–NM–172–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provide the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product
Retained actions from AD 2012–22–05	24 work-hours × $85 per hour = $2,040	$0	$2,040
New actions	24 work-hours × $85 per hour = $2,040	0	2,040

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2012–22–05, Amendment 39–17241 (77 FR 68052, November 15, 2012), and AD 2018–19–03, Amendment 39–19403 (83 FR 46859, September 17, 2018), and adding the following new AD:

2020–04–12 Fokker Services B.V.: Amendment 39–19851; Docket No. FAA–2020–0105; Product Identifier 2019–NM–172–AD.

(a) Effective Date

This AD becomes effective March 24, 2020.

(b) Affected ADs

This AD replaces AD 2012–22–05, Amendment 39–17241 (77 FR 68052, November 15, 2012) (''AD 2012–22–05''), and AD 2018–19–03, Amendment 39–19403 (83 FR 46859, September 17, 2018) (''AD 2018–19–03'').

(c) Applicability

This AD applies to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report of a crack found in the lower portion of a left-hand main landing gear (MLG) piston, and a determination that the required heat treatment may not have been applied to certain MLG pistons. The FAA is issuing this AD to address MLG failure during the landing roll-out, which could result in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0224, dated September 6, 2019 (''EASA AD 2019–0224'').

(h) Exceptions to EASA AD 2019–0224

(1) Where EASA AD 2019–0224 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD refers to the effective date of EASA AD 2011–0159, this AD requires using December 20, 2012 (the effective date of AD 2012–22–05).

(3) The ''Remarks'' section of EASA AD 2019–0224 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(i) 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.

(ii) AMOCs approved previously for AD 2012–22–05 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0224 that are required by paragraph (g) of this AD.

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

(j) Related Information

For more information about this AD, contact Tom Rodriquez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on April 13, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0224, dated September 6, 2019.

(ii) [Reserved]

(4) For information about EASA AD 2019–0224, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(5) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0105.

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

Issued on February 20, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–04729 Filed 3–6–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0875; Product Identifier 2019–NM–143–AD; Amendment 39–19850; AD 2020–04–11]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–400 series airplanes. This AD was prompted by a report of a certain modification that causes interference with inspections that are intended to detect fatigue cracks. This AD requires repetitive low frequency eddy current (LFEC) inspections of a certain fuselage upper skin lap splice for cracks, repetitive high frequency eddy current (HFEC)

inspections of a certain fuselage upper skin lap splice for cracks, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 13, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 13, 2020.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0875.

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–2019–0875; 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: Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–400 series airplanes. The NPRM published in the **Federal Register** on November 26, 2019 (84 FR 65034). The NPRM was prompted by a report of a certain modification that causes interference with inspections that are intended to detect fatigue cracks. The NPRM proposed to require repetitive LFEC inspections of a certain fuselage upper skin lap splice for cracks, repetitive HFEC inspections of a certain fuselage upper skin lap splice for cracks, and applicable on-condition actions.

The FAA is issuing this AD to address undetected fatigue cracks, which could result in sudden decompression and loss of structural integrity of the airplane.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. Boeing indicated its support for NPRM.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019. This service information describes procedures for repetitive LFEC inspections of a certain fuselage upper skin lap splice for cracks, repetitive HFEC inspections of a certain fuselage upper skin lap splice for cracks, and applicable on-condition actions. On-condition actions include repair. 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 would affect 3 airplanes of U.S. registry. The agency 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
LFEC inspection	5 work-hours × $85 per hour = $425 per inspection cycle.	$0	$425 per inspection cycle	$1,275 per inspection cycle.
HFEC inspection	5 work-hours × $85 per hour = $425 per inspection cycle.	0	$425 per inspection cycle	$1,275 per inspection cycle.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–04–11 The Boeing Company: Amendment 39–19850 ; Docket No. FAA–2019–0875; Product Identifier 2019–NM–143–AD.

(a) Effective Date

This AD is effective April 13, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of a certain modification that causes interference with inspections that are intended to detect fatigue cracks. The FAA is issuing this AD to address undetected fatigue cracks, which could result in sudden decompression and loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 747–53A2901, dated July 25, 2019, which is referred to in Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019, uses the phrase ''the original issue date of the Requirements Bulletin 747–53A2901 RB,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019, uses the phrase ''the original issue date of the Requirements Bulletin 747–53A2901 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 747–53A2901 RB, dated July 25, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

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

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

Issued on February 20, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–04728 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0688; Airspace Docket No. 18–AGL–25]

RIN 2120–AA66

Amendment of VOR Federal Airways V–11 and V–275 in the Vicinity of Bryan, OH, and Defiance, OH, Respectively

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–11 by redefining the EDGEE fix in the vicinity of Bryan, OH, and V–275 by redefining the KLOEE fix in the vicinity of Defiance, OH. These modifications are necessary due to the planned decommissioning of the VOR portion of the Waterville, OH (VWV), VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Waterville VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, May 21, 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 *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations 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: Colby Abbott, Rules and Regulations Group, Office of Policy, 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 air traffic service 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 for Docket No. FAA–2019–0688 in the **Federal Register** (84 FR 52049; October 1, 2019), amending VOR Federal airways V–11 and V–275 due to the planned decommissioning of the VOR portion of the Waterville, OH, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) 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 VOR Federal airways listed in this document will be subsequently published in 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 7400.11D 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 modifying VOR Federal airways V–11 and V–275. The planned decommissioning of the Waterville, OH, VOR has made this action necessary. The VOR Federal airway changes are outlined below.

V–11: V–11 extends between the Brookley, AL, VORTAC and the intersection of the Fort Wayne, IN, VORTAC 038° and Waterville, OH, VOR/DME 273° radials (EDGEE fix). The EDGEE fix in the airway description is amended to describe it as the intersection of the existing Fort Wayne VORTAC 038° radial and the Flag City, OH, VORTAC 308° radial. The unaffected portions of the existing airway remain as charted.

V–275: V–275 extends between the Cincinnati, KY, VORTAC and the intersection of the Dayton, OH, VOR/DME 007° and the Waterville, OH, VOR/DME 246° radials (KLOEE fix). The KLOEE fix in the airway description is amended to describe it as the intersection of the existing Dayton, OH, VOR/DME 007° radial and the Flag City, OH, VORTAC 313° radial. Additionally, an editorial correction changes the state abbreviation for the Cincinnati VORTAC listed in the description from ''OH'' to ''KY''. The unaffected portions of the existing airway remain as charted.

All radials in the route descriptions are stated in True degrees.

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 airspace action of amending the EDGEE fix and KLOEE fix NAVAID radial computations in VOR Federal airways V–61 and V–275, respectively, has no potential to cause any significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment. Therefore, this airspace action has been categorically excluded from further environmental impact review in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations at 40 CFR parts 1500–1508, 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). 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 6010(a) Domestic VOR Federal Airways.

* * * * *

V–11 [Amended]

From Brookley, AL; Greene County, MS; INT Greene County 315° and Magnolia, MS, 133° radials; Magnolia; Sidon, MS; Holly Springs, MS; Dyersburg, TN; Cunningham, KY; Pocket City, IN; Brickyard, IN; Marion, IN; Fort Wayne, IN; to INT Fort Wayne 038° and Flag City, OH, 308° radials.

* * * * *

V–275 [Amended]

From Cincinnati, KY; INT Cincinnati 006° and Dayton, OH, 207° radials; Dayton; to INT Dayton 007° and Flag City, OH, 313° radials.

* * * * *

Issued in Washington, DC, on March 2, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–04658 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0677; Airspace Docket No. 19–ACE–5]

RIN 2120–AA66

Revocation of VHF Omnidirectional Range (VOR) Federal Airway V–61 and Amendment of Area Navigation Route T–286 Due to the Decommissioning of the Robinson, KS, VOR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes VHF Omnidirectional Range (VOR) Federal airway V–61 in its entirety and extends area navigation (RNAV) route T–286 in its place. The FAA is taking this action due to the planned decommissioning of the Robinson, KS (RBA), VOR portion of the Robinson VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID). The Robinson VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, May 21, 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 *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations 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: Colby Abbott, Rules and Regulations Group, Office of Policy, 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 air traffic service 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 for Docket No. FAA–2019–0677 in the **Federal Register** (84 FR 46905; September 6, 2019) removing VOR Federal airway V–61 and extending RNAV route T–286 in its place. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 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 VOR Federal airway and RNAV T-route listed in this document will be subsequently published in 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 7400.11D 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 removing VOR Federal airway V–61 and extending RNAV route T–286 to overlay the V–61 routing being removed. The planned decommissioning of the VOR portion of the Robinson, KS, VOR/DME has made this action necessary. The air traffic service (ATS) route actions are described below.

V–61: V–61 extends between the Grand Island, NE, VOR/DME and the intersection of the Robinson, KS, VOR/DME 141° and St. Joseph, MO, VOR Tactical Air Navigation (VORTAC) 211° radials (BOWLR fix). The airway is removed in its entirety.

T–286: T–286 extends between the Rapid City, SD, VORTAC and the Grand Island, NE, VOR/DME. The route is extended southeast between the Grand Island VOR/DME and the BOWLR fix. Additionally, the Rapid City VORTAC

''RAP'' identifier is added to the first line of the route description; the type of fix for the EFFEX fix and the type of NAVAID facility for Grand Island, NE, are corrected; and the geographic coordinates of each route point are updated to be expressed in degrees, minutes, seconds, and hundredths of a second.

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 airspace action of removing VOR Federal airway V–61 and extending RNAV route T–286 in its place has no potential to cause any significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment. Therefore, this airspace action has been categorically excluded from further environmental impact review in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations at 40 CFR parts 1500–1508, 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). 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 6010(a) Domestic VOR Federal Airways.

* * * * *

V–61 [Removed]

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–286 Rapid City, SD (RAP) to BOWLR, KS [Amended]

Rapid City, SD (RAP)	VORTAC	(Lat. 43°58′33.74″ N, long. 103°00′44.38″ W)
Gordon, NE (GRN)	NDB	(Lat. 42°48′03.90″ N, long. 102°10′45.82″ W)
EFFEX, NE	FIX	(Lat. 42°19′59.17″ N, long. 101°20′11.41″ W)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′53.99″ N, long. 100°43′08.52″ W)
BOKKI, NE	FIX	(Lat. 41°39′54.99″ N, long. 99°52′17.00″ W)
Grand Island, NE (GRI)	VOR/DME	(Lat. 40°59′02.50″ N, long. 98°18′53.20″ W)
Pawnee City, NE (PWE)	VORTAC	(Lat. 40°12′01.27″ N, long. 96°12′22.61″ W)
Robinson, KS (RBA)	DME	(Lat. 39°51′03.00″ N, long. 95°25′23.00″ W)
BOWLR, KS	FIX	(Lat. 39°37′21.29″ N, long. 95°11′00.26″ W)

* * * * *

Issued in Washington, DC, on March 2, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–04657 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice: 10991]

RIN 1400–AE17

Privacy Act; STATE—01, Email Archive Management Records

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is issuing a final rule to exempt portions of the Email Archive Management Records, STATE–01, from certain provisions of the Privacy Act of 1974.

DATES: This final rule is effective March 9, 2020.

FOR FURTHER INFORMATION CONTACT: John C. Sullivan, Senior Agency Official for Privacy; Office of Global Information Services, A/GIS; Department of State, HST, Room 1417; 2201 C St. NW, Washington, DC 20520, on (202) 647–6435 or at *Privacy@state.gov.* Please include ''RIN 1400–AE17, State-01'' in the subject line of your email.''

SUPPLEMENTARY INFORMATION: The Department of State maintains the Email Archive Management Records system of records, designated as STATE–01. The primary purpose of this system of records is to capture emails and attachments that interact with a Department of State email account and to store them in a secure repository that

allows for search, retrieval, and view when necessary.

For additional background, see the notice of proposed rulemaking published on February 4, 2019 (84 FR 1419), and the system of records notice published on December 12, 2017 (82 FR 58477). The Department received no public comment on these documents.

List of Subjects in 22 CFR Part 171

Administrative practice and procedure; Freedom of Information; Privacy.

For the reasons stated in the preamble, 22 CFR part 171 is amended as follows:

PART 171—[AMENDED]

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

Authority: 22 U.S.C. 2651a; 5 U.S.C. 552, 552a; E.O. 12600 (52 FR 23781); Pub. L. 95–521, 92 Stat. 1824 (codified as amended at 5 U.S.C. app. 101–505); 5 CFR part 2634.

■ 2. Section 171.26 is amended by:

■ a. In paragraph (a)(2)(iii), adding an entry to the list in alphabetical order, for ''Email Archive Management Records, STATE–01''.

■ b. In paragraphs (b)(1), (2), (3), (4), (5), (6) and (7), adding an entry to the lists in alphabetical order, for ''Email Archive Management Records, STATE–01''.

John C. Sullivan,

Senior Agency Official for Privacy, Deputy Assistant Secretary for Global Information Services, Bureau of Administration, U.S. Department of State.

[FR Doc. 2020–04181 Filed 3–6–20; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9630]

RIN 1545–BK17

Use of Differential Income Stream as an Application of the Income Method and as a Consideration in Assessing the Best Method; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to Treasury Decision TD 9630, which was published in the **Federal Register** on Tuesday, August 27, 2013. Treasury Decision 9630 contains final regulations that implement the use of the differential income stream as a consideration in assessing the best sharing arrangement and as a specified application of the income method.

DATES: This correction is effective on March 9, 2020 and is applicable on or after August 27, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher J. Bello, Office of Associate Chief Counsel (International), (202) 317–3800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9630) that are the subject of this correction are issued under section 1.482–7 of the Internal Revenue Code.

Need for Correction

As published August 27, 2013 (78 FR 52854), the final regulations (TD 9630) contain an error that needs to be corrected.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

■ 1. The authority citation for part 1 is amended by removing the sectional authority for § 1.482–7T to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2020–04485 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 28

[Docket Number OAG–164; AG Order No. 4646–2020]

RIN 1105–AB56

DNA-Sample Collection From Immigration Detainees

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending regulations that require DNA-sample collection from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. The amendment removes a provision authorizing the Secretary of Homeland Security to exempt from the sample-collection requirement certain aliens from whom collection of DNA samples is not feasible because of operational exigencies or resource limitations. This restores the Attorney General's plenary legal authority to authorize and direct all relevant Federal agencies, including the Department of Homeland Security, to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States.

DATES: This rule is effective April 8, 2020.

FOR FURTHER INFORMATION CONTACT: David J. Karp, Senior Counsel, Office of Legal Policy, United States Department of Justice, Washington, DC, 202–514–3273.

SUPPLEMENTARY INFORMATION: This rule finalizes a proposed rule, DNA-Sample Collection from Immigration Detainees (OAG 164; RIN 1105–AB56) (published October 22, 2019, at 84 FR 56397), to amend regulations requiring DNA-sample collection from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. Specifically, the rule removes 28 CFR 28.12(b)(4), which authorizes the Secretary of Homeland Security to exempt certain detained aliens from the DNA-sample collection requirement. As a result, the rule restores the Attorney General's plenary authority to authorize and direct all relevant Federal agencies, including the Department of Homeland Security (''DHS''), to collect DNA samples from such individuals.

Background and Purpose

The DNA Fingerprint Act of 2005, title X of Public Law 109–162, authorizes the Attorney General to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. *See* 34 U.S.C. 40702(a)(1)(A). The statute further authorizes the Attorney General to delegate the function of collecting DNA samples to other agencies, and to direct their discharge of this function, thereby empowering the Attorney

General to establish and administer a government-wide sample-collection program for persons in the covered classes. *See id.* In 2008, the Attorney General issued an implementing rule for 34 U.S.C. 40702(a)(1)(A) that amended 28 CFR 28.12. *See* 73 FR 74932 (Dec. 10, 2008).

The existing rule generally requires DNA-sample collection from individuals in these categories if they are fingerprinted. Consequently, Federal agencies now collect DNA samples from persons they take into custody as a regular identification measure in booking, on a par with fingerprinting and photographing. The rule requires DNA-sample collection both for persons arrested on Federal criminal charges and for non-United States persons in detention for immigration violations because DNA identification serves similar purposes and is of similar value in both contexts. *See* 28 CFR 28.12(b) (''Any agency of the United States that arrests or detains individuals . . . shall collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States.''); 73 FR at 74933–34, 74938–39. The rule defines ''non-United States persons'' for this purpose to mean persons who are not U.S. citizens and who are not lawfully admitted for permanent residence as defined in the relevant regulation (8 CFR 1.1(p), which has since been redesignated 8 CFR 1.2). 28 CFR 28.12(b).

The rule allows exceptions to the sample-collection requirement with the approval of the Attorney General. 28 CFR 28.12(b) (third sentence); 73 FR at 74934. As currently formulated, the rule also recognizes specific exceptions with respect to four categories of aliens, as provided in paragraphs (1) through (4) of 28 CFR 28.12(b).

The first exception, appearing in § 28.12(b)(1), is for aliens lawfully in, or being processed for lawful admission to, the United States. This reflects that the rule's objectives in relation to non-U.S. persons generally concern those implicated in illegal activity (including immigration violations) and not lawful visitors from other countries. *See* 73 FR at 74941.

The second exception, appearing in § 28.12(b)(2), is for aliens held at a port of entry during consideration of admissibility and not subject to further detention or proceedings. The second exception overlaps with the first and its rationale is similar. Lawful entrants from other countries may be regarded as detained when, for example, they are briefly held up at airports during routine processing or taken aside for secondary inspection. As with the first exception, when such entrants are not subject to further detention or proceedings, categorically requiring DNA-sample collection is not necessary to realize the rule's objectives.

The third exception, appearing in § 28.12(b)(3), is for aliens held in connection with maritime interdiction, because collecting DNA samples in maritime interdiction situations may be unnecessary and practically difficult or impossible.

This rule does not affect these three exceptions because the considerations supporting them have not changed since the issuance of the original rule in 2008.

The fourth exception, appearing in § 28.12(b)(4), is for other aliens, with respect to whom the Secretary of Homeland Security, in consultation with the Attorney General, determines that the collection of DNA samples is not feasible because of operational exigencies or resource limitations. This aspect of the current regulation is at odds with the treatment of all other Federal agencies, which may adopt exceptions to DNA-sample collection based on operational exigencies or resource limitations only with the Attorney General's approval. *See* 28 CFR 28.12(b). Nevertheless, the rule granted the Secretary of Homeland Security authority to make exceptions for certain aliens, recognizing that it might not be feasible to implement the general policy of DNA-sample collection immediately in relation to the whole class of immigration detainees, including the hundreds of thousands of illegal entrants who are taken into custody near the southwest border of the United States each year.

Then-Secretary of Homeland Security Janet A. Napolitano advised in a March 22, 2010, letter to then-Attorney General Eric H. Holder, Jr., that categorical DNA collection from aliens in this class was not feasible, on the grounds described in § 28.12(b)(4). However, subsequent developments have resulted in fundamental changes in the cost and ease of DNA-sample collection. DNA-sample collection from persons taken into or held in custody is no longer a novelty. Rather, pursuant to the mandate of § 28.12(b), it is now carried out as a routine booking measure, parallel to fingerprinting, by Federal agencies on a government-wide basis. The established DNA-collection procedures applied to persons arrested or held on criminal charges can likewise be applied to persons apprehended for immigration violations.

Accordingly, this rule removes the exemption authority of the Secretary of Homeland Security appearing in paragraph (b)(4) of § 28.12. The removal of that exemption authority does not preclude limitations and exceptions to the regulation's requirement to collect DNA samples, because of operational exigencies, resource limitations, or other grounds. But all such limitations and exceptions, beyond those appearing expressly in the regulation's remaining provisions, will require the approval of the Attorney General.

The Attorney General—exercising his plenary authority under the DNA Fingerprint Act of 2005 to authorize and direct DNA-sample collection by Federal agencies, and to permit limitations and exceptions thereto—will review DHS's capacity to implement DNA-sample collection from non-U.S. person detainees as required by the regulation. The Department of Justice will work with DHS to develop and implement a plan for DHS to phase in that collection over a reasonable timeframe.

The situation parallels that presented by the initial implementation of DNA-sample collection by other Federal agencies pursuant to 28 CFR 28.12. The regulatory requirements were not understood or applied to impose impossible obligations on the agencies to immediately collect DNA samples from all persons in their custody covered by the rule. Rather, the Department of Justice worked with the various agencies to implement the regulation's requirements in their operations without unnecessary delay, but in a manner consistent with the need to adjust policies and procedures, train personnel, establish necessary relationships with the Federal Bureau of Investigation (''FBI'') Laboratory regarding DNA-sample collection and analysis, and take other measures required for implementation.

Many considerations support the decision to repeal the § 28.12(b)(4) exception. As an initial observation, the original rulemaking recognized that distinguishing the treatment of criminal arrestees and immigration detainees with respect to DNA identification is largely artificial, in that most immigration detainees are held on the basis of conduct that is itself criminal. Aliens who are apprehended following illegal entry have likely committed crimes under the immigration laws, such as 8 U.S.C. 1325(a) and 1326, for which they can be prosecuted. ''Hence, whether an alien in such circumstances is regarded as an arrestee or a (non-arrested) detainee may be a matter of characterization, and the aptness of one description or the other may shift over time, depending on the disposition or

decision of prosecutors concerning the handling of the case.'' 73 FR at 74939. The practical difference between criminal arrestees and immigration detainees, for purposes of DNA-sample collection, has been further eroded through policies favoring increased prosecution for immigration violations.

The underlying legal and policy considerations support consistent DNA identification of individuals in the two classes. At the broadest level, ''[t]he advent of DNA technology is one of the most significant scientific advancements of our era,'' having an ''unparalleled ability both to exonerate the wrongly convicted and to identify the guilty.'' *Maryland* v. *King,* 569 U.S. 435, 442 (2013) (quotation marks omitted). DNA analysis ''provides a powerful tool for human identification,'' which ''help[s] to bring the guilty to justice and protect the innocent, who might otherwise be wrongly suspected or accused.'' 73 FR at 74933. ''[T]hrough DNA matching,'' it enables ''a vast class of crimes [to] be solved.'' 73 FR at 74934. The need for consistent application of DNA identification measures may be particularly compelling ''in relation to aliens who are illegally present in the United States and detained pending removal,'' because ''prompt DNA-sample collection could be essential to the detection and solution of crimes they may have committed or may commit in the United States . . . before the individual's removal from the United States places him or her beyond the ready reach of the United States justice system.'' 73 FR at 74934.

Regardless of whether individuals are deemed criminal arrestees or immigration detainees, the use of collected DNA samples is the same and has similar value. The DNA profiles the government derives from arrestee or detainee samples amount to sanitized ''genetic fingerprints''—they can be used to identify an individual uniquely, but they do not disclose the individual's traits, disorders, or dispositions. The profiles are searched against the Combined DNA Index System (CODIS), which includes DNA profiles derived from biological residues left at crime scenes—for example, the DNA of a rapist secured in a sexual assault examination kit, or the DNA of a murderer found on an item he left or touched in committing the crime. A match to CODIS identifies the arrestee or detainee as the source of the crime-scene DNA and likely perpetrator of the offense. Equally for criminal arrestees and immigration detainees, the operation of the DNA identification system thereby furthers the interests of justice and public safety without compromising the interest in genetic privacy. *See King,* 569 U.S. at 442–46, 461–65; 73 FR at 74933, 74937–38.

For criminal arrestees and immigration detainees, the specific governmental interests supporting the use of the DNA technology are implicated in similar, if not identical, ways. One such interest is simply that of identification—''the need for law enforcement officers in a safe and accurate way to process and identify the persons . . . they must take into custody,'' *King,* 569 U.S. at 449, which includes connecting the person ''with his or her public persona, as reflected in records of his or her actions,'' *id.* at 451. DNA is a ''metric of identification'' used to connect the individual to his ''CODIS profile in outstanding cases,'' which is functionally no different from the corresponding use of fingerprints, except for ''the unparalleled accuracy DNA provides.'' *King,* 569 U.S. at 451–52; *see* 73 FR at 74933–34, 74936–37.

A second governmental interest is the responsibility ''law enforcement officers bear . . . for ensuring that the custody of an arrestee does not create inordinate risks for facility staff, for the existing detainee population, and for a new detainee.'' *King,* 569 U.S. at 452 (quotation marks and citation omitted); *see* 73 FR at 74934 (noting use of DNA information in ensuring proper security measures for detainees). For example, a match between the DNA profile of a person in custody and DNA left by the apparent perpetrator at the site of a murder is important information that officers and agencies responsible for the person's custody should have, a consideration that applies equally whether the detention is premised on a criminal law violation or an immigration law violation.

Third, DNA identification informs the decision concerning continued detention or release, in the interest of ensuring that the individual will appear for future proceedings. In the criminal context this includes ensuring that an arrestee will appear for trial if released, and in the immigration context it includes ensuring that a detainee will appear for future proceedings relating to his immigration status if released. If DNA matching has shown or will show a connection between the person in custody and a crime for which he may be held to account if he has further contact with the justice system, the person's incentive to flee must be considered in deciding whether to continue the detention pending further proceedings. *See King,* 569 U.S. at 452–53 (''A person who . . . knows he has yet to answer for some past crime may be more inclined to flee.'').

Fourth, DNA identification informs the decision concerning continued detention or release, and necessary conditions if release is granted, in the interest of public safety. *See King,* 569 U.S. at 453 (''an arrestee's past conduct is essential to an assessment of the danger he poses to the public, and this will inform a . . . determination whether the individual should be released''); 73 FR at 74934 (DNA information ''helps authorities to assess whether an individual may be released safely to the public . . . and to establish appropriate conditions for his release''). The results of DNA identification have the same significance for this purpose whether the person has been detained for criminal or immigration law reasons.

Fifth, DNA identification furthers the fundamental objectives of the criminal justice system, clearing innocent persons who might otherwise be wrongly suspected or accused by identifying the actual perpetrator, and helping to bring the guilty to justice. *See King,* 569 U.S. at 455–56; 73 FR at 74933–34. Here, too, it makes no difference whether the basis of the detention is suspected criminality or an immigration violation.

In this connection, consider the case of Raphael Resendez-Ramirez, the ''Railway Killer,'' who was executed in Texas in 2006. Resendez is believed to have committed numerous murders in the United States, including at least seven in the 1997–99 period, as well as additional murders in Mexico. Resendez was repeatedly taken into custody and repatriated to Mexico, including eight times between January 5, 1998 and June 1, 1999, and on earlier occasions going back to the 1970s. *See* U.S. Department of Justice, Office of the Inspector General, Special Report on the Raphael Resendez-Ramirez Case (March 20, 2000), *https://oig.justice.gov/special/0003* (''Resendez Report'').

Suppose it had been possible on any occasion when Resendez was apprehended to take a DNA sample from him and match it to DNA evidence derived from any of his murders. The officers responsible for his custody would have been put on notice of his dangerousness upon receipt of the information, and he would have been held in custody for criminal proceedings rather than being released, thereby saving the lives of the victims he claimed thereafter.

This rule's removal of the authorized exception to DNA collection for certain detained aliens appearing in 28 CFR 28.12(b)(4) will help to ensure that future avoidable tragedies of this nature will in fact be avoided, and that DNA technology will be consistently utilized

to further public safety and the interests of justice in relation to immigration detainees, as has long been the case in relation to criminal arrestees, defendants, and convicts in the Federal jurisdiction.

In addition to removing § 28.12(b)(4), the rule updates a citation in § 28.12(b), replacing ''8 CFR 1.1(p)'' with ''8 CFR 1.2.''

Summary of Comments

The Department of Justice received over 41,000 comments on this rulemaking, most of which appear to derive from a website that solicited the submission of 40,000 comments (a number later increased to 50,000) and provided readers with suggested text. *See* American Civil Liberties Union, Forced DNA Collection, *https://action.aclu.org/petition/no-forced-dna-collection* (last visited Dec. 30, 2019). Comments were also received from other organizations and individuals. Having considered all comments, the Department of Justice has concluded that the amendments to the regulation in this rulemaking should be promulgated without change. The ensuing discussion summarizes the principal issues that were raised in the public comments.

Supportive Comments

Some comments supported broadened DNA collection from immigration detainees as furthering public safety, and some stated that detainees who are not involved in criminal activities have nothing to fear from such collection. A comment further stated that the benefits of the initiative should be maximized by using Rapid DNA technology, which allows DNA collection and analysis, and immediate CODIS entry and searching, to be carried out at the booking station.

The Rapid DNA Act of 2017, Public Law 115–50, which provides the legal basis for use of the Rapid DNA technology in CODIS, is being implemented by the FBI, currently as a pilot program. *See* 34 U.S.C. 12591(a)(5), 12592(b)(2)(B), 40702(b); *see also King,* 569 U.S. at 460 (noting progress toward more rapid DNA analysis). Once the Rapid DNA technology is ready for general use, the benefits will be realized with respect to both criminal arrestees and immigration detainees.

Nature of the Rulemaking

Many of the comments criticized this rulemaking as creating a new requirement of ''forced'' or involuntary DNA collection from migrants, including children over the age of 13 or even younger. Some of the comments broadly characterized the class of aliens who would be subject to this allegedly new requirement, claiming, for example, that it encompasses all migrants entering the United States at legal ports of entry and taken into custody, or claiming that it includes lawful foreign visitors and immigrants as well as persons detained for immigration violations.

This rulemaking does not contain any new DNA-sample collection mandate. As discussed above, the existing DNA regulation—which implements 34 U.S.C. 40702(a)(1)(A), and which has been in effect since January 9, 2009—has always required DNA-sample collection from non-U.S. persons detained under Federal authority, in addition to persons arrested, facing charges, or convicted. *See* 28 CFR 28.12; 73 FR at 74932. This rulemaking only strikes paragraph (b)(4) in the regulation, which affects the allocation of authority between the Attorney General and the Secretary of Homeland Security to allow exceptions to the DNA-sample collection requirement for certain aliens.

Neither the existing regulation nor the amendment made by this rulemaking prescribes age criteria for DNA-sample collection. The regulation generally allows Federal agencies to limit the collection of DNA samples to persons whom the agency fingerprints. *See* 28 CFR 28.12(b). If an agency limits fingerprinting to detainees above a certain age, DNA-sample collection may be correspondingly limited.

Neither the existing regulation nor the amendment made by this rulemaking require DNA-sample collection from the broad classes of persons suggested by some commenters. The requirement is generally limited to individuals who are detained and fingerprinted, and, in addition, paragraphs (b)(1) and (b)(2) in the regulation generally exempt lawful foreign visitors and immigrants from the DNA-sample collection requirement. The classes of persons subject to the regulation's DNA-sample collection requirement are further discussed below.

The commenters' reference to DNA-sample collection under the regulation as being ''forced,'' involuntary, or nonconsensual establishes no difference from other booking information. It is not left to the discretion of arrestees and detainees whether fingerprints, photographs, and biographical information are taken in booking. The same is true of taking a cheek swab for DNA. There is little substance to concerns about the use of force in this context because persons taken into custody generally cooperate in providing the required booking information—including fingerprints, photographs, and DNA samples—and because means other than the use of force normally suffice to secure cooperation in the rare instances involving recalcitrance. In relation to DNA-sample collection, in particular, 18 U.S.C. 3142(b), (c)(1)(A), makes cooperation in sample collection a mandatory condition of pretrial release, and 34 U.S.C. 40702(a)(5) makes refusal to cooperate in sample collection itself a criminal offense. Moreover, the Attorney General has issued directions to the U.S. Attorney's Offices, relating to situations in which an agency brings an individual to court without having collected a DNA sample because of non-cooperation by the individual, which further reduce the possibility that ''forced'' collection will be needed in any case. *See* Memorandum from Attorney General Eric H. Holder, Jr., *DNA Sample Collection from Federal Arrestees and Detainees,* at 2–3 (Nov. 18, 2010) (Attorney General DNA Memorandum), *available at www.justice.gov/sites/default/files/ag/legacy/2010/11/19/ag-memo-dna-collection111810.pdf.*

The Role of DHS

Some comments argued that the deletion of paragraph (b)(4) in 28 CFR 28.12 will sacrifice the unique expertise of DHS regarding its resources and operations in determining the scope of DNA-sample collection. However, as discussed above, the Attorney General will work with DHS, as he has done with other Federal agencies, in implementing the DNA-sample collection requirement of the regulation in a reasonable time frame and in a manner consistent with DHS's capacities. The expertise of DHS is fully available to the Attorney General in this collaboration. Some comments asserted that broader DNA-sample collection from immigration detainees will overburden DHS's already-strained resources. It should be understood that DNA-sample collection involves a modest expansion of booking procedures—taking a cheek swab for DNA in addition to the traditional biometrics of fingerprints and photographs. Since the existing regulation took effect in 2009, Federal agencies have successfully integrated this additional biometric into their standard booking procedures on a government-wide basis, without heavy budgetary impact or undue strain on their resources. The remaining major gap in implementation of the DNA Fingerprint Act of 2005 and the existing regulation is incomplete DNA-sample

collection by DHS components from non-U.S.-person detainees. The Attorney General will work with DHS, as he has done with other Federal agencies that have implemented the regulation's DNA-sample collection requirement with respect to persons in their custody, to ensure that any expansion of DNA-sample collection from non-U.S. persons in DHS's custody will be effected in an orderly manner consistent with DHS's capacities.

Some comments asserted that the change made by this rulemaking will immediately require DHS to collect DNA from all persons in its custody who have previously been exempted pursuant to paragraph (b)(4) of the existing regulation. This concern is not well founded because the Attorney General retains the authority to allow exceptions from and limitations to the DNA-sample collection requirement, *see* 28 CFR 28.12(b), and the Attorney General will work with DHS in implementing any expansion of DNA-sample collection in a reasonable time frame and in a manner consistent with DHS's capacities, as he has done with other Federal agencies.

Some comments suggested that DHS personnel, and U.S. Customs and Border Protection (CBP) agents in particular, are incompetent to collect DNA samples in an effective and safe manner. The comments also argued that U.S. Border Patrol agents should have made better use of other identification systems (including fingerprints) in the Resendez case, which is discussed above to illustrate the potential benefits of DNA identification measures.

The collection of cheek swabs for DNA from persons in custody, utilizing sample collection kits provided by the FBI, requires no extraordinary skills beyond the capacity of Federal agents, including CBP agents, who book persons in custody. The point is demonstrated by the numerous agencies throughout the Federal government that have collected DNA samples from persons in custody as a routine booking measure for many years. *See, e.g.,* Attorney General DNA Memorandum at 1–2 (noting that the ''principal investigative agencies of the Department of Justice'' had implemented DNA-sample collection as of 2010); *see also* U.S. Department of Defense, Instruction No. 5505.14 (Dec. 22, 2015) (reissuing Instruction of May 27, 2010) (directing DNA-sample collection in criminal investigations). The FBI will provide training assistance to CBP as needed, as it has done for other Federal agencies that have implemented DNA-sample collection.

The availability of fingerprint-based identification systems does not obviate the need for or value of DNA-sample collection. Many crimes can be solved or prevented through the use of DNA identification that cannot be solved or prevented through the use of fingerprints alone. *See* 73 FR at 74933–34. As discussed above, DNA identification measures, had they been available, could have saved the lives of victims of Resendez, who did not leave the fingerprints that ultimately led to his apprehension until a murder committed in December 1998, but who left DNA evidence in a number of his other crimes, including a murder and sexual assault committed in August 1997. *See* Resendez Report at Chapter IV.A, App'x E; *Resendiz* v. *State,* 112 SW3d 541, 543–44 (Tex. Crim. App. 2003); Holly K. Dunn, *Sole Survivor: The Inspiring True Story of Coming Face to Face with the Infamous Railroad Killer* 8, 39–40, 98, 139–46, 174–76 (2017); *DNA Tests Reportedly Link Suspect to Railway Killer Slayings,* CNN, July 20, 1999, *http://www.cnn.com/US/9907/20/railway.killings/.*

Some comments objected that CBP line agents will be vested with discretion regarding DNA-sample collection. The regulation and this rulemaking create no such discretion. To the extent that agents exercise discretion or judgment in deciding who to detain on immigration grounds, that affects who will have booking information taken incident to detention—a point that applies equally to all types of booking information, including fingerprints and photographs as well as DNA. This is not a reason to refrain from the lawful collection of fingerprints and photographs, and it is not a reason to refrain from the lawful collection of DNA samples.

Another comment asserted that the proposed rule was deficient because it did not take into account a letter of August 21, 2019, from U.S. Special Counsel Henry J. Kerner to the President. However, that letter contained nothing that calls into question the basis for the amendment made by this rulemaking. Rather, it criticized DHS for failing to implement DNA-sample collection as authorized by the DNA Fingerprint Act of 2005. When this rulemaking was undertaken, the Special Counsel released a public statement of support, stating that the rule ''will bring more expeditious justice for victims and will help get criminals off the streets.'' U.S. Office of Special Counsel, Special Counsel Applauds Rule To Initiate DNA Collection from Undocumented Criminal Detainees (Oct. 2019), *https://osc.gov/News/Pages/20-01-Initiate-DNA-Collection.aspx.*

Costs and Benefits

Some comments argued that DNA-sample collection from immigration detainees will have adverse consequences because it will deter migration to the United States, and some comments argued that it will not realize expected benefits because it will not deter migration to the United States. The comments on both sides misconceive the nature and purposes of the DNA identification system. The DNA-sample-collection requirement of 28 CFR 28.12 for non-U.S.-person detainees was not adopted as a deterrent to immigration. As discussed above, it serves governmental interests paralleling those served by DNA-sample collection from arrestees, including identification of persons in custody, facilitating safe and secure custody, informing decisions concerning detention and release pending further proceedings, clearing the innocent, and bringing the guilty to justice. As with fingerprinting and photographing of detainees, there is no deterrent purpose, or likely deterrent effect, with respect to persons lawfully entering or remaining in the United States. Paragraphs (b)(1) and (b)(2) of the regulation, which this rulemaking does not change, generally exclude lawful foreign visitors and immigrants from the DNA-sample-collection requirement.

Some comments argued that there is no benefit to DNA sample collection from non-U.S.-person detainees because they are subject to fingerprinting and other (non-DNA) identification measures. The objection is specious because ''DNA analysis offers a critical complement to fingerprint analysis in the many cases in which perpetrators of crimes leave no recoverable fingerprints but leave biological residues at the crime scene.'' 73 FR at 74933–34. Consequently, ''there is a vast class of crimes that can be solved through DNA matching that could not be solved . . . if the biometric identification information collected from individuals were limited to fingerprints.'' *Id.* at 74934.

Some comments asserted that DNA-sample collection from immigration detainees is unjustified because crime rates among immigrants generally, or among illegal immigrants in particular, are lower than those for citizens. Whatever may be assumed about the crime rate of persons subject to the regulation's DNA-sample collection requirement, it does not follow that DNA-sample collection from this class

is unjustified. The regulation does not attempt to divide arrestees and detainees into subclasses, and limit DNA collection to subclasses found to have a statistical probability of criminality above some threshold. Rather, paralleling the policy for fingerprinting and photographing, the regulation categorically requires DNA-sample collection from persons in the covered classes, which maximizes its value in promoting public safety and the other governmental interests supporting DNA-sample collection.

Some comments objected to the fiscal costs of expanded DNA-sample collection from immigration detainees, expressing concern that the detainees would bear the cost of DNA-sample collection, and pointing to cost estimates for certain potential expenditures in this rulemaking and other costs involved in the operation of the DNA identification system.

Arrestees and detainees subject to the regulation do not bear the cost of DNA-sample collection. As with the collection of other forms of booking information, including fingerprints and photographs, the cost is borne by the Federal government.

As discussed above, this rulemaking does not require DHS to expand DNA-sample collection. It reallocates authority from the Secretary of Homeland Security to the Attorney General with respect to adopting exceptions for certain aliens from the DNA-sample collection requirement. As such, it does not impose any costs. Future implementation decisions to collect DNA samples more broadly from non-U.S.-person detainees would entail certain costs, but that is equally true whether those decisions are made under the existing regulation or under the regulation as amended by this rulemaking.

A regulatory certification in this rulemaking, appearing below, discusses hypothetically costs that could result from future implementation decisions, including detailing projected costs on the assumption that collection of about 748,000 additional samples annually would be phased in over a 3-year period. The projected costs for DHS on this assumption, based on additional work hours, would be about $5.1 million in that 3-year period. Actual costs will depend on future implementation decisions and, as noted above, the Attorney General would work with DHS to phase in any expanded DNA-sample collection in a reasonable timeframe and in a manner consistent with DHS's capacities. The regulatory certification also projects FBI costs for providing additional DNA-sample collection kits on the same assumptions, which would include $4,024,240 to collect 748,000 samples in a year. The comments note additional costs that would be borne by the FBI, rather than DHS, including postage to send the collected DNA samples to the FBI for analysis, the costs of storing and analyzing the samples, and the costs of operating the DNA database. The Department of Justice is cognizant of these potential costs and the FBI is prepared to expand its operations as needed for these purposes.

Some comments argued that DNA sample collection from immigration detainees will have little or no benefit because initial entrants to the United States cannot have previously committed crimes within the United States, so there could not be crime-scene DNA evidence that would match to their DNA profiles. However, the DNA-sample collection requirement for non-U.S.-person detainees is not limited to initial entrants. It includes as well immigration detainees who have previously been in the United States or who have had a continuing presence in the United States for some time. Nor is there any consistent means of determining reliably at the time an immigration detainee is booked that he has *not* been in the United States before and hence could not have committed a crime here in the past. Regardless of whether an immigration detainee, at the time he is booked, has previously committed a crime in the United States, the benefits of DNA-sample collection include the creation of a permanent DNA record that may match to DNA evidence from a later crime, if the detainee remains in or later reenters the United States and commits such a crime. The function of CODIS in this regard with respect to immigration detainees is the same as its function with respect to criminal arrestees, who may not have committed a crime solvable through DNA matching when initially booked but who may commit such crimes in the future. It also parallels the use of fingerprints, which may solve subsequent crimes through database matching to crime-scene evidence, regardless of whether there is an immediate hit upon the fingerprints' initial entry into the system.

Some comments asserted that funds expended for DNA-sample collection from immigration detainees would more productively be applied to other uses, such as analysis of backlogged rape kits, providing better services or amenities for immigration detainees, or eliminating the poverty that causes crime. Analysis of the perpetrator's DNA in a rape kit will not solve the crime unless the perpetrator's DNA profile has been entered into CODIS. The effective operation of CODIS requires that the DNA database be well populated on both ends— DNA profiles of arrestees and detainees, and DNA profiles from crime-scene evidence. The Attorney General has committed to implementing any expansion of DNA-sample collection from immigration detainees in a manner consistent with DHS's capacities, which will ensure that there will be no diversion of funds necessary for the custody and care of immigration detainees. Diversion of the funding needed for the collection and use of biometric information from arrestees and detainees, such as fingerprints and DNA information, would not go far towards eliminating poverty or other social ills, but it would impair public safety and the effective operation of the justice system by depriving it of important information needed for these purposes.

Some comments asserted that DNA-sample collection from immigration detainees will stigmatize and vilify migrants and treat them as threats and criminals. There is no such purpose or effect. DNA-sample collection, like fingerprinting and photographing, is simply a biometric information collection measure serving legitimate law enforcement identification purposes. Nor is there any reason to believe that taking a cheek swab for DNA is stigmatizing in a way that taking other biometric information is not. *See King,* 569 U.S. at 464 (''a swab of this nature does not increase the indignity already attendant to normal incidents of arrest'').

A comment asserted that issuance of this final rule must be delayed pending the preparation of a federalism assessment, because expanding DNA collection from immigration detainees may indirectly affect some States' interaction with CODIS. However, this rulemaking only adjusts the allocation of authority within the Executive Branch of the Federal government regarding the exemption of certain aliens from the DNA-sample collection requirement. The Executive Order 13132 regulatory certification below accurately states that this rulemaking 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.

A comment suggested striking paragraph (b)(3) of 28 CFR 28.12, relating to maritime interdiction situations, on the ground that DNA-sample collection may now be feasible

in such situations using Rapid DNA technology. The recommendation is not addressed in the present rulemaking because the Rapid DNA technology is not yet ready for general use and because the comment did not persuasively establish that paragraph (b)(3) should be stricken, even if the Rapid DNA technology becomes widely available. Notwithstanding paragraph (b)(3), the Secretary of Homeland Security has authority to direct DNA-sample collection in maritime interdiction situations, should he deem that to be warranted. *See* 28 CFR 28.12(b).

Rights and Interests

Some comments asserted that collection of DNA samples from non-U.S.-person detainees in conformity with the regulation will adversely affect certain rights or interests of such persons. We address the comments according to the particular right or interest they allege that this rulemaking implicates.

Privacy: Comments relating to privacy rights often stated that DNA-sample collection will harm detainees by disclosing sensitive genetic information, through the storage of DNA information in insecure databases or in some other manner. The comments asserted that this will result in discrimination, immigration enforcement actions, and violence against the detainees and their relatives. These concerns are not well founded because the DNA information obtained from detainees is subject to the privacy and use restrictions of CODIS. The DNA samples are kept in secure storage by the FBI. *See* 73 FR at 74938. The DNA profiles are kept separately in a secure FBI database. Even if it were possible to gain unauthorized access to the DNA profile database, that database contains ''[n]o personally identifiable information relating to the donor, such as name, date of birth, social security number, or criminal history record number'' that would enable linking included DNA profiles to individuals. *See* FBI Laboratory, National DNA Index System (NDIS) Operational Procedures Manual, sec. 3.1.3 (Apr. 8, 2019), *available at https://www.fbi.gov/file-repository/ndis-operational-procedures-manual.pdf.* The authorized use of individuals' DNA profiles in the database is matching to forensic (crime-scene) DNA profiles. The information is not used, and cannot be used, to discriminate against any person or class, to target individuals for immigration enforcement action for reasons other than CODIS matches implicating them in criminal activity, or to target individuals for violence. Some comments' projection of adverse effects on relatives of detainees may reflect misunderstandings of the nature of, and the policies regarding, ''familial searching'' and partial matches, a matter that was explained in the rulemaking for the existing regulation. *See* 73 FR at 74938.

Fourth Amendment: Some comments argued that categorically collecting DNA samples from immigration detainees violates the constitutional prohibition of unreasonable searches and seizures. As discussed above, however, DNA-sample collection from immigration detainees is, like fingerprinting, a reasonable search under the Fourth Amendment. This is so because the governmental interests served by such collection parallel those adequate to support DNA-sample collection from arrestees, and because the privacy protections and other safeguards of CODIS are equally applicable. The method of collection for DNA samples—a cheek swab—is a non-injurious and minor imposition. *See King,* 569 U.S. at 461, 463–64. The Supreme Court's Fourth Amendment analysis in *King* is not a good-for-this-case-only analysis, limited to DNA identification programs that track the specific characteristics of the Maryland system at issue in that case. Rather, as courts have recognized, *King* provides a more generally applicable analysis. *See, e.g., Haskell* v. *Brown,* 317 F.Supp.3d 1095, 1103–11 (N.D. Cal. 2018) (rejecting argument that *King* does not apply with respect to arrestee in California because of differences between California law and Maryland law); *People* v. *Buza,* 413 P.3d 1132, 1139–45 (Cal. 2018) (same); *State* v. *Lancaster,* 373 P.3d 655, 660–61 (Colo. App. 2015) (rejecting argument that *King* does not apply with respect to arrestee in Colorado because of differences between Colorado law and Maryland law). *King's* analysis likewise confirms the consistency of DNA-sample collection from non-U.S.-person detainees with the Fourth Amendment, as authorized by the statute and regulation, for the reasons discussed above.

Fifth Amendment: Some comments argued that DNA-sample collection from non-U.S.-person detainees in conformity with the regulation is inconsistent with the constitutional right against compelled self-incrimination. This objection is not well-founded because, like fingerprinting, photographing, and other ''act[s] of exhibiting . . . physical characteristics,'' DNA-sample collection is non-testimonial in character. *United States* v. *Hubbell,* 530 U.S. 27, 34–35 (2000); *see Pennsylvania* v. *Muniz,* 496 U.S. 582, 591–92 (1990); *Holt* v. *United States,* 218 U.S. 245, 252–53 (1910); see also *Kammerling* v. *Lappin,* 553 F.3d 669, 686 (D.C. Cir. 2008) (''a DNA sample is not a testimonial communication subject to the protections of the Fifth Amendment''); *Wilson* v. *Collins,* 517 F.3d 421, 431 (6th Cir. 2008) (same); *United States* v. *Reynard,* 473 F.3d 1008, 1021 (9th Cir. 2007) (same); *United States* v. *Hook,* 471 F.3d 766, 773–74 (7th Cir. 2006) (same); *Boling* v. *Romer,* 101 F.3d 1336, 1340 (10th Cir. 1996) (same).

Due Process: Commenters who raised due process objections appeared to believe that a DNA sample cannot be collected from an arrestee or detainee without an adjudicatory or quasi-adjudicatory process, or some quantum of suspicion, regarding the individual's involvement in criminal activity. However, the DNA Fingerprint Act of 2005 and its implementing regulation provide for the collection of DNA samples from persons in the relevant classes on a categorical basis, not dependent on an individualized assessment of dangerousness or propensity for crime. Since questions of individual criminal propensity are ''not material to the . . . statutory scheme'' as implemented by the regulation, there is no valid due process objection to the system's operation. *Connecticut Dep't of Public Safety* v. *Doe,* 538 U.S. 1, 7–8 (2003).

Presumption of Innocence: The presumption of innocence is the principle that a person cannot be convicted for a crime except upon proof through evidence presented at trial. *See, e.g., Bell* v. *Wolfish,* 441 U.S. 520, 533 (1979). DNA-sample collection does not conflict with this principle because it does not relate to the trial process and does not convict or punish anyone for anything. Nor does it presuppose or imply that a person from whom DNA is collected is a criminal. Rather, like fingerprinting and photographing, it is a biometric identification measure that is justified when the standards for arrest or detention are satisfied. *See* 73 FR at 74936–37, 74938–39.

Equal Protection: Some comments asserted that DNA-sample collection from immigration detainees in conformity with the regulation constitutes invidious discrimination based on national origin or alienage, or that it is objectionable because racial and ethnic minorities are overrepresented in DNA databases and collecting DNA samples from immigration detainees will aggravate the disproportion. However, the regulation neutrally requires DNA-sample collection from non-U.S.-person detainees without regard to national

origin, race, or other demographic characteristics. Regarding alienage, aliens are necessarily treated differently from citizens in some respects, because aliens do not have the unqualified right of citizens to enter and remain in the United States. Hence, aliens may be detained for reasons relating to their eligibility to enter or stay in the country, and identification information, such as fingerprints and photographs, may lawfully be taken incident to the detention. The point applies equally to DNA-sample collection. The ethnic and racial proportions in the DNA databases parallel the representation of demographic groups among the persons from whom DNA samples are collected, just as the ethnic and racial proportions in the fingerprint databases parallel the representation of demographic groups among the persons from whom fingerprints are collected. ''The resulting proportions in either case provide no reason to refrain from taking biometric information'' from individuals in any demographic group. 73 FR at 74937. Rather, consistent with Congress's purposes in the DNA Fingerprint Act of 2005, and the purposes of its implementing regulation, a uniform policy of DNA-sample collection provides valuable information ''whose use for law enforcement identification purposes will help to protect individuals in all racial, ethnic, and other demographic groups from criminal victimization.'' *Id.*

Cruel and Unusual Punishment: Another comment asserted that DNA-sample collection is cruel and unusual punishment. However, DNA-sample collection from arrestees and detainees as required by the regulation is not cruel and unusual punishment under the Eighth Amendment because it is not punishment at all. It is a non-punitive biometric identification measure, like fingerprinting and photographing. As noted above, taking a cheek swab for DNA is a non-injurious and minor imposition. *See King,* 569 U.S. at 461, 463–64.

Prolonged Detention: Some comments asserted that DNA-sample collection from immigration detainees will result in their being quarantined while in custody, because they will not be housed with the general detainee population until CODIS searches of their DNA profiles are carried out, and that DNA-sample collection from immigration detainees will prolong their detention, because they will not be released until CODIS searches of their DNA profiles are carried out. No such policies or practices have been adopted by the Federal agencies that have for many years collected DNA samples from persons in their custody, however, and none are expected with respect to immigration detainees from whom DNA samples may be collected by DHS.

Effect on Innocent Persons: Some comments argued that DNA-sample collection will wrongly implicate innocent persons in crimes because, for example, a person's DNA left at the scene of a crime he did not commit may be mistaken for DNA from the perpetrator. But fingerprint identification may likewise implicate an innocent person in a crime committed by another because he left fingerprints at the scene of the crime. The possibility of such mishaps does not warrant eschewing the use of either fingerprints or DNA, but rather is outweighed by the great value of biometric identification information, including fingerprints and DNA, in bringing the guilty to justice and in clearing the innocent by identifying the actual perpetrator. Moreover, both fingerprint and DNA matches are not taken as conclusive evidence of guilt. Rather, they are used as investigative leads, and the need remains to establish guilt by proof beyond a reasonable doubt. There were also comments opposing expanded DNA collection on the view that enlarging the DNA database will impair its operation and increase the likelihood of false matches. However, the DNA database maintained by the FBI is constantly expanding through the flow of additional profiles from DNA samples collected by Federal, State, and local agencies. The design of the DNA identification system is sufficiently discriminating that an increase in the number of profiles ''does not create a risk to the innocent of the sort that concerns these commenters, just as the increase in the number of fingerprints in criminal justice databases does not create a significant risk of innocent persons being implicated in crimes.'' 73 FR at 74937.

Effects on Citizens: Some comments argued that DNA samples should not be collected from immigration detainees because citizens may be detained on the mistaken assumption that they are aliens without lawful immigration status. In such a case, the citizen may be subjected to the normal booking procedure, including fingerprinting and photographing. The possibility of such mishaps does not warrant eschewing the fingerprinting and photographing of immigration detainees, however, and the same point applies to collecting DNA samples. *See* 73 FR at 74938–39.

Medical Privacy and Ethics: Some comments asserted that DNA-sample collection in conformity with 28 CFR 28.12 violates medical privacy laws and medical ethics standards requiring informed consent. These comments are not well-founded because collection of DNA information from arrestees and detainees and its use in CODIS are not measures of medical diagnosis or treatment. They are law enforcement identification measures, comparable to fingerprints and photographs taken in booking, whose collection is not contingent on whether the person from whom they are collected wishes to provide them. The legal standards and design of CODIS provide other adequate assurances against compromises of genetic privacy, as discussed above.

International Law and Experience

Some comments argued that DNA samples should not be collected from immigration detainees based on international law and experience in other countries. We address the comments according to the particular concerns they express.

Refugee Convention: Some comments asserted that DNA-sample collection from immigration detainees would violate an international convention's strictures against punishing or denying admission to refugees. The claim of treaty violations is groundless because DNA-sample collection, like fingerprinting and photographing, does not punish anyone for anything and does not prevent anyone from lawfully entering the United States.

Foreign Misuse of DNA: Some comments objected to DNA-sample collection based on misuse of biometric information databases, including DNA information, in other countries. However, misuse of biometric information databases by foreign governments is irrelevant to the United States' collection and use of DNA information in conformity with the legal standards and design of CODIS, which adequately protect against misuse of such information.

S. and Marper v. *United Kingdom:* Some comments argued against DNA-sample collection based on the decision of the European Court of Human Rights in *S. and Marper* v. *United Kingdom,* 48 Eur. Ct. H.R. 50 (2008). The decision in *Marper* overruled well-reasoned United Kingdom precedent upholding the retention of fingerprint and DNA records and required the United Kingdom to adopt more restrictive policies regarding the retention of such records. *Marper* is irrelevant to the subject of this rulemaking because it concerned the retention of fingerprint and DNA information, not the question whether and from whom fingerprint and DNA information can be collected in the first place. It is also not germane to the

interpretation of U.S. law, but rather is contrary to the laws of the United States, which impose no comparable restrictions on the retention of criminal history records, including fingerprint and DNA records.

Decriminalizing Immigration Violations: Some comments argued against DNA-sample collection from immigration detainees based on a recommendation under United Nations auspices to decriminalize immigration violations. This recommendation is irrelevant to the subject of this rulemaking because DNA-sample collection from immigration detainees does not criminalize any immigration violation. Also, 28 CFR 28.12(b) generally requires DNA-sample collection from non-U.S.-person detainees, regardless of whether the immigration violations for which they are detained are crimes or only civil violations.

Interpol Requests: Some comments objected that foreign governments may seek DNA information, through Interpol requests, for oppressive purposes. One could say just as well that foreign governments may seek through Interpol other types of information, such as fingerprints and photographs, for oppressive purposes. The United States does not comply with such requests if it believes that they are made for oppressive or improper purposes. The possibility of such requests does not imply that DNA samples should not be collected from immigration detainees or others, just as it does not imply that fingerprints and photographs should not be collected from immigration detainees or others.

Affected Classes

Some comments objected that this rulemaking is not sufficiently clear about what persons are subject to DNA-sample collection. Some even claimed that it is unclear whether lawful permanent resident aliens are included in the DNA-sample collection requirement for non-U.S.-person detainees, though the regulation explicitly says that they are not. *See* 28 CFR 28.12(b). These comments are not well founded because the existing regulation, 28 CFR 28.12, identifies the classes subject to DNA-sample collection. The only change made by this rulemaking is an adjustment in the allocation of authority between the Attorney General and the Secretary of Homeland Security to adopt exceptions from the DNA-sample collection requirement with respect to certain aliens.

Some comments objected to the potential collection of DNA samples from asylum-seekers, some of whom will ultimately be found eligible for admission to the United States, and asked why such persons are not categorically excluded from the DNA-sample collection requirement by paragraph (b)(1) of the regulation, which exempts ''[a]liens lawfully in, or being processed for lawful admission to, the United States.'' 28 CFR 28.12(b)(1). Paragraphs (b)(1) and (b)(2) generally exclude lawful foreign visitors and immigrants from the DNA-sample collection requirement. They do not exclude detained aliens whose legal eligibility to enter or stay in the United States remains to be determined in future proceedings. Such aliens fully implicate the governmental interests supporting DNA-sample collection, including identification of persons in custody, the interest in safe and secure custody for detained persons, and informing decisions concerning release or detention pending further proceedings. *See King,* 569 U.S. at 450–56.

Some commenters claimed that DNA-sample collection from immigration detainees would lead to mass surveillance or surveillance of the whole population. Collection of DNA samples from immigration detainees would not lead to collection of DNA samples from the whole population, just as collection of fingerprints from such persons has not led to the collection of fingerprints from the whole population. Collecting DNA samples from persons within the scope of the rule would serve governmental interests going beyond those applicable to the general population, including identification of persons in custody, the interest in safe and secure custody for detained persons, and informing decisions concerning release or detention pending further proceedings. The use of DNA information collected from arrestees and detainees that is entered into CODIS is matching to forensic (crime-scene) DNA profiles. The information is not used, and cannot be used, for ''surveillance.''

Some comments objected that DNA samples will be collected from individuals whose underlying offenses are too minor to warrant DNA-sample collection, or whose detention is based on civil immigration violations, such as visa overstays, rather than any criminal activity. Again, this rulemaking only reallocates authority within the Executive Branch to recognize exemptions from the existing DNA-sample collection requirement. The existing regulation does not limit DNA-sample collection to persons whose underlying offenses exceed some threshold of seriousness, but rather parallels the categorical approach of fingerprinting all arrestees and detainees in the affected classes, which maximizes its value in solving crimes and furthering the other governmental interests supporting DNA-sample collection. *See* 73 FR at 74937. There is also no valid objection based on the fact that detainees may be held on the basis of civil immigration violations rather than suspected criminal activity. As discussed above, the governmental interests supporting DNA-sample collection from such persons parallel those supporting DNA-sample collection from criminal arrestees, and they equally enjoy the protection of the legal standards and design of CODIS in safeguarding their privacy and precluding misuse of the information.

Proposed Changes in the DNA Identification System

Some of the commenters complained that this rulemaking is unclear about matters of DNA identification procedure, such as storage of, access to, and retention, disposal, and expungement of DNA samples and profiles. In some instances, the comments proposed specific measures, such as disposing of DNA samples once a profile has been derived, and disposing of DNA profiles if there is not an immediate hit in CODIS.

The matters these comments raise are fully and adequately addressed in the existing legal standards and design of CODIS, which are beyond the scope of this rulemaking and are not changed in any manner by this rulemaking. The specific new measures proposed in the comments are not well founded and would undermine the system. For example, there are legitimate reasons for retaining DNA samples after the profiles have been derived. *See* 73 FR at 74938. Likewise, the functions of CODIS are not limited to determining, when an arrestee or detainee's profile is initially searched against CODIS, whether he is the source of DNA found at the scene of a past crime. CODIS's functions, parallel to those of the fingerprint databases, also include creating a permanent DNA record for the individual, to which a match may result if he later commits a murder, rape, or other crime and DNA from that offense is searched against CODIS. The latter critical function would be lost if DNA profiles were expunged whenever there is not a hit upon their initial entry into CODIS.

Some comments criticized DHS's use of DNA testing to confirm or rule out family relationships in other contexts, where such relationships may bear on individuals' eligibility to enter or remain in the United States. The

referenced uses of DNA testing by DHS have nothing to do with 28 CFR 28.12 and this rulemaking, which concern a different type of analysis and use of DNA information that is unrelated to ascertaining family relationships, *i.e.,* the use of DNA information in CODIS for law enforcement identification purposes. Consequently, these comments' criticisms of unrelated uses of DNA testing for different purposes are irrelevant to this rulemaking.

The Comment Period

Some comments criticized the 20-day period provided for public comment in this rulemaking, stating that it provided inadequate notice and opportunity for comment, and inadequate time for consultation and planning with DHS.

A 20-day comment period was deemed adequate because the change effected by this rulemaking is limited. The rulemaking affects only the allocation of authority within the Executive Branch of the Federal government regarding the exemption of certain aliens from the regulation's DNA-sample collection requirement. Specifically, by removing paragraph (b)(4) of 28 CFR 28.12, the rulemaking vests fully in the Attorney General authority that was previously shared between the Attorney General and the Secretary of Homeland Security. As discussed above, this does not create any new DNA-sample collection requirement. That requirement has been present in the existing rule since it took effect on January 9, 2009, including the requirement to collect DNA samples from non-U.S. persons detained under Federal authority. *See* 28 CFR 28.12(b). Public comments were solicited and received when the existing regulation was issued. *See* 73 FR at 74936–41.

The volume and substance of the comments received on the current rulemaking confirm that the 20-day comment period was adequate. The comments received do not indicate that interested members of the public lacked sufficient notice or an adequate opportunity to express their views regarding this rulemaking. Nor do the comments indicate that commenters could have provided significant additional input or information affecting this rulemaking had the comment period been longer.

Some commenters mistakenly believed that the 20-day comment period was unlawful, on the view that 5 U.S.C. 553(c)–(d) requires a public comment period of at least 30 days. The cited statutory provision, however, requires that the effectiveness of a rule be delayed for 30 days after its publication, a requirement that is complied with in this final rule. The provision does not concern the duration of public comment periods.

The objection concerning inadequate time for consultation and planning with DHS misunderstands the collaboration between the Department of Justice and DHS. That collaboration is ongoing and will continue after the issuance of this final rule, just as the Department of Justice continued to work with other Federal agencies on implementation of the existing regulation after it took effect on January 9, 2009.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation would not have a significant economic impact on a substantial number of small entities because it concerns Federal agencies' collection of DNA samples from certain aliens.

Executive Orders 12866, 13563, and 13771—Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation, and Executive Order 13563, ''Improving Regulation and Regulatory Review.'' The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f).

This rule strikes paragraph (b)(4) of 28 CFR 28.12, which authorizes the Secretary of Homeland Security to exempt certain aliens from DNA-sample collection based on operational exigencies or resource limitations. Following the change, the decision regarding limitations and exceptions to DNA-sample collection from persons in the affected class will be fully vested in the Attorney General.

This rulemaking is not subject to the requirements of Executive Order 13771 because any future costs of DNA-sample collection following this change in decision-making authority will be the same as the costs of DNA-sample collection pursuant to the existing regulation, subject to whatever limitations or exceptions the decision-maker chooses to allow. In other words, while future implementation decisions under 28 CFR 28.12 to collect DNA more broadly may entail costs, these costs could equally be realized under the current text of the regulation and do not result from this rulemaking's change in the regulation. Fully vesting the authority regarding limitations and exceptions to the regulation's DNA-sample collection requirement in the Attorney General does not determine whether or to what extent limitations or exceptions will be adopted, and does not dictate any time frame for implementation of DNA-sample collection with respect to aliens in the affected class. The Attorney General will work with DHS, as he has done with other Federal agencies that have heretofore implemented DNA collection from persons in their custody, to ensure that any expansion of DNA-sample collection from such aliens will be effected in an orderly manner consistent with DHS's capacities.

For example, if DNA-sample collection were implemented in full with respect to aliens in the category implicated by 28 CFR 28.12(b)(4), pursuant either to the Secretary of Homeland Security's direction under the current text of the regulation, or the Attorney General's direction following the amendment of the regulation by this rulemaking, there would be the same implementation costs. The Department of Justice assumes in analyzing these costs that any such expansion of DNA-sample collection would be phased in over the first three years and that DHS would utilize the Electronic Data Capture Project (EDCP). EDCP is a project designed to improve efficiencies by reducing the number of duplicate DNA samples collected by Federal agencies and by eliminating the manual collection of biographical data and inked fingerprints at the time of booking, by utilizing the information already electronically collected at the time of booking. This capability is estimated to reduce the time of DNA collection from approximately 15 minutes to less than 5 minutes. To obtain the EDCP technology, integrate it into their booking software, and create a training program for their staff, DHS would incur a total one-time cost of $500,000.

Approximately 743,000 people fell into the category implicated by 28 CFR 28.12(b)(4) in a recent 12-month period, which is equivalent to approximately 755,000 samples, once repeated samples (due to rejection of initial samples) are considered. DHS submitted nearly 7,000 samples in FY2018. Therefore, assuming the population subject to DNA-sample collection under the rule remains at this level, DHS would be expected to submit an additional 748,000 samples annually.

Utilizing EDCP, DHS would require approximately 20,778 additional work hours in the first year, 41,556 hours in the second year, and 62,333 hours in the third year to collect the additional samples. Using average compensation

for CBP employees stationed along the southern border, the total cost to DHS with the EDCP software would be about $5.1 million in the first three years. If future implementation decisions or changes in the volume of apprehensions ultimately resulted in annual submission of a number of additional DNA samples less than or greater than 748,000, required work hours and resulting costs would be reduced or increased correspondingly.

The FBI would also need to provide additional DNA-sample collection kits, at a per-kit cost of $5.38, in sufficient numbers to collect samples at the volumes described above. For example, assuming a 3-year phase-in period with an additional third of the eligible population added in each successive year, the additional sample-collection kit costs to the FBI would be $1,341,413 to collect 249,333 samples in the first year, $2,682,827 to collect 498,667 samples in the second year, and $4,024,240 to collect 748,000 samples in the third year. The FBI will provide to DHS, without charge, the same services that it provides to other Federal agencies that collect DNA samples, including assistance with regard to training, DNA-sample collection kits, postage to return the collected samples, analysis of samples, inclusion in CODIS, and handling resulting matches.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12988—Civil Justice Reform

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 28 CFR Part 28

Crime, Information, Law enforcement, Prisoners, Prisons, Probation and Parole, Records.

Accordingly, for the reasons stated in the preamble, part 28 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 28—DNA IDENTIFICATION SYSTEM

■ 1. The authority citation for part 28 is revised to read as follows:

Authority: 28 U.S.C. 509, 510; 34 U.S.C. 12592, 40702, 40703; 10 U.S.C. 1565; 18 U.S.C. 3600A; Public Law 106–546, 114 Stat. 2726; Public Law 107–56, 115 Stat. 272; Public Law 108–405, 118 Stat. 2260; Public Law 109–162, 119 Stat. 2960; Public Law 109–248, 120 Stat. 587; Public Law 115–50, 131 Stat. 1001.

§ 28.12 [Amended]

■ 2. Amend § 28.12:

■ a. In paragraph (b) introductory text, remove ''1.1(p)'' and add in its place ''1.2''.

■ b. In paragraph (b)(2), remove '';'' and add in its place ''; or''.

■ c. In paragraph (b)(3), remove ''; or'' and add in its place ''.''.

■ d. Remove paragraph (b)(4).

Dated: February 26, 2020.

William P. Barr,

Attorney General.

[FR Doc. 2020–04256 Filed 3–6–20; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[Docket No. USCG–2017–0711]

RIN 1625–AC47

TWIC—Reader Requirements; Delay of Effective Date

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is delaying the effective date for three categories of facilities affected by the final rule entitled, ''Transportation Worker Identification Credential (TWIC)—Reader Requirements,'' published in the **Federal Register** on August 23, 2016. These three categories are: Facilities that handle certain dangerous cargoes in bulk, but do not transfer these cargoes to or from a vessel; facilities that handle certain dangerous cargoes in bulk, and do transfer these cargoes to or from a vessel; and facilities that receive vessels carrying certain dangerous cargoes in bulk, but do not, during that vessel-to-facility interface, transfer these bulk cargoes to or from those vessels. The Coast Guard is delaying the effective date for these categories of facilities by 3 years. Specifically, this rule will delay the implementation of the TWIC Reader rule for 370 of the 525 affected Risk Group A facilities by 3 years, while the remaining 155 facilities (which are all facilities that receive large passenger vessels), as well as 1 vessel, will have to implement the final rule requirements within 30 days after the effective date of this rule.

DATES: This final rule is effective May 8, 2020.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are included under docket number USCG–2017–0711 and available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email LCDR Kevin McDonald, Coast Guard CG–FAC–2; telephone 202–372–1120; email *Kevin.J.Mcdonald2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

ANPRM Advanced notice of proposed rulemaking
CDC Certain Dangerous Cargoes
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
GDP Gross Domestic Product
FSO Facility Security Officer
FSP Facility Security Plan
FR Federal Register
GAO Government Accountability Office
HSI Homeland Security Institute
HSOAC Homeland Security Operational Analysis Center
MSRAM Maritime Security Risk Analysis Model
MTSA Maritime Transportation Security Act of 2002
NPRM Notice of proposed rulemaking
OIG Office of the Inspector General
OMB Office of Management and Budget
PAC Policy Advisory Council
PACS Physical access control system
RA Regulatory analysis
SAFE Port Act Security and Accountability for Every Port Act of 2006
§ Section symbol
TSA Transportation Security Administration
TSI Transportation Security Incident
TWIC Transportation Worker Identification Credential
USCG United States Coast Guard

II. Basis and Purpose, and Regulatory History

Pursuant to the Maritime Transportation Security Act of 2002 (MTSA),[1] and in accordance with section 104 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act),[2] Congress requires the electronic inspection of Transportation Worker Identification Credential (TWIC®) cards (''electronic TWIC inspection'') upon entry to secure areas on vessels and in facilities in the United States. Specifically, the SAFE Port Act mandates that the Secretary promulgate final regulations that require the deployment of electronic transportation security card readers.[3] To implement this requirement in an effective manner, the Coast Guard undertook a series of regulatory actions culminating in a requirement to implement electronic TWIC inspection at certain high-risk vessels and facilities regulated under MTSA. Beginning in 2006, the Coast Guard and the Transportation Security Administration (TSA) conducted a variety of rulemaking actions to implement the requirements. This culminated in the 2016 publication of a final rule implementing the requirement for electronic TWIC inspection (the ''TWIC Reader rule'').[4] A detailed summary of these actions is available in the preamble to the notice of proposed rulemaking (NPRM) (the ''TWIC Delay NPRM'') for this rule.[5]

Existing regulations require all eligible persons who require unescorted access to secure areas of MTSA-regulated facilities to possess a TWIC card. However, while the TWIC card contains sophisticated authentication, validation, and verification capabilities using biographic and biometric information, operators of vessels and facilities are not required to use these features in ascertaining whether persons are authorized to enter secure areas. Instead, security personnel must inspect the card visually (*i.e.,* printed name, facial photograph, expiration date, and overt security features) to allow entry. The TWIC reader rule changed this requirement for a subset of high-risk MTSA-regulated facilities (called ''Risk Group A facilities''), requiring that they conduct an ''electronic TWIC inspection'' before allowing access to secure areas. This involves electronic authentication using the TWIC card's Card Holder Unique Identifier (CHUID), validating that the credential has not been revoked by comparing it to a TSA-maintained canceled card list, and verifying a person's biometric (*e.g.,* fingerprint) to the biometric template stored on the card's chip. Because electronic TWIC inspection requires either purchasing TWIC readers, integration into an existing physical access control system (PACS), or other solutions, and electronic inspection may take longer than visually inspecting the card, the TWIC reader rule applied the electronic TWIC inspection requirement only to a high-risk subset of MTSA vessels and facilities.

After the publication of the TWIC reader rule, the Coast Guard received a variety of communications from persons affected by the rule concerning the scope and cost of the rule. Most significantly, numerous parties took issue with how the Coast Guard defined some of the high-risk facilities that were subject to the electronic TWIC inspection requirement. While the Coast Guard had proposed and finalized text that applied the electronic TWIC inspection requirement to ''facilities that handle certain dangerous cargoes (CDC) in bulk,'' various parties expressed confusion with that phrase. After the rule published, they stated that they had interpreted that phrase to mean that the regulation applied only to facilities where bulk CDC was transferred from a facility to a vessel (or vice versa), instead of the interpretation utilized by the Coast Guard.[6] Because of this confusion, various parties stated that they had not been aware of the full scope of the proposed requirements in the NPRM, and thus not had an adequate opportunity to comment on the rule. In response to these inquiries, the Coast Guard published an informal enforcement guidance document in the ''Maritime Commons'' blog, stating that it would not enforce the electronic TWIC inspection requirements on facilities that did not transfer bulk CDC to or from a vessel.[7]

On May 15, 2017, several parties petitioned the Coast Guard to amend the

[1] Public Law 107–295, 116 Stat. 2064 (November 25, 2002).

[2] Public Law 109–347, 120 Stat. 1884, 1889 (October 13, 2006).

[3] See 46 U.S.C. 70105(k)(3).

[4] Transportation Worker Identification Credential (TWIC)—Reader Requirements; Final Rule. August 23, 2016, 81 FR 57652.

[5] TWIC Reader Requirements, Delay of Effective Date; Notice of Proposed Rulemaking. June 22, 2018, 83 FR 29067, at 29068.

[6] In the final rule, the Coast Guard stated that a facility where bulk CDC is stored and handled away from the maritime nexus would be a Risk Group A facility (because the bulk CDC would still be protected by the facility's security plan and, thus, would present a vulnerability), and stated that ''when the bulk CDC is not a part of the maritime transportation activities, it may be that a facility could define its MTSA footprint in such a way as to exclude that area . . . [with the result that] the TWIC reader requirements . . . would not apply in that area.'' *See* 81 FR 57712 at 57681.

[7] ''TWIC Reader Rule Update,'' March 31, 2017, available at *https://mariners.coastguard.dodlive.mil/2017/03/31/3312017-twic-reader-rule-update/.*

TWIC reader rule.[8] The petitioners specifically requested that the Coast Guard promulgate a new rule that would limit the scope of the TWIC Reader rule to apply only to facilities that transfer bulk CDC to or from a vessel, and that facilities where bulk CDC was otherwise transferred, stored, produced, or used be excluded from the requirements.[9] They also requested that the Coast Guard delay implementation of the TWIC Reader rule immediately, until we promulgated the new rule.[10] The Coast Guard denied this petition, stating, ''[w]hile you suggest that bulk CDC is only dangerous if it is being transferred to or from a vessel, nothing in our analysis of target or attack scenarios would indicate that such a distinction would be relevant.'' [11] In addition to the petition, the parties also sued the Coast Guard, seeking to have the TWIC Reader rule vacated on the basis that the plaintiffs had not had adequate opportunity to comment on the rule.[12] However, the court dismissed the lawsuit on ripeness grounds, without a decision on the merits of the plaintiffs' claims.[13]

Congress also passed several laws that impacted implementation of the TWIC reader program. On December 16, 2016, the President signed the bill entitled ''Transportation Security Card Program Assessment.'' [14] This law required, among other things, the Secretary of Homeland Security to commission a report reviewing the security value of the TWIC program by: (1) Evaluating the extent to which the TWIC program addresses known or likely security risks in the maritime and port environments; (2) evaluating the potential for a non-biometric credential alternative; (3) identifying the technology, business process, and operational impact of the TWIC card and readers in maritime and port environments; (4) assessing the costs and benefits of the Program, as implemented; and (5) evaluating the extent to which the Department of Homeland Security (DHS) has addressed the deficiencies of the TWIC program previously identified by the Government Accountability Office (GAO) and the DHS Office of the Inspector General (OIG). On August 2, 2018, the President followed up by signing the ''Transportation Worker Identification Credential Accountability Act of 2018,'' which prohibited the Coast Guard from implementing the TWIC Reader rule until at least 60 days after it submits the above report to Congress.'' [15]

In response to the petition for rulemaking and other actions taken by private parties and Congress, the Coast Guard proposed to delay implementation of the TWIC Reader rule for some facilities subject to the electronic TWIC inspection requirement. In doing so, we took note of concerns raised in the original analytical works that formed the basis for the TWIC Reader rule, namely the question of ''asset categorization'' that had been raised by the original Homeland Security Institute (HSI) report on the Coast Guard's risk methodology. That report specifically ''suggested that further analysis on risk grouping of asset categories . . . could help to ensure that the results were more defensible.'' [16] The purpose of the NPRM was to allow for time to better assess the risk methodology and conduct this refinement. Accordingly, we stated that ''delaying the implementation of the TWIC Reader final rule requirements for certain facilities could allow us to develop a more precise risk-analysis methodology that would better identify which of these facilities . . . would benefit from the electronic TWIC inspection requirements.'' [17]

We note that the NPRM did not seek to delay the rule for all facilities covered under Risk Group A. In drawing a distinction between the facilities that would be subject to the proposed delay (the non-transfer facilities), and those we believed should comply on the original 2018 start date, we noted that ''unlike situations where CDC is not transferred to or from a vessel, [the categories of facilities covered by the delay NPRM] present a clear risk of a Transportation Security Incident (TSI).'' [18] While we continue to believe this to be the case, as shown in the discussion below, additional information related to the incurred expenses of partial implementation of the rule, as well as the findings of new studies on TWIC effectiveness, has influenced the scope of this final rule. The reasons for changes between the TWIC Delay NPRM and final rule are discussed below in Section IV, ''Discussion of Comments and Developments.''

III. Executive Summary

This final rule finalizes and expands on the proposal in the NPRM to delay the implementation of the TWIC Reader rule for certain facilities. While the NPRM proposed limiting the delay only to those facilities that handle CDC in bulk, but do not transfer it to or from a vessel and facilities that receive vessels that carry bulk CDC but do not transfer bulk CDC to or from the vessel, this final rule delays implementation of the electronic TWIC inspection requirement for all that handle bulk CDC and facilities that receive vessels carrying CDC, including faciltiies that transfer bulk CDC to or from a vessel. The TWIC reader requirement will only go into effect for facilities that receive large passenger vessels and passenger vessels certificated to carry 1000 or more passengers and more than 20 TWIC-credentialed crewmembers. We based this change on comments received, discussed in further detail below, showing that the cost of implementing electronic TWIC inspection will be lower if facility operators can implement the procedure on an enterprise-wide level, rather than in a piecemeal fashion. We believe that this delay best balances the need for security with the economic realities of the affected population. Facilities that receive large passenger vessels will have 60 days from the date of publication in the **Federal Register** to implement the TWIC reader requirements. 33 CFR 104.263, which covers vessels, is not being amended at this time. Presently, there are no U.S. flagged vessels that carry bulk CDC, and the one passenger vessel certificated to carry more than 1000 passengers and more than 20 TWIC-credentialed crew members is already complying with the 2016 TWIC reader rule, so providing the 60 day delay is unnecessary.

Delaying implementation of TWIC reader requirements at facilities that handle CDC in bulk while implementing the requirements at passenger vessels and facilities carries several benefits. The delay for facilities that handle CDC in bulk will provide DHS time to further analyze the results of the Congressionally-mandated TWIC program assessment and continue the Coast Guard's study of CDC risk. Furthermore, implementation at passenger vessel facilities will improve the security at these public-facing facilities, which handle 60-plus million passengers per year. Finally, it will allow facilities that handle CDC in bulk operators more time to plan their

[8] See *www.regulations.gov,* docket number USCG–2017–0447.

[9] USCG–2017–0447–0001, p. 22.

[10] USCG–2017–0447–0001, p. 22.

[11] USCG–2017–0447–0005, p. 2.

[12] *International Liquid Terminals Association* v. *United States Department of Homeland Security,* 2018 WL 8667001 (09/18/2018).

[13] *Id.*

[14] Public Law 114–278.

[15] Public Law 115–230.

[16] 83 FR at 29070.

[17] 83 FR at 29072.

[18] 83 FR at 29073.

implementation of electronic TWIC inspection requirements, an opportunity to assess new, more flexible reader solutions and technology, and the opportunity to implement a solution(s) on a larger, enterprise-wide scale, improving efficiency.

We note that because DHS only received the results of the TWIC ''comprehensive security assessment'' (titled ''The Risk-Mitigation Value of the Transportation Worker Identification Credential: A Comprehensive Security Assessment of the TWIC Program'') in early August 2019, and the Coast Guard is still analyzing the assessment, this final rule is only one step in our further evaluation of the TWIC reader requirements. The Congressional requirement to implement electronic TWIC inspection requirements in 46 U.S.C. 70105 still stands, and while we still believe that electronic validation of TWIC cards provides valuable security benefits, we also believe the implementation of the electronic TWIC inspection requirement will be improved by additional data and further evaluation.

As a result of this delay, regulated facilities and vessels should not infer that readers, access control systems, or other electronic inspection solutions provide no security value. While certain reader requirements are delayed, facilities or vessels may choose to incorporate such inspection solutions into their Facility or Vessel Security Plans. Specifically, the use of the electronic inspection solutions and the TWIC Canceled Card List (CCL) may enhance security and minimize the risk of an ineligible transportation worker entering a secure area.

Overall, we estimate that delaying the implementation of the TWIC Reader rule for the estimated 370 facilities that handle CDC in bulk will result in cost savings to both industry and the government of $23.74 million (discounted at 7 percent) over a 10-year period of analysis, and an annualized cost savings of $3.38 million (discounted at 7 percent).[19] [20] Using a perpetual period of analysis, we estimated the total annualized cost savings to industry and the government of the rule to be $1.53 million in 2016 dollars, discounted back to 2016. For the purpose of this economic analysis, we use a 10-year period of analysis in order to properly compare the costs of this final rule and the TWIC reader rule, where we also estimated the costs and benefits using a 10-year period of analysis.

IV. Discussion of Comments and Developments

In response to the publication of the NPRM, the Coast Guard received 13 public comments. All commenters supported the Coast Guard's proposal to delay implementation of the TWIC reader rule, and most urged the Coast Guard to expand that delay in implementation to the class of facility represented by the commenter. Commenters also made a wide variety of statements about their understanding of the electronic TWIC inspection rulemaking documents demonstrating substantial confusion about numerous aspects of the TWIC reader rule, which are addressed extensively below. Finally, commenters provided additional information relating to the costs and implementation concerns surrounding the electronic TWIC inspection requirement that the Coast Guard has, where applicable, integrated into its analysis.

In this document, the Coast Guard has grouped together issues from various commenters into five broad categories, as laid out below. When possible, we have attempted to identify the specific comment to which we are responding. Where applicable, we have included a citation to the comment and page of a statement to which we are responding.

A. Confusion Relating to the Difference Between ''CDC Facilities'' and ''Facilities That Handle CDC in Bulk''

Many commenters expressed confusion about the scope of the population affected by the TWIC reader rule, specifically those that are required to implement electronic TWIC inspection because they meet the requirements in title 33 Code of Federal Regulations (CFR) 105.253(a)(1) for ''facilities that handle Certain Dangerous Cargoes (CDC) in bulk.'' [21] Those commenters argued that they believe this phrase should only attach to facilities where bulk CDC is transferred from a vessel to facility or vice versa. These individuals stated that, if a facility received bulk CDC by other means, or the facility produces, stores, or uses it in its processes, it should not be described as ''handling'' bulk CDC.

The primary source of this argument is an unrelated requirement in 33 CFR 105.295, which sets forth additional security requirements for ''CDC Facilities.'' This requirement was established in 2003, and, while the term ''CDC Facility'' was not defined in regulation, a subsequently-issued policy document from the Policy Advisory Council (PAC 20–04) stated that ''in order for a facility to classify as a CDC Facility, a vessel-to-facility interface must occur, or be capable of occurring, and involve the transfer of CDC's in bulk.'' [22] PAC 20–04 also stated that facilities receiving CDC from entities other than vessels, such as rail cars and tanker trucks, would not be considered CDC Facilities, but that the Facility Security Plan (FSP) for these facilities ''must address the fact that they handle such cargoes.'' [23] This explanation of the meaning of ''CDC Facility'' contrasted markedly with the elucidation of the phrase ''facilities that handle Certain Dangerous Cargoes in bulk'' provided in the 2016 TWIC Reader final rule. In that document, we stated that, in the situation where a facility stored or used CDC, or the facility was used to transfer CDC in bulk through rail or other non-maritime means, ''such a facility would be considered to 'handle CDC in bulk' and would be classified as Risk Group A.'' [24] We went on to say that ''this is because the bulk CDC would be on the premises of a MTSA-regulated facility, and thus the facility's access control system would need to be used to mitigate the risk of a TSI.'' [25]

While the terms ''CDC Facilities'' and ''facilities that handle CDC in bulk'' sound similar, they are not identical, and the Coast Guard did not intend to conflate the two terms or use them interchangeably. The Coast Guard never used the term ''CDC Facilities'' in any of the TWIC Reader rulemaking documents, and has been using consistent language since the publication of the Advance Notice of Proposed Rulemaking (ANPRM) in 2009 (74 FR 13360). We also note substantial differences in the rationales for the different requirements associated with the two terms. Various elements in 33 CFR 105.295 specifically relate to maritime-specific issues, such as searching waterfront areas for dangerous

[19] With a 3-percent discount rate, we estimate a total cost savings of $18.29 million and an annualized cost savings of $2.14 million.

[20] At the time of analysis, the Coast Guard did not have a final draft HSOAC assessment, and therefore we did not incorporate any cost estimates from that report into our analysis, as we were unable to review or validate those cost estimates for our RA. Further, as the HSOAC assessment was published after the publication of the NPRM, the public would not have had the opportunity to review and comment on those cost estimates.

[21] While we note that 33 CFR 105.253(a) also contains the phrase ''[f]acilities that . . . receive vessels carrying CDC in bulk,'' that second phrase is not relevant to this discussion of the interpretation of ''Facilities than handle CDC in bulk.''

[22] Available at Homeport website, *https://homeportr.uscg.mil/Lists/Content/DispForm.aspx?ID=2784.* See Policy Advisory (PAC) Doucument Registry document.

[23] PAC 20–04, ''Scenario D.''

[24] 81 FR at 57681.

[25] 81 FR at 57681.

devices [26] and a requirement to release cargo only in the presence of the Facility Security Officer (FSO) or designated representative,[27] and form the basis for a maritime-based interpretation of the applicability of that section. Such requirements would not make sense for a facility that did not transfer bulk CDC across a dock. Conversely, the attack scenarios that electronic TWIC identification is designed to mitigate are all exclusively land-based, specifically limited attacks from truck bombs, passersby, and (land-based) assault squads,[28] and there is no reason a maritime nexus should be assumed.

Despite the Coast Guard's use of distinct language and an exclusively land-based rationale in the NPRM, many commenters asserted or implied their belief that the terms were interchangeable, and the Coast Guard's interpretation of the term ''facilities that handle CDC in bulk'' in the final rule, therefore, contradicted its guidance in PAC 20–04. One commenter submitted a copy of PAC 20–04 with scenarios in which a facilitiy would not be classified as a CDC facility highlighted, and statement ''here are several reasons why there are several contradictions.'' [29] One commenter stated that ''the scope of the Final Rule was expanded beyond what was initially proposed and departed from established Coast Guard policy (PAC 20–04),'' [30] while another requested that the Coast Guard revise the scope of the final rule to make it consistent with PAC 20–04. Yet another commenter stated that applying electronic TWIC inspection requirements to ''facilities without a maritime nexus or where there is no transfer of CDC over a dock was unanticipated and unusual based on historical actions taken by the Coast Guard,'' [31] and while the commenter did not elaborate on what those ''historical actions'' were, we assume they are referring to the issuance of PAC 20–04. A fifth commenter referred to the application of the term ''facilities that handle CDC in bulk'' to include facilities that don't transfer CDC over a dock as ''a mistake in the August 23, 2016 publication,'' [32] but did notcomment on the rationale provided in that document.

One commenter stated that ''in the proposed versions of the reader rule, Risk Group A included . . . those that exchange [CDC] between the facility and a vessel.'' [33] The commenter provided various pinpoint citations with this statement, which we examined. The first citation, from the 2009 ANPRM, uses the phrase ''Facilities that handle CDC in bulk'' [34] to describe the facilities that we expected would be included in Risk Group A, without any indication that we meant anything other than the plain meaning of those words. The second citation, from the NPRM (78 FR 17785–86), is unclear. The section of the document that spans these two pages, entitled ''Summary of the Major Provisions of the TWIC Reader Advanced Notice of Proposed Rulemaking and This NPRM,'' mainly discusses the decision to not propose the ANPRM's suggestion of separate requirements for Risk Group B vessels and facilities. With regard to the issue of Risk Group A facilities, the only relevant text we could find is in Table ES–1, which summarizes the proposal for Risk Group A facilities using identical language to that described in the ANPRM, ''Facilities that handle CDC in bulk.'' The third citation the commenter provides, 78 FR at 17811, does not appear to contain any relevant textual information, containing only discussions of the HSI report relied upon in the rulemaking and information on additional data sources used in the rulemaking. While the commenter goes on to state that, ''in the final rule, other facilities were included, specifically those that contain CDCs and those that transfer CDCs only via non-maritime means, such as by truck, rail, or pipeline,'' [35] the commenter's citations provide no basis to conclude any differences between the language in the ANPRM, NPRM, and final rule or any basis to conclude that the same phrasing used in each of the documents referred to anything other than the plain meaning of the words.

One commenter expressed confusion regarding the applicability of the electronic TWIC inspection requirement, specifically in regard to how they would implement the requirement if they determined they were a Risk Group A facility.[36] The regulatory text states that ''prior to each entry into a secure area of the facility, all persons must pass an electronic TWIC inspection before being granted unescorted access to secure areas of the facility.'' The definition of ''secure area'' reads, in part, ''the area . . . at a facility . . . over which the owner/operator has implemented security measures for access control in accordance with a Coast Guard approved security plan.'' This was described at length in the TWIC Reader final rule, and has been clear for some time, such as when stated by the GAO in 2011,[37] ''[f]or most maritime facilities, the secure area is generally any place inside the outermost access control point.'' Nonetheless, one commenter asserted that it had based its planning on ''the assumption that electronic TWIC inspections will only be required in those locations where bulk CDC is actually transferred to or from a vessel.'' Based on that assumption, the commenter suggested that its current planning processes could lead to unforeseen costs if the Coast Guard does not change its regulations to meet those expectations. We note that the TWIC Delay NPRM did not propose or contemplate the commenter's theory that facilities that handle CDC and transfer it to or from a vessel would only be required to implement electronic TWIC inspection in the ''maritime nexus'' areas of their facility. If such a transfer facility also handled CDC in other parts of the facility, under the proposed TWIC Delay rule, it would still be required to implement electronic TWIC inspection ''at each entry to a secure area'' according to the regulatory text.

This confusion, and the potential impact, is also discussed in the August 2019 ''comprehensive security assessment'' mandated by Public Law 114–278, titled *The Risk-Mitigation Value of the Transportation Worker Identification Credential: A Comprehensive Security Assessment of the TWIC Program.* The authors of the assessment, the Homeland Security Operational Analysis Center (HSOAC), anticipated that this confusion could ''potentially increase the number of facilities . . . subject to the TWIC Reader Rule to an even larger population of facilities.'' HSOAC estimates that up to three times as many facilities as estimated in the TWIC Reader final rule may fall under the broader definition of a facility that

[26] 33 CFR 105.295(a)(4).

[27] 33 CFR 105.295(b)(1).

[28] See 81 FR at 57701.

[29] USCG–2017–0711–0003–3.

[30] USCG–2017–0711–0012, p. 2.

[31] USCG–2017–0711–0005, p. 2–3. We note the commenter included a footnote to PAC 20–04 (footnote 6), which repeated and emphasized the definition of ''CDC Facilities.''

[32] USCG–2017–0711–0014, p. 1.

[33] USCG–2017–0711–0004, p. 2.

[34] See subsection E, ''Facility and Vessel Risk Groups,'' expected text for Risk Group A Facilities.

[35] USCG–2017–0711–0004, p. 2, including a general citation to the 2013 TWIC Reader final rule.

[36] USCG–2017–0711–0015, at p. 1–2.

[37] GAO–11–657, ''Transportation Worker Identification Credential: Internal Control Weaknesses Need to Be Corrected to Help Achieve Security Objectives,'' available at *https://www.gao.gov.*

handles CDC in bulk, driving the estimate from 525 facilities to 1,500.[38]

Based on the comments received, and the information presented in the HSOAC assessment, we recognize the similarity between the phrases ''CDC facilities'' and ''Facilities that handle CDC in bulk,'' which contributed to some confusion among commenters. While we do not believe that the confusion affects the purpose of electronic TWIC inspection or should be the cause for delaying implementation of the rule as a whole, we do understand it may have affected the ability of some facility operators to effectively comment on the full costs of the rule. Accordingly, we are expanding on the proposal in the NPRM to delay the implementation of the TWIC Reader rule at facilities that handle CDC in bulk and transfer such cargoes from or to a vessel.

B. Concerns Relating to the Effectiveness of the Electronic TWIC Inspection Requirement

Since the TWIC Reader rule was published Congress and stakeholders have questioned the extent to which electronic TWIC inspection, compared to visual TWIC inspection, improves security and mitigates the possibility of a TSI. As described above, the TWIC Accountability Act of 2018 delayed implementation of the TWIC Reader rule until after an assessment of its effectiveness.[39] The HSOAC assessment ''review[ed] the security value of the [TWIC] program,'' including ''evaluating the extent to which the program . . . addresses known or likely security risks in the maritime and port environments'' and the extent to which the ''deficiencies in the program'' identified by the GAO and DHS OIG have been addressed.[40] The results of this assessment, which are discussed in more detail below and are being considered by the Coast Guard in the decision to delay the TWIC reader requirements, and will be taken in to account in our consideration of follow-up actions to be taken during the delay period provided by this final rule. While this TWIC Reader delay was proposed in order for the Coast Guard to reassess the risk anaylsis methodology for electronic TWIC inspection, questions about the effectiveness of electronic TWIC inspection, and the TWIC program generally, have been raised by various entities over the years. In the comments to this rulemaking, several commenters raised concerns about the effectiveness of TWIC, and we have responded to and contextualized those comments here.

In the TWIC Reader NPRM and final rule, the Coast Guard set forth the security rationale for the electronic TWIC inspection procedure, and explained how it could help mitigate specific terrorist attacks and lessen the possibility of a TSI. The Coast Guard emphasized three particular ''attack scenarios''—an attack by a truck bomb, a terrorist assault team, and a passerby/passenger explosive device situation. These were considered the ''attack scenarios that are most likely to be mitigated by the . . . enhanced access control afforded by TWIC readers, as they require would-be attackers gaining access to the target in question . . . to inflict maximum damage.'' [41] Similarly, in the final rule, we noted that we ''limited our consideration to attack scenarios that require physical proximity to the intended target and for which access control would affect the ability to conduct an attack.'' [42] In the response to comments during that rulemaking process, we acknowledged that there were other ways to attack vessels and facilities (for example, by secreting an explosive device in cargo) that would not be mitigated by electronic TWIC inspection. We noted that ''[f]or this reason, our analysis in this final rule focuses on threats that could be prevented or mitigated through the use of electronic TWIC inspection.'' [43]

Many commenters raised questions about the efficacy of the TWIC program in preventing attacks. One commenter stated that a TWIC reader would not prevent the three identified attack scenarios, and that, if it did, ''we should be using them in Syria and Iraq.'' [44] While we cannot speak on the particular security measures used in overseas military bases, we do note that many U.S. government facilities around the world indeed do use some form of access control measures for security purposes.

Another commenter questioned the utility of electronic TWIC inspection in the three identified scenarios, asserting that ''an individual or group intent on executing such an attack would not be deterred simply because the targeted facility requires electronic TWIC inspections *rather than* visual TWIC inspections.'' (emphasis in original) [45] We disagree that electronic TWIC inspection would offer no additional security value over visual inspection in such a case. Visual inspection cannot detect if a card has been revoked, cancelled, or stolen. It is also less effective at determining if a card is counterfeit or if the person presenting the card is the person to whom the card was issued. In short, it would be likelier for an adversary to gain unescorted access to the target—the secure area of the facility—if the facility relied only on visual TWIC inspection. The commenter went on to assert that ''terrorists generally use brute force when attacking a target—*particularly when carrying out the types of attacks identified by* [the Coast Guard's Maritime Security Risk Analysis Model] *MSRAM, . . .* or blow up a checkpoint or other barrier rather than stop to use false credentials to gain access.'' (emphasis in original).[46] We agree that the inability to infiltrate a facility could cause a terrorist group to employ additional means to initiate a full-scale attack on a facility, if electronic inspection were used. However, we would consider this an issue of electronic TWIC inspection ''mitigating'' an attack, as the latter scenarios may be more difficult to mount, easier to detect, provide more time for responders to arrive, or give potential targets advance warning of an attack and time to clear the targeted area, among many other considerations. We also note that the measures taken to mitigate these sorts of brute-force attacks, such as bollards, fences, or other barriers, are generally ineffective at preventing the infiltrations mitigated by electronic TWIC inspection. The two types of security measures are complementary, not mutually exclusive.

Several commenters [47] raised concerns that the Coast Guard had not adequately addressed concerns raised by the GAO in its 2013 report on the TWIC program.[48] While the 2013 GAO report raised some concerns about the TWIC program, we do not believe that report exposed specific problems with the electronic TWIC inspection requirement. Instead, it noted concerns

[38] Assessment of the Risk Mitigation Value of the Transportation Worker Identification Credential,'' HSOAC report at p. 124 (available in the docket at *www.regulations.gov* under docket number USCG–2017–0447). HSOAC derives this estimate by including Risk Group A facilities; non-risk Group A (non-exempt) bulk liquid or bulk oil facilities; and non-Risk Group A (non-exempt) facilities receiving or transferring hazardous, explosive, or radioactive materials.

[39] Public Law 115–230, 132 Stat. 1631 (August 2, 2018).

[40] Public Law 114–278, Sec. 1(b)(C)(i) and (v), December 16, 2016.

[41] 78 FR at 17822.

[42] 81 FR at 57656.

[43] 81 FR at 57656.

[44] USCG–2017–0711–0003, attachment 3, p. 2.

[45] USCG–2017–0711–0007, p. 7.

[46] USCG–2017–0711–0007, p. 7.

[47] See USCG–2017–0711–0006, 0007, and 0012.

[48] GAO–13–198, ''Transportation Worker Identification Credential—Card Reader Pilot Results Are Unreliable; Security Benefits Need to Be Reassessed,'' available at *http://www.gao.gov.*

about the TWIC program that are outside the scope of the electronic TWIC inspection requirement (*e.g.,* unreliable cards and readers used in the TWIC pilot program, or the ability of GAO operatives to obtain genuine TWIC cards at enrollment centers using fraudulent means), and noted that the Coast Guard had not conducted an effectiveness assessment of the TWIC program as GAO had recommended in 2011.[49] Many of the GAO findings, for example, noting that ''the use of TWIC with readers would not stop terrorists from detonating a truck at the perimeter of a facility, . . . or obtaining a TWIC card using fraudulent documents as we did through covert means'' are in fact identical to the Coast Guard's analysis of these same facts, where we noted that electronic TWIC inspection does not prevent every conceivable security threat.[50] Furthermore, we note that the Coast Guard and TSA addressed many of the issues that GAO raised, such as questions about the appropriateness of a single TWIC credential versus state and local credentials, improved fraud detection techniques, the establishment of internal and quality controls, or data collection questions regarding the TWIC program, programmatically, and they no longer presented an issue by the time we issued the TWIC Reader final rule.

Several commenters asserted that the Coast Guard's failure to heed GAO's recommendation to perform an effectiveness study render the final rule flawed. One commenter stated that ''the Coast Guard's insistence on promulgating a TWIC Reader Rule while refusing to substantively respond to the GAO's and HSI's [51] critiques was arbitrary and capricious, and was contrary to the obvious intent of the SAFE Port Act that the rule be based on empirical cost-benefit data. Although the Coast Guard admits TWIC reader utility requires further study . . . it nevertheless insists on partial implementation.'' [52]

We believe the commenter here has conflated several ideas. First, we note that while the GAO report stated that an effectiveness study should be performed, the report was directed at Congress, which declined to act on the recommendation until after the Coast Guard promulgated the final rule.[53] The HSI study, on the other hand, expressed concerns about the use of asset categorization and, separately, the mechanism by which the Coast Guard integrated the ''TWIC utility'' factor in determining risk assessments to inform asset categorization.[54] Those topics, while important, are not the same thing as effectiveness. Furthermore, we disagree with the commenter's assertion that promulgating the rule despite the concerns in these reports renders the rule legally invalid. We note that the HSI report, despite expressing concerns, did validate the Coast Guard's risk analysis methodology and endorse the asset groupings the Coast Guard suggested. In addressing the public comments on the TWIC rule, written after the GAO report was released, we noted that the overwhelming majority of the commenters supported the electronic TWIC inspection requirements in general based on the security analysis conducted by the Coast Guard, the lack of a generalized ''effectiveness'' study notwithstanding. While the issues raised by stakeholders after the final rule was promulgated merited consideration regarding implementation of the electronic TWIC inspection requirement, we did not then and do not now believe that they invalidate the fundamental principles upon which Congress and the Coast Guard based the analysis.

Nonetheless, as recommended by GAO, and mandated by Congress, DHS has provided the HSOAC assessment of the security value of the TWIC program. While many of the assessment's conclusions concern areas outside of the particular security effectiveness of the electronic TWIC inspection requirement, the assessment found that there were some security benefits to electronic inspection of TWIC cards and that readers may be a beneficial investment for facilities and vessels. Specifically, the assessment found that ''the TWIC program is strongest in reducing the risk presented by individuals who are known or suspected terrorists and who seek to conduct an attack on a maritime facility that would require persistent insider access via possession of a TWIC credential.'' [55] The assessment determined that ''TWIC does impose costs on the adversary,'' and ''likely contributes to pushing threatening actors toward simpler and potentially less harmful attacks.'' [56] Furthermore, the assessment found that the TWIC card reader could ''increase the likelihood that invalid TWIC cards are detected, and biometrics provide a robust mechanism for identity verification.'' [57] Moreover, some existing users have found that the use of biometric, electronic readers can be both cost saving and security enhancing. However, the assessment reiterated that the value of TWIC is directly related to the quality of security that a vessel or facility has overall, including having other security mechanisms in place, such as security guards, PACS, and deployable security barriers. Ultimately, the assessment found that adversaries are capable of gaining unauthorized access via other means and that ''threats TWIC is best intended to mitigate are . . . not the most pressing.'' [58]

The cost effectiveness analysis on the electronic inspection requirements in the TWIC Reader rule provided by the HSOAC assessment was less favorable, stating that ''one would be hard-pressed to state the benefits of TWIC reader rule outweigh the costs.'' [59] In making this determination, the assessment examined the Coast Guard's methodology for determining the costs and benefits in the regulatory analysis of the 2016 final rule. HSOAC then conducted their own analysis using the same methodology with new cost data, when available. The assessment found that the Coast Guard underestimated the costs of the programs and overestimated the benefits by using the highest maximum consequence scores. The ''break-even'' analysis used by the Coast Guard to determine the benefits of the rule was found to be appropriate, because it is well-established in the cost-benefit literature, and has been widely used in previous DHS rulemaking projects. However, the assessment found the Coast Guard overestimated the benefits by using the average maximum consequence of a successful terrorist attack, as provided by MSRAM, as the ''worst case'' scenario in the analysis.[60] The assessment suggests the use of a range of consequence scores or the average consequence score would be more appropriate.[61] However, as noted in the report, the use of MSRAM data is limited due to classification restrictions on the data, and in the 2016 analysis,

[49] GAO 13–198, p. 41.

[50] GAO 13–198, p. 41.

[51] This refers to report entitled ''Independent Verification and Validation of Development of Transportation Worker Identification Credential (TWIC) Reader Requirements,'' Homeland Security Institute, October 21, 2008 (the ''HSI Report''). A redacted version of this document is available in the docket.

[52] USCG–2017–0771–0006 at 2–3.

[53] GAO 13–198 at 43, ''Matter for Congressional Consideration.''

[54] See HSI study at 26.

[55] HSOAC report at xvii.

[56] Id.

[57] Id.

[58] Id. a. xviii.

[59] Id.

[60] Id. at 133.

[61] Id. at. 135.

the Coast Guard was only able to use the maximum consequence for this reason.

The assessment also provided several suggestions and alternatives to the existing program to improve the cost-effectiveness, including limiting the facilities subject to the regulation by using a narrower definition, or using different readers (such as portable readers that can be used intermittently, access control systems or other inspection solutions). Despite the reservations regarding the cost effectiveness and benefits surrounding the TWIC readers, the assessment found that approximately 50 percent of facilities HSOAC visited and examined have implemented electronic inspection for TWIC, either in a PACS or portable reader, and that in some cases those PACS also verify identity using biometric systems.[62] Also, nearly 20 percent of facilities sampled by the assessment used more technologically sophisticated biometric readers. During this delay period, USCG will be looking at various means of implementing the use of TWICs at maritime facilities including more efficient and cost effective electronic validation modes and methods.

The facilities interviewed in the HSOAC assessment that effectively integrated readers or access control solutions into operations have had largely positive experiences.[63] Perceptions were mixed on the degree of enhanced security that the readers added, with over half of the facilities interviewed finding some benefit. Those facilities found specifically that ''if the readers are working properly, they are an effective tool and provide an additional level of comfort and security.'' [64] While the HSOAC assessment favors a system approach to risk-mitigation and does not advocate the use of TWIC as a sole means of security for vessels and facilities, the Coast Guard is encouraged by positive feedback provided by those facilities that preemptively use TWIC readers, particularly the satisfaction with the program as a whole. The Coast Guard is further analyzing the suggestions and comments provided in the assessment, and determining if modifications should be made to the program during the delay period.

C. Concerns Regarding Partial Implementation of the TWIC Reader Rule

In the delay NPRM, the Coast Guard cited concerns about the risk analysis methodology for electronic TWIC inspection as the chief reason for proposing a partial delay of the TWIC Reader final rule. Specifically, we highlighted concerns about ''asset categorization,'' the practice of grouping and analyzing facilities by class, as a basis for the application of the electronic TWIC inspection requirement. For example, the Coast Guard treats all facilities that ''handle CDC in bulk'' as being in the same class, regardless of the geographical location of the facility (*e.g.,* whether it is near a large population center) or the specific types and quantities of the bulk CDC handled at the facility (*e.g.,* whether it is a few thousand gallons of propane or several thousand tons of chlorine). While questions about how the Coast Guard would consider particular situations where the presence of bulk CDC did not pose a threat above a particular threshold were addressed in the TWIC Reader final rule, concerns raised after its publication caused us to re-evaluate whether the risk analysis methodology was adequate or satisfactory.[65] Furthermore, we began the process of reconsidering whether asset categorization was an appropriate means by which to evaluate the risk potential of facilities, as opposed to a more individualized methodology that incorporates factors such as local population, environmental considerations, and similar factors. The possibility of inadvertently capturing low-risk facilities in the mix of Risk Group A facilities was the reason we proposed to delay the TWIC Reader rule for ''non-transfer'' facilities. However, because ''transfer'' facilities and passenger facilities are high risk due to the targets inside the facilities themselves, irrespective of exogenous considerations, we declined to propose delaying the electronic TWIC inspection requirements for those classes of facilities.[66]

Several commenters responded negatively to the Coast Guard's proposal to implement the electronic TWIC inspection requirement in only some Risk Group A facilities. One commenter urged the Coast Guard to delay the requirement for all Risk Group A facilities ''rather than work piecemeal.'' [67] Another commenter asserted that a delay for all facilities is necessary because ''manufacturers need regulatory certainty to make appropriate, economically justifiable long-term investments to protect facilities' threat and vulnerability conditions,'' and that a partial delay will ''continue to create regulatory uncertainty.'' [68] A third commenter asserted that ''Coast Guard personnel offered that delays for implementation for the Final Rule were likely,'' and that ''it was expected that any delay for the implementation would apply to all facilities.'' [69]

We take seriously concerns that Coast Guard statements and actions taken subsequent to the issuance of the final rule, including the passage of legislation that postponed the implementation of the rule, could create regulatory uncertainty. One commenter noted that ''the regulated community and equipment manufacturers had reason to believe the compliance deadline would be extended and the scope of the rule possibly narrowed,'' leading to ''equipment manufacturers [delaying] production until there is more certainty on the rule.'' [70] Similarly, one commenter noted that compliance with the reader rule would take significant preparation, including ''restructuring access points, training security operators, [and] testing the security interplay between the TWIC readers and our existing access controls,'' [71] which it had not begun to implement due to belief that the rule would be postponed.

Several commenters expressed concern about additional costs associated with partial implementation of the electronic TWIC inspection requirement. In addition to concerns regarding delayed production mentioned above,[72] ''manufacturers remain concerned that they lack the required lead time to sufficiently plan and install new equipment, infrastructure, software, and to train new employees,'' [73] and asserted that partial delay of the final rule would create ''logistical and financial challenges for facilities that are already in compliance with the TWIC visual inspection requirements.'' [74] These sentiments are echoed in the TWIC HSOAC assessment, where some interviewees from Risk Group A facilities have experienced increased costs and have found the number of vendors shrinking.[75]

One commenter suggested that an option set forth in the TWIC rulemaking

[62] Id. at 91.

[63] Id. at 99.

[64] Id. at 96.

[65] See, e.g, 78 FR 17782 at 17811, discussing the availability of waivers in situations where minimal risk was determined.

[66] See 83 FR 29067 at 29073.

[67] USCG–2017–0711–0004, p. 1.

[68] USCG–2017–0711–0012, p. 1.

[69] USCG–2017–0711–0005, p. 2.

[70] USCG–2017–0711–0013, p. 2.

[71] USCG–2017–0711–0005, p. 6.

[72] USCG–2017–0711–0013, p. 2.

[73] USCG–2017–0711–0012, p. 2.

[74] *Id.*

[75] HSOAC report at 98.

to limit electronic TWIC inspection to discrete areas of a facility where it handles bulk CDC—originally intended to be an option designed to reduce costs—could end up creating problems if the delay is limited to CDC transfer facilities only. The commenter laid out two scenarios to show how this could happen, as described below.

In the first scenario, the facility expends resources to isolate the discrete bulk CDC area to the maritime transfer area. The commenter writes that ''[i]f after the three-year delay period, the USCG determines the bulk CDC handled by non-maritime means in many locations throughout the facility *does* require electronic TWIC inspections, then the facility will have no choice but to expand electronic TWIC inspections to its perimeter fence-line (which also defines its secure area). In this [scenario], the time effort, resources, and money spent now isolating the discrete area(s) where bulk CDC is transferred to or from a vessel will have been wasted.'' (emphasis in original) [76] This commenter is confusing the 2016 final rule, and the proposed changes in the TWIC Delay NPRM. The NPRM did not propose to limit electronic TWIC inspections to the areas of the facility where bulk CDC is transferred to or from a vessel. Instead, it proposed to limit the requirement to ''[f]acilities that handle Certain Dangerous Cargoes (CDC) in bulk and transfer such cargoes from or to a vessel.'' [77] Such facilities would still have been subject to the general requirement that they conduct electronic TWIC inspection pursuant to 33 CFR 101.535(b), which requires electronic TWIC inspection before being granted unescorted access to secure areas of the facility. The option to isolate electronic TWIC inspection to discrete areas of the facility where bulk CDC is handled still required electronic TWIC inspection at all locations within the applicable facilities where CDC is handled, regardless of whether that was the location it was being transferred to or from a vessel. There was never a proposal to limit the requirement to maritime transfer areas, and, thus, we would not expect this scenario to occur.

In the second scenario, the commenter imagines that ''rather than isolating the discrete area(s) where bulk CDC is transferred to or from a vessel, a facility chooses to conduct electronic TWIC inspections of all personnel seeking unescorted access into its secure area (*i.e.,* at the perimeter fence line. . . . If after the three-year delay period, the USCG determines the bulk CDC handled by non-maritime means at the facility *does not* require electronic TWIC inspections, then the facility will have wasted significant time, effort, resources, and money.'' [78] While the Coast Guard has not ever proposed limiting electronic TWIC inspection criteria to the maritime area, we realize that if we were to change the regulation in that way after promulgating a wider regulation, it could result in significant unnecessary expenditures. While the commenter's analysis mischaracterizes the proposal in the TWIC Delay NPRM, we believe this demonstrates that there remains significant confusion regarding the scope of the rule. This is a valid point and one that we have considered in promulgating this delay.

D. Problems Estimating the Total Cost of Implementation of the Electronic TWIC Inspection Requirement

In the TWIC Reader rulemaking, the Coast Guard limited the electronic TWIC inspection to high-risk facilities for purposes of producing an efficient regulatory scheme. While we acknowledged that electronic TWIC inspection would improve security at all MTSA-regulated facilities, we concluded that, for many facilities, the cost of implementing such measures would be too high relative to the security benefits achieved. For that reason, we conducted extensive analysis as to which types of facilities posed the greatest threat to persons and key infrastructure targets, as well as which types of facilities would reap the greatest benefits from the proposed countermeasures. We determined that applying electronic TWIC inspection requirements only to Risk Group A facilities provided the most efficient security measures. The TWIC Reader rule final regulatory analysis (RA) estimated that the rule would require compliance actions by 525 facilities and 1 vessel, for a total cost of $153.8 million (discounted at 7-percent) over a 10-year period.[79]

In response to the TWIC Delay NPRM, several commenters challenged the underlying assumptions that the Coast Guard used in developing this figure. Commenters first argued that the Coast Guard's analysis undercounted the number of facilities by including both transfer facilities and non-transfer facilities in its total estimate of 525 estimated facilities. Secondly, commenters argued that the inclusion of the phrase ''and receive vessels carrying CDC'' in the text of the final rule added additional regulated facilities, which were not included in the RA. We address each of these issues below. We note that specific comments relating to the Coast Guard's economic analysis are addressed below in Section IV. G., ''Comments on the Regulatory Analysis.''

One major issue raised by commenters concerned the number of facilities subject to the electronic TWIC inspection requirements, specifically the idea that the Coast Guard had underestimated the number of facilities that would be characterized as Risk Group A under the new regulations. In the 2013 TWIC Reader NPRM, the Coast Guard estimated that 532 facilities would be classified as Risk Group A,[80] a number that was modified in the 2016 final rule due to the exclusion of 7 barge fleeting facilities.[81] In the TWIC Delay NPRM, we broke down the nature of these 525 facilities, indicating that they consisted of 122 ''non-transfer'' facilities, as well as 403 passenger and ''transfer'' facilities combined.[82] One commenter stated ''neither the [2013 TWIC Reader NPRM RA] nor the [2016 TWIC Reader final rule RA] ever discusses this class of facilities.'' [83] This commenter is correct: both the TWIC Reader NPRM and final rule applied the requirement to ''facilities that handle CDC in bulk,'' and did not draw a distinction between those that transfer it to/from vessels and those that do not, and so never separated the types of facilities for the purposes of economic analysis. Because the TWIC Delay NPRM was the first instance in which the Coast Guard considered different requirements for transfer and non-transfer facilities, we included a separate count of the non-transfer facilities.

The commenter also suggested that the Coast Guard had dramatically underestimated the number of non-transfer facilities. The commenter states, ''it is likely that approximately 525 (or more) facilities handle bulk CDC by non-maritime means.'' It is unclear if the commenter is suggesting that there are a total of 525 facilities that handle bulk CDC by non-maritime means (in line with our estimates), or if there are 525 facilities that handle bulk CDC by non-maritime means *exclusively,* which would exceed the Coast Guard's

[76] USCG–2017–0711–0007, p. 6.

[77] 83 FR at 29081.

[78] USCG–2017–0711–0007, p. 6–7.

[79] See Transportation Worker Identification Credential (TWIC) Reader Requirements—Regulatory Analysis and Final Regulatory Flexibility Analysis, November 2015, p. 8, available at docket # USCG–2007–28915–0231.

[80] 78 FR 17782 at 17787, Table ES–2.

[81] 81 FR 57652 at 57654, Table 1.

[82] See 83 FR at 29074. We note that the NPRM did not specifically delineate the breakdown among the 403 facilities that would not have been delayed under the proposal.

[83] USCG–2017–0711–0007, p. 9.

estimates. The commenter also cited the 2017 Petition for Rulemaking,[84] noting, ''the Petition estimated that there are closer to 1,500 Non-Transfer Facilities nationwide, most of which handle bulk CDC by non-maritime means.'' [85] (The use of the phrase ''most of which'' does appear to imply that the number of facilities is a total count, in line with Coast Guard estimates.) This figure is cited in the TWIC assessment report also, as mentioned above. Based on the information provided by both the commenter and HSOAC, we will attempt to get a much fuller estimate of the population in future studies, as described in the TWIC Delay NPRM.

Commenters expressed concern about the inclusion, in the TWIC Reader final rule, of regulatory text that the Coast Guard did not originally propose in the TWIC Reader NPRM. Specifically, while the proposed regulatory text in the TWIC Reader NPRM (and the associated text discussed in the TWIC Reader ANPRM) applied the Risk Group A requirements to ''Facilities that handle Certain Dangerous Cargoes (CDC) in bulk,'' [86] the TWIC Reader final rule added the phrase ''or receive vessels carrying CDC in bulk'' to that sentence.[87] In the final rule, we explained the rationale for the additional language. In explaining our interpretation of the word ''handle'' in § 105.253(a), the TWIC Reader final rule stated that the purpose of the additional language at issue was to ''clarify risk groups.'' [88] The Coast Guard explained that a facility that receives vessels carrying CDC bulk, even if the CDC is not transferred to the facility, is functionally the same as a facility that creates, stores, processes, or transfers (*i.e.,* ''handles'') bulk CDC, insofar as there is bulk CDC present and it is the responsibility of the facility to restrict access to those CDCs to valid TWIC-holders. We reasoned that, ''[w]hile moored at a facility, a vessel must rely on the facility's security program to adequately secure the interface between the facility and vessel and mitigate the threat of a TSI.'' [89] Thus, the Coast Guard does not consider the phrase ''or receives vessels carrying CDC in bulk'' to be a new class of facilities subject to the electronic TWIC inspection requirements, but merely clarification of the original proposed text of § 105.253(a).

Because the Coast Guard did not consider the new language to add new requirements to the rule, we did not list ''facilities that receive vessels carrying CDC in bulk'' as a separate category of facilities in the regulatory text, nor did we consider that it would change the number of facilities affected by the electronic TWIC inspection rule in the delay NPRM. Furthermore, based on the information available at the time, the Coast Guard did not believe there were any facilities that received vessels carrying CDC, but did not in any other way store, use, process, or transfer bulk CDC on the facility (even if some vessels carrying bulk CDC did not unload their cargo at the facility), and so we did not add them to the affected population. However, after the publication of the final rule, various parties informed the Coast Guard, without presenting data, that they believed there was a population of facilities that received vessels carrying CDC bulk without otherwise handling bulk CDC on their facilities. The Coast Guard took such statements in good faith, and thus, in the TWIC Delay NPRM, we stated, ''we cannot determine the number of [facilities that receive vessels carrying CDC in bulk] at this time.'' [90]

One commenter argued that because the number of affected facilities remained consistent between the NPRM and final rule despite the addition of the new language to § 105.253(a), the Coast Guard's ''accounting for Non-Transfer facilities are so suspect that they should be ignored.'' [91] We disagree. As explained above, the affected population remained consistent between the TWIC reader NPRM and final rule because the policy in the documents was consistent. Furthermore, we note that despite its assertion that the lack of a separate accounting for this class of facility renders the Coast Guard's calculations moot, the commenter affirms the Coast Guard's original logic, noting in a parenthetical that ''relatively few facilities that receive vessels carrying CDC without transferring them do not also handle bulk CDC by non-maritime means.'' [92] Similarly, one commenter argues, ''the methodology defining the risk categories does not include lay-berth [93] or other cargoes contained or not transferred.'' [94] For the reasons described above, the Coast Guard disagrees, and notes the 2016 TWIC Reader rule methodology explicitly accounts for these situations.

E. Use of Electronic TWIC Inspection at Passenger Facilities and Vessels

Unlike facilities that handle CDC in bulk, the Coast Guard did not propose to delay the final rule for any passenger facilities, and based upon comments to this rulemaking, is not extending the delay to those facilities at this time. We believe that implementing the electronic TWIC inspection requirement at passenger facilities and vessels will provide improved security benefits for these facilities, which include large ferry and cruise terminals that handle 60 plus million passengers per year.

We received only one comment specific to the treatment of passenger vessels and facilities, which contained several major arguments. First, the commenter argued that passenger facilities that do not receive vessels subject to electronic TWIC inspection requirements should also be exempt from the requirements, regardless of how many passengers use the facility. More specifically, the commenter suggested that facilities receiving vessels with less than 20 crewmembers should be exempt from the electronic TWIC inspection requirement. Finally, the commenter suggested that electronic TWIC inspection does not substantially enhance security at passenger facilities.[95] We address each of these arguments below.

The commenter raised an issue, also raised in the TWIC Reader rulemaking, that facilities that receive vessels be exempted from the electronic TWIC inspection requirement due to low numbers of crew. The comment noted that vessels with 20 or fewer TWIC-holding crewmembers are exempt from the electronic TWIC inspection requirement, but that this exemption does not apply to facilities. It stated that, if a Coast Guard-approved vessel security plan for a larger ferry designates certain portions of the vessel as off-limits to a passenger and requires a person to possess a valid TWIC to have unescorted access secure areas, the same standard should apply to a terminal that receives such a vessel. The commenter asserted that it was an ''anomaly'' that certain passenger vessels are not required to carry and deploy TWIC readers, but a facility that receives such a vessel is required to have and use TWIC readers.[96] We do not believe this is an anomaly, and would refer the commenter back to the logic

[84] See USCG–2017–0457–0001.

[85] USCG–2017–0711–007, p. 10.

[86] 78 FR 17782 at 17831, proposed regulatory text § 105.253(a)(1).

[87] 81 FR 57652 at 57712, final regulatory text § 105.253(a)(1).

[88] 81 FR 57652 at 57681.

[89] Id.

[90] 83 FR 29067 at 29074.

[91] USCG–2017–0711–0007, p. 10.

[92] USCG–2017–0711–0007, p. 10.

[93] ''Lay berth'' is the situation where a vessel docks at a facility, but does not load or unload cargo.

[94] USCG–2017–0711–0013, p. 2.

[95] USCG–2017–0711–0009, p. 2.

[96] USCG–2017–0711–0009, p. 2.

underpinning the requirement. In the TWIC final rule, in a section entitled, ''The Crewmember Exemption Does Not Apply to Facilities,'' [97] we explained that ''the rationale that justifies an exemption for vessels with a low crew count does not transfer to facilities,'' [98] noting that while at sea, few persons board or depart a vessel, while persons constantly do so at facilities. We continue to stand by the reasoning laid out in that section of the TWIC final rule. The Coast Guard also reiterated that the statutory provision in 46 U.S.C. 70105(m)(1) mandates an exemption from the electronic TWIC inspection requirement for vessels with a low crew count, and noted that there was no such provision for facilities.

The commenter also suggested that the value of electronic TWIC inspection at passenger facilities is minimal, and that the current level of security is adequate. The commenter stated that ''One [Passenger Vessel Association] ferry operator subject to the current rule reports that its facility security plan designated only the office of the facility security officer (FSO) as a secure space and that only the FSO works in the office. Under the current rule, there will need to be a TWIC reader installed in this space so the FSO can validate his own TWIC each time he enters his office.'' [99] While we cannot speak to individual circumstances, we note that the definition of a ''secure area'' is, in part, ''the area . . . at a facility over which the owner/operator has implemented security measures for access control in accordance with a Coast Guard approved security plan. It does not include passenger access areas, employee access areas, or public access areas.'' [100] While it is possible that a facility could have no access control measures outside of the FSO's office, we note that many passenger facilities do contain substantial secure areas.

We do agree with the commenter that there are differences in the layouts and security profiles of passenger facilities and other Risk Group A facilities (that handle CDC in bulk), and note that these differences are paramount in the Coast Guard's decision not to delay the electronic TWIC inspection for passenger facilities. We stated the differences explicitly in the final rule, highlighting the differences between chemical cargo facilities where the entire facility may be considered a ''secure area'' and facilities that have public access areas, like parking lots with TWIC inspection conducted at a secure access point would be outside of the public access area.[101] For passenger facilities, the majority of the areas may be designated ''public access areas,'' ''passenger access areas,'' or ''employee access areas'' (such as break rooms). In such an instance, electronic TWIC inspection points may only be located at entrances to secure areas such as the pier or FSO's office.[102]

While we agree with the commenter that the secure area footprint of a passenger facility may be small, we disagree that this constitutes a rationale for delaying or eliminating the electronic TWIC inspection requirements at passenger facilities. Unlike a facility that handles CDC in bulk, where the targets of a potential terrorist attack would be located exclusively inside the secure area, at passenger facilities the potential target—the passengers themselves—would be almost exclusively located outside the area secured by a TWIC, as passengers are not escorted, nor do they generally hold TWICs. However, vital parts of the facility, including waterside access to the vessel, baggage handling and security areas, storage areas for equipment such as vessel fuel or cleaning supplies, and administrative offices, are all secured by electronic TWIC inspection. These security measures help to ensure that access to those targeted areas is restricted to persons who have been granted unescorted access to these areas. By implementing TWIC inspection for waterside access to the vessel and baggage handling and storage area, and the like, the potential for a TSI is decreased. For these reasons, the Coast Guard believes it is imperative that we begin implementation of this part of the electronic TWIC inspection requirement as soon as possible.

F. Miscellaneous Comments

The Coast Guard received several comments that do not fit into any of the above categories. One commenter asked why some Captains of the Port (COTPs) are authorized to grant waivers to facilities and some are not, as well as under what conditions waivers are authorized.[103] We note that all COTPs are authorized to permit facilities to continue to operate in the event of non-compliance pursuant to 33 CFR 105.125, which is different than authority to grant waivers. Waivers can be authorized under the provisions of 33 CFR 105.130. The regulatory text in 33 CFR part 105 contains explanations of noncompliance and waivers and when they will be granted. The commenter also asked whether the existence of waivers implied that the TWIC delay final rule should include all facilities subject to the electronic TWIC inspection. For the reasons discussed above, the answer is no.

One commenter stated that the proposed rule does not define ''bulk storage.'' [104] We note that the term ''bulk'' is defined in 33 CFR 101.105, and we apply the plain meaning to the term ''storage.'' The commenter also suggested that, to avoid confusion, the rule should list the CDC chemicals, and asked about the treatment of a mixture of chemicals listed as CDCs. We agree with the commenter that a list of CDCs would be helpful, and to that end, are publishing such a list concurrently with this rule, in accordance with 33 CFR 160.202. The list is published in the docket and will be maintained in Homeport. With regard to ''mixtures,'' we note it could depend on the particular chemistry at issue; therefore, we do not have enough information to provide an answer.

G. Comments on the Regulatory Analysis

The Coast Guard did not receive any comments on the costs and benefits associated with delaying the implementation of the TWIC Reader final rule. However, we received several comments regarding the costs and benefits associated with the requirement for electronic TWIC inspection, as published in the 2016 TWIC Reader final rule RA.[105] As the 2016 TWIC Reader final rule RA is the main data source for the RA published in the TWIC Delay NPRM, we address these comments below.

1. Comments on the Total Cost of the TWIC Reader Rule

One commenter stated that the Coast Guard underestimated the total cost of the final TWIC Reader rule, citing the declaration of a Dow chemical employee.[106] The employee estimated the TWIC Reader Rule would result in an annual productivity loss resulting from the delay time of using the TWIC readers of $3.65 million for one Dow facility, and a $10 million cost to all Dow facilities including productivity losses, and hardware, infrastructure, installation, and maintenance costs. The commenter states that Dow's costs alone are almost half of the $22.5 million in

[97] 81 FR at 57682.

[98] 81 FR at 57682.

[99] USCG–2017–0711–0009, p. 2.

[100] See 81 FR at 57671, citing 33 CFR 101.105.

[101] 81 FR at 57671.

[102] Id.

[103] USCG–2017–0711–0008.

[104] USCG–2017–0711–0011.

[105] USCG–2007–28915–0231.

[106] USCG–2017–0711–0006.

annualized costs as estimated by the final rule.

The cost estimates provided in the final TWIC Reader rule represent the average burden across all facilities subject to that rulemaking, and therefore the estimates may not reflect the individual circumstances of each facility or firm. In addition, the $10 million value provided by the commenter is an annual value and is not comparable to the $22.5 million annualized cost estimate provided in the final rule. An annualized value accounts for the fact that the costs of the rule will differ over time and provides an estimate that spreads these costs equally over the analysis period, taking a discount rate into account. This value accounts for years where a facility may have larger costs associated with implementing the rule due to one time or infrequent costs such as purchasing hardware, installation, and infrastructure costs, as well as years where the facility will have much smaller ongoing costs. During the first two years of the cost analysis, the Coast Guard accounted for these large onetime costs and estimated a much larger total annual cost of approximately $56 million per year. The $10 million value provided by the commenter includes onetime costs such as hardware and, therefore, is not directly comparable to the $22.5 million annualized cost estimate, which smooths these costs over time.

Furthermore, we note that the majority of the measured costs the commenter cites are operational losses due to ''average daily loss in productivity of $10,000 per day.'' The TWIC Reader rule provided facility operators flexibility with regard to the purchase, installation, and use of electronic readers, allowing facilities to adjust their operations to reduce large delay times. The RA for the TWIC Reader rule accounted for the fact that some facilities may have to make modifications to business operations to accommodate electronic TWIC inspection requirements, such as increasing the number of access points for vehicles. Thus, we believe most facilities would be able to adjust their operations to ensure the most efficient use of the readers rather than incurring large delay costs.

2. Comments on the Economic Impact of the Rules

We received one comment on the potential ''significant economic impact'' of the TWIC Reader rule.[107] The commenter believes the TWIC Reader rule will disrupt the efficient transportation of goods, which, in turn, may result in ''very high economic costs.'' As evidence, the commenter provided information on the contribution of Louisiana's oil and gas and chemical sectors to the Gross Domestic Product (GDP), employment numbers, and household earnings, information on the amount of cargo shipped through ports located in Louisiana, as well as information on the tank truck industry. The commenter also asserts that the Coast Guard did not regulate container facilities not otherwise categorized in Risk Group A because of the ''significant levels'' of ''delay costs,'' and states this is evidence of the high economic costs of transportation delays.

While the economic data presented by the commenter provides information on the oil and gas industry in Louisiana and on the tank truck industry, it does not provide any information on how the TWIC Reader rule may impact these industries, or the cost of the TWIC Reader rule to these industries. We do note the commenter provides context to the enormous importance of securing these facilities from terrorist attack, given their large role in the local, as well as national, economy.

Further, the Coast Guard disagrees that we did not regulate container facilities that would not otherwise be categorized in Risk Group A because of significant delay costs associated with the TWIC Reader rule, and this is evidence of the high economic costs of delays. Rather, the Coast Guard did not regulate these container facilities because, upon review, we found that many of the high-risk threat scenarios at container facilities would not be mitigated by electronic TWIC inspection. Therefore, the costs of electronic TWIC inspection for container facilities not in Risk Group A would not be justified by the amount of potential risk reduction at these facilities. This is keeping with the requirements of Executive Order 12866, which directs agencies to select approaches which maximize the net benefits to society.

3. Comments on the Use of the TWIC Pilot Program Data

The Coast Guard received two comments on the 2016 RA's use of cost information from the TWIC Reader pilot program.[108] One commenter stated that the data from the TWIC Pilot Program is too out-of-date to be used, and that the pilot program failed to accurately evaluate delay times associated with the 2016 TWIC Reader rule. Both commenters cite the May 2013 GAO report ''Transportation Worker Identification Credential: Card Reader Pilot Results Are Unreliable; Security Benefits Need to Be Reassessed,'' (GAO–13–198) as evidence the pilot data is inaccurate, and believe the Coast Guard's reliance on this data contravenes the GAO's findings. Issues with the pilot data were also raised in the HSOAC assessment. The assessment stated that the use of the pilot study data in generating the 2015 regulatory analysis was flawed in that it made faulty assumptions of the number of readers required at facilities.[109]

While the Coast Guard acknowledges there were many challenges in the implementation of the TWIC reader pilot program, we believe the considerable data obtained were of sufficient quantity and quality to support the general findings and conclusions of the TWIC reader Pilot Report. The pilot program obtained sufficient data to evaluate TWIC reader performance and assess the impact of using TWIC readers at maritime facilities. Furthermore, the Coast Guard supplemented the information from the TWIC Pilot Program with other sources of information. For example, in the 2016 RA, the Coast Guard estimated the number of access points per facility type through the use of an independent data source (Facility Security Plans), and estimated the costs of TWIC readers through published pricing information. The Coast Guard did not use this data from the pilot program for the exact reasons the commenters suggest.

4. Comments on Collecting New Cost Data

One commenter stated that the TWIC Delay NPRM gave no indication the Coast Guard would use the three-year delay period to gather new economic data, and thus any economic analysis supporting future rule makings would be based on the same ''faulty'' cost data as the previous rulemakings.[110]

While the Coast Guard did not explicitly state it would gather new cost information to support future rulemaking efforts, that does not mean we would not gather additional cost information to support future rulemakings. If the Coast Guard chooses to implement a new rulemaking, the supporting RA would use the best reasonably available economic information, as required by OMB circular A–4. Depending on the

[107] USCG–2017–0711–0006.

[108] USCG–2017–0711–0006; USCG–2017–0711–0007.

[109] HSOAC report at 128.

[110] USCG–2017–0711–0007.

information available, this cost data may or may not be new.

H. Conclusion

Based on the concerns of commenters regarding implementation problems, particularly involving confusion regarding the final rule and delay NPRM, delays in undertaking compliance action, and difficulty acquiring equipment, a delay for all facilities that handle CDC in bulk represents the best path forward. In doing so, we can give facilities that handle CDC in bulk additional time to acquire and install equipment, train personnel, make operational adjustments, and update FSPs to account for use of electronic TWIC inspection in areas that contain bulk CDC. We also note that, as described in this document and in the TWIC Delay NPRM, we are studying the distribution of bulk CDC at MTSA-regulated facilities, with the goals of determining the exact population of affected facilities and the properties of the particular chemicals stored at these facilities. We believe that delaying the implementation of the rule for facilities that handle CDC in bulk will allow those facilities to reduce costs by providing adequate time to implement the requirements under conditions of more regulatory certainty and equipment availability. We also believe that the implementation of electronic TWIC inspection requirements at passenger facilities, and for the one large passenger vessel, will provide immediate security benefits at those facilities and vessel in protecting vital parts of the facility from potential TSI. Overall, we estimate that this policy implements the electronic TWIC inspection requirement at 155 facilities, primarily cruise and large ferry terminals that handle 60 plus million passengers per year and 1 vessel, in furtherance of enhanced security measures to protect passengers and the public. In order to comply with this immediate security need, facilities and vessels will have 60 days to implement the TWIC reader requirement. It also provides the Coast Guard time to analyze the suggestions and comments relating to the TWIC program provided in the assessment, and determine what modifications should be made during the delay period.

V. Regulatory Analysis

This final rule will delay implementation of the TWIC Reader rule for 3 years for all facilities that handle CDC in bulk, which are comprised of three types of Risk Group A facilities: (1) Facilities that handle certain dangerous cargoes in bulk, but do not transfer these cargoes to or from a vessel; (2) facilities that handle certain dangerous cargoes in bulk, and do transfer these cargoes to or from a vessel; and (3) facilities that receive vessels carrying certain dangerous cargoes in bulk, but do not, during that vessel-to-facility interface, transfer these bulk cargoes to or from those vessels. This rule will delay the implementation of the TWIC Reader rule for 370 of the 525 affected Risk Group A facilities. The remaining 155 facilities (which are all facilities that receive large passenger vessels), and 1 vessel will have to implement the requirements of the TWIC reader rule by June 8, 2020.

Below, we provide an updated regulatory analysis of the TWIC Reader rule that presents the impacts of delaying the effective date of the TWIC Reader rule for the three types of Risk Group A facilities defined in the preceding paragraph. We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

For this updated analysis, we estimated the impact of delaying the TWIC Reader rule by calculating the 10-year cost of this final rule, where only certain facilities will incur costs starting in Years 1 and 2 and other facilities will incur no costs in the first 2 years, and compare it to the 10-year cost presented in the RA for the TWIC Reader rule.[111] We then calculated the difference between the two costs to estimate the impact of this final rule. To properly compare the costs and benefits of this final rule and the TWIC reader rule, we first updated the costs of the TWIC Reader rule from 2012 dollars to 2016 dollars.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

This rule is a significant regulatory action under section 3(f) of Executive Order 12866. The Office of Management and Budget has reviewed it under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866. DHS considers this rule to be an Executive Order 13771 deregulatory action. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017). Details on the estimated cost savings of this rule can be found in the rule's regulatory analysis (RA) that follows.

[111] At the time of analysis, the Coast Guard did not have a final draft HSOAC assessment, and therefore we did not incorporate any cost estimates from that report into our analysis, as we were unable to review or validate those cost estimates for our RA. Further, as the HSOAC assessment was published after the publication of the NPRM, the public would not have had the opportunity to review and comment on those cost estimates. However, we did make modifications to the RA to address the mathematical errors from the 2016 RA as identified in the HSOAC assessment. These errors affected estimates of the average number of readers per access point, and the average installation and infrastructure cost per reader at facilities.

We have determined that this final rule does not have an annual effect on the economy of $100 million or more. This rule is an ''other'' significant regulatory action under Executive Order 12866, because of its impact on industry.[112] Therefore, in accordance with OMB Circular A–4, we have prepared an accounting statement showing the classification of impacts associated with this final rule.[113]

TABLE 1—OMB A–4 ACCOUNTING STATEMENT 2019–2029 PERIOD OF ANALYSIS—2016$

Category	Primary estimate		Minimum estimate		High estimate		Source
Benefits							
Annualized monetized benefits ($ Mil).	None	7%	None	7%	None	7%	RA.
	None	3%	None	3%	None	3%	
Annualized quantified, but unmonetized, benefits.	None						RA.
Unquantifiable Benefits	For facilities with a delayed compliance, final rule will postpone the enhanced benefits of electronic TWIC inspection.						RA.
Cost Savings							
Annualized monetized cost savings ($ Mil).	$3,380,017	7%		7%		7%	RA.
	$2,144,017	3%		3%		3%	RA.
Annualized quantified, but unmonetized, cost savings.	None						RA.
Qualitative (un-quantified) cost savings.	The final rule will delay the cost to retrieve or replace lost PINs for use with TWICs for the facilities with delayed implementation.						RA.
Transfers							
Annualized monetized	Not calculated		Not calculated		Not calculated		RA.
From whom to whom?							RA.
Annualized monetized transfers: ''off-budget''.	None		None		None		
From whom to whom?	None		None		None		
Miscellaneous Analyses/Category							
Effects on State, local, and/or tribal governments.	None		None		None		
Effects on small businesses	Will not have a significant economic impact on a substantial number of small entities.						RA.
Effects on wages	None		None		None		
Effects on growth	No determination		No determination		No determination		

Because this final rule does not modify any of the regulatory requirements in the TWIC Reader rule but, rather, delays the implementation of that 2016 final rule for some facilities, we did not revise our fundamental methodologies or key assumptions from the 2016 TWIC Reader final rule RA.[114]

Table 2 summarizes the changes to the RA between the TWIC Delay NPRM and this final rule. In this final rule, the Coast Guard modified the population of facilities that will delay the implementation of the TWIC reader rule, to include all facilities that handle CDC in bulk. In addition, we fixed mathematical errors from the 2016 TWIC Reader rule which impacted the estimated average number of readers per access point, and the average installation and infrastructure costs for facilities. Although we have updated our analysis from the NPRM to reflect these changes, this did not modify the methodology of our RA.

[112] Under Executive Order 12866 economically significant regulatory action means any regulatory action that is likely to have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The Office of Information and Regulatory Affairs (OIRA) may deem other regulatory actions significant if that action is likely to (1) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (2) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (3) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

[113] *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[114] USCG–2007–28915–0231.

TABLE 2—SUMMARY OF CHANGES FROM THE TWIC DELAY RULE NPRM TO TWIC DELAY RULE FINAL RULE

Element of the analysis	NPRM	Final Rule	Resulting change in RA
Affected Population.	122 facilities that handle bulk CDC, but do not transfer it to or from a vessel, and an unknown number of facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel.	370 facilities that handle bulk CDC, and an unknown number of facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel.	Increases estimated cost savings, as implementation costs will be delayed for more facilities.
Errors in TWIC Cost Calculations.	Cost estimates are based on data from the 2016 TWIC Final Reader Rule, which incorrectly calculated the average number of readers per access point for facilities, and the average installation and average infrastructure cost per reader for facilities. These errors did not impact the estimated costs for vessels.	The revised cost model calibrated the methodology for estimating the number of readers. This change yielded more accurate compliance costs for facilities.	Increases estimated compliance costs for facilities, resulting in a total annualized cost increase of approximately $4 million (with a 7% discount rate).

In the 2016 TWIC Reader final rule RA, we estimated that 525 facilities and 1 vessel out of the MTSA-regulated entities (13,825 vessels and more than 3,270 facilities) will have to comply with the final rule's electronic TWIC inspection requirements using MSRAM's risk-based tiered approach.[115] This rule will delay the implementation of the TWIC reader rule for 370 of the 525 affected Risk Group A facilities by 3 years, while the remaining 155 facilities (which are all facilities that receive large passenger vessels), and 1 vessel will have to implement the requirements of the TWIC Reader rule by June 8, 2020. The results reflect that 370 facilities out of the 525 facilities either handle certain dangerous cargoes in bulk but do not transfer these cargoes to or from a vessel, or handle certain dangerous cargoes in bulk and do transfer these cargoes to or from a vessel. This final rule will also apply to facilities that receive vessels carrying bulk CDC but, during the vessel-to-facility interface, do not transfer the bulk CDC to or from the vessel. We did not include these facilities in our MSRAM risk analysis or RA for the TWIC Reader rule, or in this final rule's RA because we are unable to determine the number of these facilities at this time.

2016 TWIC Reader rule cost estimates from 2012 dollars to 2016 dollars based on Gross Domestic Product (GDP) Deflator data from the U.S. Bureau of Economic Analysis (BEA).[116] The GDP deflator is a measure of the change in price of domestic goods and services purchased by consumers, businesses, and the government.

Table 3 summarizes the costs and benefits of the 2016 TWIC Reader final rule as well as this rule. We do not anticipate any new costs to industry as a result of implementing this final rule, because it will not change the applicability of the 2016 final rule or result in any other changes to the TWIC Reader rule. The impact to the one affected vessel, along with the qualitative costs and benefits, remain the same. Because this rule will delay the implementation of the TWIC Reader rule by 3 years for 370 facilities, it will result in cost savings to both industry and the government of $23.74 million (discounted at 7 percent) over a 10-year period of analysis ($191.81 million minus $168.07 million). As stated above, we used the same 10-year period of analysis in order to be able to properly compare the costs of this final rule and the TWIC Reader rule, which estimated the costs and benefits over a 10-year period. At a 7-percent discount rate, we estimate the total annualized cost savings to be $3.38 million ($27.29 million − $23.92 million), and $2.14 million ($25.18 million −$23.04 million). Using a perpetual period of analysis, and 2019 as the first year of analysis, we estimated the total annualized cost savings of this rule to be $1.53 million in 2016 dollars, discounting back to 2016 dollars.

TABLE 3—SUMMARY OF COSTS SAVINGS AND CHANGE IN BENEFITS: 2016 FINAL TWIC READER RULE (81 FR 57652) AND FINAL RULE TO DELAY THE TWIC READER RULE

Category	2016 TWIC reader rule (2016 $)	Final rule to delay the TWIC reader rule (2016 $)
Applicability	High-risk MTSA-regulated facilities and high-risk MTSA-regulated vessels with greater than 20 TWIC-holding crew.	Same as in the TWIC Reader rule except the facilities and vessels handling bulk CDC, but not transferring it to or from the vessel.
Affected Population	1 vessel	No change from the TWIC Reader rule.

[115] See Table 2.8 on page 26 of the TWIC Reader final rule RA for the estimate of 525 facilities, and Table 2.1 on page 23 for the estimate of 1 vessel.

[116] For consistency across rulemaking analyses, we are using the annual Implicit Price Deflators for Gross Domestic Product (BEA National Income and Product Accounts (NIPA) Table 1.1.9) values updated in March 30, 2017 Available for download at *https://apps.bea.gov/histdata/fileStructDisplay.cfm?HMI=7&DY=2016&DQ=Q4&DV=Third&dNRD=March-30-2017* under Section 1 (the BEA only has historical data available for download, Accessed March 15, 2019).

TABLE 3—SUMMARY OF COSTS SAVINGS AND CHANGE IN BENEFITS: 2016 FINAL TWIC READER RULE (81 FR 57652) AND FINAL RULE TO DELAY THE TWIC READER RULE—Continued

Category	2016 TWIC reader rule (2016 $)	Final rule to delay the TWIC reader rule (2016 $)
	525 facilities (to comply by Aug. 23, 2018) ..... • 370 facilities that handle bulk CDC. • 155 facilities that handle passenger vessels.	370 facilities that handle bulk CDC (to comply by May 8, 2023). The rule will also apply to facilities that receive vessels carrying bulk CDC but, during that vessel-to-facility interface, do not transfer bulk CDC to or from the vessel. However, the number of these facilities cannot be determined at this time and will not be known until after an additional study is conducted to improve the risk methodology and determine the new risk groups.
Costs to Industry and Government ($ millions, 7% discount rate)*.	Industry: $27.29 (annualized)* ..... Government: $0.014 (annualized)* ..... Combined: $27.31 (annualized)* ..... Industry: $191.71 (10-year)* ..... Government: $0.097 (10-year)* ..... Combined: $191.81 (10-year)*	Industry: $23.92 (annualized). Government: $0.013 (annualized). Combined: $23.93 (annualized). Industry: $167.98 (10-year). Government: $0.088 (10-year). Combined: $168.07 (10-year).
Costs Savings to Industry and Government ($ millions, 7% discount rate)*.	N/A ..... N/A	Industry: $3.38 (annualized). Government: $0.001 (annualized). Total: $3.38 (annualized). Industry: $23.73 (10-year). Government: $0.01 (10-year). Total: $23.74 (10-year).
Change in Costs (Qualitative).	Time to retrieve or replace lost PINs for use with TWICs.	The rule will delay the cost to retrieve or replace lost PINs for use with TWICs for the facilities with delayed implementation.
Change in Benefits (Qualitative).	Enhanced access control and security at U.S. maritime facilities and on board U.S.-flagged vessels. Reduction of human error when checking identification and manning access points.	Delaying enhanced access control and security for the facilities with delayed implementation. Delaying the reduction of human error when checking identification and manning access points for the facilities with delayed implementation.

* **Note:** These are the final costs to industry and government after fixing mathematical errors in 2016 TWIC Final Reader Rule, which incorrectly calculated the average number of readers per access point for facilities, and the average installation and infrastructure cost per reader for facilities, and then inflating the costs to 2016 dollars.
N/A = Not applicable.

Methodology

TWIC Reader Rule Costs Inflated to 2016 dollars

As shown in table 3, after adjusting the annualized cost from the 2016 TWIC Reader rule from 2012 dollars to 2016 dollars (over a 10-year period) and fixing the mathematical errors in 2016 TWIC Reader rule RA, the annualized cost of the 2016 TWIC Reader rule is approximately $27.29 million at a 7-percent discount rate.[117] We performed this update to compare them to this final rule's total industry costs on the same basis. We also modified the 2016 final rule cost estimates to fix mathematical errors identified in the TWIC effectiveness assessment, which affected estimates of the average number of readers per access point, and the average installation and infrastructure cost per reader at facilities. These errors impact the capital and maintenance cost estimates for facilities, and we identified them after the publication of the NPRM, and after fixing the mathematical errors in the 2016 TWIC Reader rule RA, the annualized total cost increased by $4.12 million to $27.29 million (in 2016$ with a 7-percent discount rate). These errors, however, did not impact the estimated costs for vessels.[118]

We used an inflation factor derived from the GDP deflator data. We calculated the inflation factor of 1.059 by dividing the annual 2016 index number (111.445) by the annual 2012 index number (105.214).

We then applied this inflation factor to the costs for vessels and additional costs, which include additional delay costs, travel costs, and the cost to replace TWIC readers that fail (table 4.38 of the TWIC Reader final rule RA).[119] Table 4 presents these inflated costs.

[117] The published annualized cost in the 2016 TWIC Reader rule RA was $21.9 million (in 2012 dollars with a 7-percent discount rate), and after adjusting for inflation this number is $23.3 million (in 2016 dollars with a 7-percent discount rate). *https://www.federalregister.gov/documents/2016/08/23/2016-19383/transportation-worker-identification-credential-twic-reader-requirements,* page 57700.

[118] U.S. Bureau of Economic Analysis, ''Table 1.1.9 Implicit Price Deflators for Gross Domestic Product,'' published March 30, 2017,vailable at *https://apps.bea.gov/histdata/fileStructDisplay.cfm?HMI=7&DY=2016&DQ=Q4&DV=Third&dNRD=March-30-2017* under Section 1 (the BEA has only historical data available for download). Accessed March 15, 2019.

[119] Additional delay costs account for delays resulting from the use of an invalid and/or broken TWIC card.

TABLE 4—COMPARISON OF TOTAL COST FOR VESSELS AND ADDITIONAL COSTS IN 2012 DOLLARS AND 2016 DOLLARS UNDER 2016 TWIC READER RULE

[Millions]

Year	Vessel		Additional costs	
	2012 $	2016 $	2012 $	2016 $
1	0.0210	0.0222	4.21	4.46
2	0.0036	0.0038	4.21	4.46
3	0.0036	0.0038	4.21	4.46
4	0.0036	0.0038	4.21	4.46
5	0.0036	0.0038	4.21	4.46
6	0.0177	0.0187	4.21	4.46
7	0.0036	0.0038	4.21	4.46
8	0.0036	0.0038	4.21	4.46
9	0.0036	0.0038	4.21	4.46
10	0.0036	0.0038	4.21	4.46
Total	0.0677	0.0717	42.10	44.59

Totals may not sum due to rounding.

For facilities, we applied this inflation factor to capital, maintenance, and operational costs because the final rule will apply only to these cost elements. Capital costs consist of the cost to purchase and install TWIC readers, as well as the cost to fully replace TWIC readers 5 years after the original installation. Maintenance costs account for the costs to maintain TWIC readers every year after the original installation. Operational costs include costs that occur only at the time of the TWIC reader installation and initial training. Operational costs also include ongoing costs, such as those for keeping and maintaining records, downloading the canceled card list, and ongoing annual training. We also modified the 2016 final rule cost estimates to correct errors in the calculations of the average number of readers per access point, the average installation cost per reader, and the average infrastructure cost per reader. We used these values to calculate capital and maintenance costs, and by correcting these errors the annualized total capital and maintenance costs increased by approximately $4.11 million and 0.01 million respectively (in 2016 $ with a 7-percent discount rate). Table 5 presents a comparison of these facility costs before and after our corrections, as well as a comparison of the costs in 2012 and 2016 dollars, and an estimate of the total number of facilities complying with the regulation each year.

TABLE 5—COMPARISON OF TOTAL COST FOR FACILITIES IN 2012 DOLLARS AND 2016 DOLLARS UNDER 2016 TWIC READER RULE

[Millions]

Year	Number of new facilities	Total number of facilities	Capital costs			Maintenance costs			Operational costs *		Undiscounted total		
			2012$—published in 2016 final TWIC rule RA	2012$—fixed math errors	2016$	2012$—published in 2016 final TWIC rule RA	2012$—fixed math errors	2016$	2012$—published in 2016 final TWIC rule RA	2016$	2012$—published in 2016 final TWIC rule RA [120]	2012$—fixed math errors	2016$
1	263	263	$49.49	$64.51	$68.31	$0.00	$0.00	$0.00	$1.99	$2.10	$51.47	$66.49	$70.42
2	262	525	49.49	64.51	68.31	0.99	0.99	1.05	2.16	2.29	52.64	67.66	71.66
3	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
4	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
5	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
6	0	525	9.87	9.94	10.53	1.97	1.99	2.11	1.34	1.42	13.18	13.27	14.05
7	0	525	9.87	9.94	10.53	1.97	1.99	2.11	1.34	1.42	13.18	13.27	14.05
8	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
9	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
10	0	525	0.00	0.00	0.00	1.97	1.99	2.11	1.34	1.42	3.31	3.33	3.52
Total			118.71	148.90	157.69	16.78	16.90	17.90	14.84	15.72	150.33	180.65	191.31

Totals may not sum due to rounding.
* The math errors in the 2016 RA did not impact operational costs, so they did not need to be adjusted.

Table 6 summarizes the total costs to industry of the 2016 TWIC Reader rule in 2016 dollars. We estimated the annualized cost to be $27.29 million at a 7-percent discount rate.

[120] Transportation Worker Identification Credential (TWIC) Reader Requirements, 2016: *https://www.federalregister.gov/documents/2016/08/23/2016-19383/transportation-worker-identification-credential-twic-reader-requirements,* at 57700.

TABLE 6—TOTAL INDUSTRY COST UNDER 2016 TWIC READER RULE

[Millions, 2016 dollars]

Year	Facility	Vessel	Additional costs *	Undiscounted	7%	3%
1	$70.42	$0.02	$4.46	$74.90	$70.00	$72.72
2	71.66	0.00	4.46	76.12	66.48	71.75
3	3.52	0.00	4.46	7.98	6.52	7.31
4	3.52	0.00	4.46	7.98	6.09	7.09
5	3.52	0.00	4.46	7.98	5.69	6.89
6	14.05	0.02	4.46	18.53	12.35	15.52
7	14.05	0.00	4.46	18.51	11.53	15.05
8	3.52	0.00	4.46	7.98	4.65	6.30
9	3.52	0.00	4.46	7.98	4.34	6.12
10	3.51	0.00	4.46	7.98	4.06	5.94
Total	191.29	0.07	44.59	235.96	191.71	214.69
Annualized					27.29	25.17

* These costs include additional delay, travel, and TWIC replacement costs due to TWIC failures.

Invalid electronic TWIC inspection transaction would lead to the use of a secondary processing operation, such as a visual TWIC inspection, additional identification validation, or other provisions as set forth in the FSP. Such actions cause delays. Furthermore, the use of TWIC readers will also increase the likelihood of faulty TWICs (TWICs that are not machine readable) being identified and the need for secondary screening procedures so affected workers and operators can address these issues. If a TWIC holder's card is faulty and cannot be read, the TWIC-holder would need to travel to a TWIC Enrollment Center to get a replacement TWIC, which may result in additional travel and replacement costs. Totals may not sum due to rounding.

Final Rule Costs

This rule will delay the effective date of the TWIC Reader rule by 3 years for 370 facilities that handle bulk CDC and an unestimated number of facilities that receive vessels carrying bulk CDC, but do not transfer it to or from the vessel during that vessel-to-facility interface. For analytical purposes, we maintain the assumption from the 2016 TWIC Reader rule RA that 50 percent of facilities will comply each year of the implementation period. Therefore, for this rule we assume that 50 percent of facilities with a 3-year implementation delay will comply in year 3, and 50 percent of facilities with a 3-year implementation delay will comply in year 4. We maintain this assumption to provide a consistent comparison between the baseline cost estimates presented in the TWIC Reader rule, and the costs of this rule.

The costs are separated into three categories: Capital costs, maintenance costs, and operating costs. To estimate the capital costs in a given year, we multiplied the total baseline capital costs for all facilities by the percentage of facilities incurring costs in a given year. We calculated the total initial baseline capital costs for TWIC installation for all facilities by adding the baseline capital costs presented in table 5 for years 1 and 2 ($68.31 million + $68.31 million = $136.63 million). We calculated the total baseline capital costs for replacing TWIC readers 5 years after the original installation by adding the baseline capital costs presented in table 5 for years 6 and 7 ($10.53 million + $10.53 million = $21.06 million). We then multiplied these numbers by the percentage of facilities incurring the cost in a given year. For example, in year 1, a total of 78 facilities are expected to incur capital costs, for a total industry cost of $20.30 million ($136.63 million × (78 facilities ÷ 525 facilities)). Table 7 presents annual capital costs for all years.

TABLE 7—CAPITAL COSTS FOR FACILITIES OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE

[Millions 2016 dollars]

Year	Total baseline capital costs (a)	Number of facilities with capital costs (b)	Total number of facilities subject to the rule (c)	Annual capital cost (d) = (a) × [(b) ÷ (c)]
1	$136.63	78	525	$20.30
2	136.63	77	525	20.04
3	136.63	185	525	48.14
4	136.63	185	525	48.14
5	136.63	0	525	0.00
6	21.06	78	525	3.13
7	21.06	77	525	3.09
8	21.06	185	525	7.42
9	21.06	185	525	7.42
10	21.06	0	525	0.00
Total				157.69

Note: Totals may not sum due to rounding.

Because maintenance costs are not incurred until the year after the TWIC readers are installed, we calculated the maintenance costs in a given year by multiplying the total baseline costs for all facilities by the percentage of facilities complying in the previous year. The total initial baseline maintenance costs for TWIC readers, $2.11 million, is found in year 3 of table 5 as this is the first year that all facilities will incur maintenance costs under the baseline. To estimate maintenance costs, we multiplied the percentage of facilities incurring the cost in a given year by the total costs. Because maintenance costs are not incurred until the year after the TWIC reader is installed, the total number of facilities incurring the cost is equal to the total number of complying facilities in the previous year. For example, we calculated Year 2 costs as follows: $2.11 million × (78 facilities ÷ 525 facilities) = $0.31 million. Table 8 presents annual maintenance costs for all years.

TABLE 8—TOTAL MAINTENANCE COSTS FOR FACILITIES OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE

[Millions 2016 dollars]

Year	Total baseline maintenance costs (a)	Number of facilities with maintenance costs (b)	Total number of facilities subject to the rule (c)	Annual maintenance cost (d) = (a) × [(b) ÷ (c)]
1	$2.11	0	525	$0.00
2	2.11	78	525	0.31
3	2.11	155	525	0.62
4	2.11	340	525	1.36
5	2.11	525	525	2.11
6	2.11	525	525	2.11
7	2.11	525	525	2.11
8	2.11	525	525	2.11
9	2.11	525	525	2.11
10	2.11	525	525	2.11
Total	.....	.....	.....	14.94

Note: Totals may not sum due to rounding.

We estimated operational costs in a similar manner, multiplying total operational costs by the percentage of facilities complying in a given year. Table 7 presents the total cost to facilities under this final rule. We calculated total operational costs by adding the baseline operational costs in Years 1 and 2 as presented in table 5 ($2.10 million + $2.29 million = $4.39 million). However, this total includes a $0.187 million in costs for ongoing costs such as training, which do not occur the first year a facility installs a TWIC reader. Therefore, the total initial operational cost to industry is $4.206 million ($4.39 million − $0.187 million). We then multiplied the total cost by the percentage of new facilities complying in a given year. We also accounted for ongoing costs to industry, which we calculated by multiplying the total ongoing operational costs of $1.42 million per year (see year 3 of table 5) by the percentage of facilities incurring ongoing costs. For example, in year 2, we calculated the total initial costs to be $0.617 million ($4.206 million × (77 facilities ÷ 525 facilities)), and we calculated the total ongoing costs to be $0.210 million ($1.416 million × (78 facilities ÷ 525 facilities)), for a total cost of $0.827 million ($2.10 million + $0.21 million). The $1.416 million ongoing cost includes not only the $0.187 million in ongoing costs, but also the cost to update the canceled card list annually. Table 9 presents annual operational costs.

TABLE 9—TOTAL OPERATIONAL COSTS FOR FACILITIES OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE

[Millions 2016 dollars]

Year	Total baseline initial costs (a)	Number of facilities with initial costs (b)	Total number of facilities subject to the rule (c)	Total initial operational costs (d) = (a) × [(b) ÷ (c)]	Total baseline ongoing operational costs (e)	Number of facilities with ongoing costs (f)	Total ongoing operational costs (g) = (e) × [(f) ÷ (c)]	Total operational costs (h) = (d) + (g)
1	$4.206	78	525	$0.62	$1.42	0	$0.00	$0.62
2	4.206	77	525	0.62	1.42	78	0.21	0.83
3	4.206	185	525	1.48	1.42	155	0.42	1.90
4	4.206	185	525	1.48	1.42	340	0.92	2.40
5	4.206	0	525	0.00	1.42	525	1.42	1.42
6	4.206	0	525	0.00	1.42	525	1.42	1.42
7	4.206	0	525	0.00	1.42	525	1.42	1.42
8	4.206	0	525	0.00	1.42	525	1.42	1.42
9	4.206	0	525	0.00	1.42	525	1.42	1.42
10	4.206	0	525	0.00	1.42	525	1.42	1.42

TABLE 9—TOTAL OPERATIONAL COSTS FOR FACILITIES OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE—Continued

[Millions 2016 dollars]

Year	Total baseline initial costs (a)	Number of facilities with initial costs (b)	Total number of facilities subject to the rule (c)	Total initial operational costs (d) = (a) × [(b) ÷ (c)]	Total baseline ongoing operational costs (e)	Number of facilities with ongoing costs (f)	Total ongoing operational costs (g) = (e) × [(f) ÷ (c)]	Total operational costs (h) = (d) + (g)
Total								14.25

Note: Totals may not sum due to rounding.

Table 10 presents the total undiscounted cost to facilities under this final rule, including all capital, maintenance, and operational costs.

TABLE 10—TOTAL COST FOR FACILITIES OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE

[Millions 2016 dollars]

Year	Number of new facilities	Total number of facilities	Capital costs	Maintenance costs	Operational costs	Undiscounted total
1	78	78	$20.30	$0.00	$0.62	$20.92
2	77	155	20.04	0.31	0.83	21.18
3	185	340	48.14	0.62	1.90	50.67
4	185	525	48.14	1.36	2.40	51.91
5	0	525	0.00	2.11	1.42	3.52
6	0	525	3.13	2.11	1.42	6.65
7	0	525	3.09	2.11	1.42	6.61
8	0	525	7.42	2.11	1.42	10.94
9	0	525	7.42	2.11	1.42	10.94
10	0	525	0.00	2.11	1.42	3.52
Total			157.69	14.94	14.25	186.87

Note: Totals may not sum due to rounding.

Table 11 summarizes the total costs to industry of this rule. This rule will not impact the compliance schedule of vessels. Therefore, these costs remain unchanged from the baseline. We calculated the additional costs by multiplying the totals in Table 5 by the percentage of facilities complying within a given year and phasing them in 2 years. Over 10 years, we estimate the annualized cost to industry to be $23.92 million at a 7-percent discount rate.

TABLE 11—TOTAL INDUSTRY COST UNDER OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE

[Millions, 2016 dollars] [121]

Year	Facility	Vessel	Additional costs *	Undiscounted	7%	3%
1	$20.92	$0.022	$0.66	$21.61	$20.19	$20.98
2	21.18	0.0038	1.32	22.50	19.65	21.21
3	50.67	0.0038	2.89	53.56	43.72	49.01
4	51.91	0.0038	4.46	56.37	43.00	50.08
5	3.52	0.0038	4.46	7.98	5.69	6.89
6	6.65	0.019	4.46	11.13	7.42	9.32
7	6.61	0.0038	4.46	11.07	6.90	9.00
8	10.94	0.0038	4.46	15.41	8.97	12.16
9	10.94	0.0038	4.46	15.41	8.38	11.81
10	3.52	0.0038	4.46	7.98	4.06	5.94
Total	186.87	0.072	36.08	223.02	167.98	196.40
Annualized					23.92	23.02

* These costs include additional delay, travel, and TWIC replacement costs due to TWIC failures.
Totals may not sum due to rounding.

Table 12 presents the estimated change in total costs to industry from delaying the implementation of the TWIC reader rule by 3 years for facilities that handle bulk CDC, but do not transfer it to or from a vessel, and facilities that receive vessels carrying bulk CDC, but do not transfer it to or from the vessel during that vessel-to-facility interface. We estimated an annualized cost savings to industry of $3.38 million at a 7-percent discount rate.

TABLE 12—TOTAL CHANGE IN INDUSTRY COST FROM PARTIALLY DELAYING THE EFFECTIVE DATE OF TWIC READER RULE

[Millions, 2016 dollars]

	Total 10-year cost (not discounted)	Total 10-year cost (discounted)		Annualized cost	
		7%	3%	7%	3%
TWIC reader rule	$235.96	$191.71	$214.69	$27.29	$25.17
Delay TWIC Reader rule by 3 years	223.02	167.98	196.40	23.92	23.02
Change	(12.95)	(23.73)	(18.28)	(3.38)	(2.14)

Qualitative Costs

Qualitative costs are as shown in table 3. This rule will delay the cost to retrieve or replace lost Personal Identification Numbers (PINs) for use with TWICs for the facilities with delayed implementation.

Government Costs

This final rule will also generate a cost savings to the government from delaying the review of the revised security plans for 370 Risk Group A facilities that handle bulk CDC and facilities that receive vessels carrying bulk CDC. There is no change in cost to the government resulting from TWIC inspections, because inspections are already required under MTSA, and the TWIC reader requirements do not modify these requirements. As such, there is no additional cost to the government.

To estimate the cost to the government, we followed the same approach as the industry cost analysis and adjusted the cost estimate presented in the TWIC Reader rule RA from 2012 dollars to 2016 dollars. For the government analysis, we used the fully loaded 2016 wage rate for an E–5 level staff member, $51 per hour, from Commandant 7310.1R: Reimbursable Standard Rates, in place of the 2012 wage of $49 per hour.[122] We then estimate a government cost of $53,550 in the first 2 years ($51 × 4 hours per review × 262.5 plans).[123] Table 13 presents the annualized baseline government costs of $13,785 at a 7-percent discount rate.

TABLE 13—TOTAL GOVERNMENT COST UNDER 2016 TWIC READER RULE

[2016 Dollars]

Year	Cost of FSP	7%	3%
1	$53,550	$50,047	$51,990
2	53,550	46,773	50,476
3	0	0	0
4	0	0	0
5	0	0	0
6	0	0	0
7	0	0	0
8	0	0	0
9	0	0	0
10	0	0	0
Total	107,100	96,819	102,466
Annualized	.....	13,785	12,012

Table 14 presents the government cost under this final rule, from delaying the effective date of the 2016 TWIC Reader rule for facilities that handle CDC in bulk. We estimated the annualized government cost to be $12,556 at a 7-percent discount rate. To estimate government costs in year 1 and year 2, we used the same approach as the baseline cost estimates.[124]

[121] See page 55 of the TWIC Delay final rule, table 6.

[122] Because the Coast Guard is not delaying the implementation schedule for vessels, the rule will have no impact on the costs associated with vessel security plans, and, therefore, we did not include them in this RA.

[123] See page 72 of the 2016 TWIC Reader rule RA.

[124] We calculated the total cost in year 1 as 4 hours × $51 × 202 FSPs; the total cost in year 2 as 4 hours × $51 × 201 FSP; and the total cost in Years 3 and 4 as 4 hours × $51 × 61 FSPs.

TABLE 14—TOTAL GOVERNMENT COSTS OF PARTIALLY DELAYING THE EFFECTIVE DATE OF THE 2016 TWIC READER RULE, RISK GROUP A

[2016 Dollars]

Year	Cost of FSP	7%	3%
1	$15,912	$14,871	$15,449
2	15,708	13,720	14,806
3	37,740	30,807	34,537
4	37,740	28,792	33,532
5	0	0	0
6	0	0	0
7	0	0	0
8	0	0	0
9	0	0	0
10	0	0	0
Total	107,100	88,190	98,324
Annualized	.....	12,556	11,527

Table 15 presents the estimated change in government costs from delaying the implementation of the TWIC Reader rule by 3 years for facilities that handle bulk CDC and facilities that receive vessels carrying bulk CDC. We estimated an annualized cost savings to the government of $1,229 at a 7-percent discount rate.

TABLE 15—TOTAL CHANGE IN GOVERNMENT COST FROM DELAYING THE EFFECTIVE DATE OF 2016 TWIC READER RULE

[2016 Dollars] *

	Total cost (not discounted)	Total cost (discounted)		Annualized cost	
		7%	3%	7%	3%
TWIC reader rule	$107,100	$96,819	$102,466	$13,785	$12,012
Delay TWIC Reader rule by 3 years	107,100	88,190	98,324	12,556	11,527
Change	0.0	(8,630)	(4,143)	(1,229)	(486)

* Over a ten year period.

Using a perpetual period of analysis, we estimated the total annualized cost savings of the rule to be $1.53 million in 2016 dollars, discounted back to 2016 dollars.

Change in Benefits

As noted, this rule will delay the effective date of the TWIC reader requirement for three categories of facilities: (1) Facilities that handle certain dangerous cargoes in bulk, but do not transfer these cargoes to or from a vessel; (2) facilities that handle certain dangerous cargoes in bulk, and do transfer these cargoes to or from a vessel; and (3) facilities that receive vessels carrying certain dangerous cargoes in bulk, but do not, during that vessel-to-facility interface, transfer these bulk cargoes to or from those vessels. The facilities for which the TWIC reader rule will be delayed will delay the enhanced benefits of electronic inspection, such as ensuring that only individuals who hold valid TWICs are granted unescorted access to secure areas, enhanced verification of personal identity, and a reduction in potential vulnerability by establishing earlier the intent of perpetrators who attempt to bypass or thwart the TWIC readers.

Summary of Cost Savings Under Executive Order 13771

This rule will generate a cost savings to both the industry and government, and therefore, this rule is an Executive Order 13771 deregulatory action. Table 16 summarizes the cost savings of this rule by comparing and subtracting the costs of this rule from the TWIC Reader rule costs. Because this rule will delay the implementation of the TWIC Reader rule by 3 years for 370 facilities, it will result in cost savings of $23.73 million for industry, $0.01 million for government, and $23.74 million total (all discounted at 7 percent) over a 10-year period of analysis. At a 7-percent discount rate, we estimate the annualized cost savings to be $3.38 million to the industry, $0.001 million to the government, and $3.38 million total. Using a 3-percent discount rate, we estimate the annualized cost savings to be $2.14 million to the industry, $0.0005 million to the government, and $2.14 million total. Using a perpetual period of analysis, we found total annualized cost savings of the rule to industry and the government to be $1.53 million in 2016 dollars, discounted back to 2016.

TABLE 16—SUMMARY OF COSTS SAVINGS UNDER EXECUTIVE ORDER 13771

Category	Cost savings of this final rule (millions 2016$)
Costs to Industry, Government and Total ($ millions, 7% discount rate)	Industry: $23.73 (10-year). Government: $0.01 (10-year). Total: $23.74 (10-year). Industry: $3.38 (annualized). Government: $0.001 (annualized). Total: $3.38 (annualized). Industry: $1.53 (perpetual). Government: $0.0005 (perpetual). Total: $1.53 (perpetual).

Alternatives

One regulatory alternative to this final rule is for the Coast Guard to take no action. Under this alternative, the TWIC Reader rule would become effective 60 days after Congress receives the HSOAC assessment, and all 370 facilities we identified in our 2016 TWIC Reader rule RA, in addition to the unknown number of facilities, would be expected to comply with the TWIC Reader rule. These entities would be required to implement the requirements for the electronic inspection of TWICs and would incur the costs we estimated in our 2016 TWIC Reader rule RA unless a waiver was granted by the Coast Guard.

Another alternative the Coast Guard considered was a waiver approach. However, because we currently lack a comprehensive risk analysis on the level of individualized facilities, we do not believe this approach maximizes benefits. In the absence of a new comprehensive risk analysis, the Coast Guard might issue blanket waivers that include facilities that may indeed warrant the additional security of electronic inspection. For example, consider two facilities with a 5,000 gallon tank of a CDC each. The tank in the first facility is placed near enough to the perimeter fence in a populated area that, if the tank explodes, would kill enough people to cause a TSI and, therefore, should require electronic TWIC inspection. That same tank on the other facility is located away from the water in an isolated area within the MTSA footprint (not near a population). If this tank explodes, it does not cause a TSI and therefore should not need to conduct electronic TWIC inspection. If the Coast Guard issued a blanket waiver for those facilities with a storage tank of CDC with 5,000 gallons or less, then we would not be properly implementing these requirements to mitigate the risks as intended.

We rejected both alternatives ('no action' and 'waiver approach') because they do not address our need to conduct a comprehensive risk analysis at the individual facility level to determine whether or not those 370 facilities and an unknown number of facilities would be required to comply with the final rule 60 days after Congress receives the HSOAC assessment, and also develop a consistent methodology that would form the rationale for Coast Guard when issuing waivers.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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 will delay the effective date of the TWIC Reader rule until May 8, 2023 for facilities that handle CDC in bulk. We estimate these facilities will experience an annualized cost savings of approximately $9,000 (with a 7-percent discount rate), and that on average each entity owns two facilities and will save approximately $18,000. We calculate that approximately 2% of the small entities impacted by this delay rule will have a cost savings that is greater than 1% but less than 3% of their annual revenue. The other 98% will have a cost savings that is less than 1% of their annual revenue.

Given this information, 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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

This rule will delay the implementation of existing regulations on certain facilities after evaluation by a risk-based set of security measures of MTSA-regulated facilities. Based on this analysis, each facility is classified according to its risk level, which then determines whether the facility will be required to conduct electronic TWIC inspection. As this rule does not impose any new requirements, but simply delays the implementation of existing requirements, it does not have preemptive impact.

Additionally, Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard provide elected officials of affected State and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and consultation with such officials early in the rulemaking process. Please refer to the TWIC Reader final rule for additional information regarding the federalism analysis of the substantive requirements (81 FR 57652, 57706).

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under Executive Order 13211, because although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Environmental Planning Commandant Instruction (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 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. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the **ADDRESSES** portion of the preamble. This rule is categorically excluded under paragraph L54 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. Paragraph L54 pertains to regulations that are editorial or procedural. This rule establishes a 3 year postponement of the effective date for deploying electronic transportation security card readers and requiring electronic TWIC inspection at certain facilities affected by the final rule entitled ''Transportation Worker Identification Credential (TWIC)—Reader Requirements,'' published in the **Federal Register** on August 23, 2016. This rule supports the Coast Guard's statutory mission to ensure port, waterway, and coastal security.

List of Subjects in 33 CFR Part 105

Maritime security, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 105 as follows:

PART 105—MARITIME SECURITY: FACILITIES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; Sec. 811, Pub. L. 111–281, 124 Stat. 2905; 33 CFR 1.05–16.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 105.253, revise paragraphs (a)(1) and (2) and add paragaphs (a)(3) and (4) to read as follows:

§ 105.253 Risk Group classifications for facilities.

(a) * * *

(1) Beginning June 8, 2020: Facilities that receive vessels certificated to carry more than 1,000 passengers.

(2) Beginning May 8, 2023: Facilities that handle Certain Dangerous Cargoes (CDC) in bulk and transfer such cargoes from or to a vessel.

(3) Beginning May 8, 2023: Facilities that handle CDC in bulk, but do not transfer it from or to a vessel.

(4) Beginning May 8, 2023: Facilities that receive vessels carrying CDC in bulk but, during the vessel-to-facility

interface, do not transfer it from or to the vessel.

* * * * *

Dated: October 31, 2019.

Karl L. Schultz,

Admiral, U.S. Coast Guard, Commandant.

Editorial note: The U.S. Coast Guard requested that the Office of the Federal Register hold this document from publication until delivery to Congress of the assessment required by the Transportation Worker Identification Credential Security Card Program Act (Pub. L. 114–278).

[FR Doc. 2019–24343 Filed 3–6–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0824]

Drawbridge Operation Regulation; Milwaukee, Menomonee, and Kinnickinnic Rivers and Burnham Canals, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard is seeking information and comments during a test schedule for the bridges crossing the Milwaukee, Menomonee, Kinnickinnic River, South Menomonee River, and Burnham Canals. The city of Milwaukee requested the regulations to be reviewed and updated to allow for a more balanced flow of maritime and land based transportation. The current regulation has been in place for over 30 years and is obsolete. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. The Coast Guard is seeking comments from the public regarding these proposed changes.

DATES: This deviation is effective from midnight on April 15, 2020 and ends at midnight on November 2, 2020.

Comments and related material must reach the Coast Guard on or before November 2, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0824 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose, and Legal Basis

The Milwaukee River is approximately 104 miles long. Beginning in Fond du Lac County the river flows easterly to a low head dam just above the Humboldt Avenue Bridge at mile 3.22 in downtown Milwaukee, WI. From here the river flows south to Lake Michigan. This southerly course of the Milwaukee River divides the lakefront area from the rest of the city. The Menomonee River joins the Milwaukee River at Mile 1.01 with the Kinnickinnic River joining the Milwaukee River at Mile 0.39. 21 bridges cross the Milwaukee River from mile 0.19 to mile 3.22. In the early 20th Century, the Milwaukee River was heavily used to support the industries in and around the Great Lakes. Today, the river has been redeveloped as a tourist and recreational destination. From its confluence with the Milwaukee River the Menomonee River flows west for 33 miles. The lower three miles of the Menomonee River is passable by vessels over 600 feet in length. Seven bridges cross the navigable portion of the Menomonee River.

The South Menomonee Canal and the Burnham Canal were both excavated during a waterways improvement project in 1864. Both man-made canals are tributaries of the Menomonee River branching just above its mouth. The South Menomonee Canal is crossed by two bridges and the Burnham Canal is crossed by three bridges. The Kinnickinnic River flows north through the southern portion of the City of Milwaukee connecting with the Milwaukee River near Lake Michigan. Only the lower 2.30 miles of the river have been improved for vessel use. Five bridges cross the river with the Lincoln Avenue Bridge at the head of navigation. Freighters up to 1,000 feet in length transfer cargoes at the confluence of the Kinnickinnic and Milwaukee Rivers. Most of the recreational vessels in Milwaukee moor in the lake front marinas and only transit the rivers. Boat yards on the Menomonee and Kinnickinnic rivers haul out and store most of the recreational vessels in the fall and winter months and launch the vessels in the spring. This action contributes to a considerable surge in drawbridge openings in the fall and spring.

The following bridges will be included in the test deviation: The Union Pacific Railroad Bridge, mile 0.59, over the Milwaukee River with a vertical clearance in the closed position of 7 feet above internet Great Lakes Datum of 1985 (IGLD85). The Broadway Street Bridge, mile 0.79, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Water Street Bridge, mile 0.94, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The St. Paul Avenue Bridge, mile 1.21, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Clybourn Street Bridge, mile 1.28, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. Michigan Street Bridge, mile 1.37, over the Milwaukee River with a vertical clearance in the closed position of 12 feet above IGLD85. The Wisconsin Avenue Bridge, mile 1.46, over the Milwaukee River with a vertical clearance in the closed position of 12 feet above IGLD85. The Wells Street Bridge, mile 1.61, over the Milwaukee River with a vertical clearance in the closed position of 12 feet above IGLD85. The Kilbourn Avenue Bridge, mile 1.70, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The State Street Bridge, mile 1.79, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Highland Avenue Pedestrian Bridge, mile 1.97, over the Milwaukee River with a vertical clearance in the closed position of 12 feet above IGLD85. The Juneau Avenue Bridge, mile 2.06, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Knapp Street/Park Freeway Bridge, mile 2.14, over the Milwaukee River with a vertical clearance in the closed position of 16 feet above IGLD85. The Cherry Street Bridge, mile 2.29, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Pleasant Street Bridge, mile 2.58, over the Milwaukee River with a vertical clearance in the closed position of 14 feet above IGLD85. The Canadian Pacific Railroad Bridge, mile 1.05, over the Menomonee River with a vertical clearance in the closed position of 8 feet above IGLD85. The North Plankinton Avenue Bridge, mile 1.08, over the Menomonee River with a vertical clearance in the closed position

of 14 feet above IGLD85. The North Sixth Street Bridge, mile 1.37, over the Menomonee River with a vertical clearance in the closed position of 23 feet above IGLD85. The Ember Lane Bridge, mile 1.95, over the Menomonee River with a vertical clearance in the closed position of 12 feet above IGLD85. The Sixteenth Street Bridge, mile 2.14, over the Menomonee River with a vertical clearance in the closed position of 35 feet above IGLD85. The South Sixth Street Bridge, mile 1.51, over the South Menomonee Canal with a vertical clearance in the closed position of 8 feet above IGLD85. The Union Pacific Railroad Bridge, mile 1.19, over the Kinnickinnic River with a vertical clearance in the closed position of 8 feet above IGLD85. The Kinnickinnic Avenue Bridge, mile 1.67, over the Kinnickinnic River with a vertical clearance in the closed position of 8 feet above IGLD85. The Canadian Pacific Railroad Bridge, mile 1.67, over the Kinnickinnic River with a vertical clearance in the closed position of 15 feet above IGLD85. Finally, the South First Street Bridge, mile 1.78, over the Kinnickinnic River with a vertical clearance in the closed position of 14 feet above IGLD85. These bridges currently operate under Title 33 of the Code of Federal Regulations (33 CFR) section 117.1093.

In response to downtown Milwaukee residents' concerns regarding a pronounced increase in vehicular traffic in the area, the City of Milwaukee has requested a complete review of the bridge regulations in this area.

Over the years these regulations have been amended considerably. This has had the effect of making them difficult to comprehend to the average person. Additionally, the cyclic higher water levels over the past 3 years and increased number of passenger vessels in the downtown area have resulted in significantly more bridge openings. Finally, the conversion of older business buildings into condominiums have increased the evening vehicle traffic causing major traffic delays when the bridges are lifted. While the Milwaukee River is the primary concern with residents and mariners, this rulemaking proposes changes to the language governing bridges in the entire Milwaukee Harbor area, for the purpose of updating these regulations to accurately reflect the current operational needs of these bridges and make them easier to understand by the general public.

Currently, the Canadian Pacific Railroad Bridge at Mile 1.74 over the Burnham Canal and the Sixth Street Bridge at Mile 1.37 over the Menomonee River are closed by regulation and do not need to open for the passage of vessels. The City of Milwaukee has requested that the Sixteenth Street Bridge, mile 2.14, over the Menomonee River remain closed and not open by regulation. No vessels have requested a bridge opening in at least 10 years and the bridge provides a horizontal clearance of 120 feet and a vertical clearance of 35 feet above IGLD85, allowing most vessels to pass under the bridge without an opening. The Coast Guard is working with the city of Milwaukee to convert the Sixteenth Street Bridge to a fixed structure.

Ice has historically hindered or prevented navigation during the winter months. For the last eight years the Coast Guard has authorized the drawbridges to open on signal with a 12-hour advance notice of arrival for vessels from November 19th to April 16th. After careful review of the drawtender logs provided by the City of Milwaukee, the Coast Guard proposes to allow all bridges to require a 12-hour advance notice for openings from November 1st to April 15th each year.

The City of Milwaukee requested that from 11 p.m. to 7 a.m. daily, the bridges would open on signal with a 2-hour advance notice. During these hours the bridges would not be manned and roving drawtenders would open the bridges for vessels. After reviewing the 2016, 2017, and 2018 drawtender logs it was found that for those hours between April and November of each year an average of 45 vessels requested openings. Of these requests an average of 32 openings were between the hours of 11 p.m. and midnight. From midnight to 7 a.m. there were only 13 vessels that requested openings. After reviewing the data we have concluded that due to a lack of openings from midnight to 7 a.m. that a two-hour advance notice of arrival for a bridge opening meets the reasonable needs of navigation.

The City of Milwaukee also reported receiving several complaints from residents in the downtown area concerning the noise associated with the waterfront. To improve the quality of downtown living we propose to remove the special sound signals listed in the CFR for each bridge. Mariners would request openings by using the standard sound signal of one prolonged blast followed by one short blast or by agreement on VHF–FM Marine Radio or by telephone. From Midnight to 7 a.m. the bridges would require a 2-hour advance notice of arrival provided by VHF–FM Marine Radio or by telephone, thus reducing some of the noise associated with the waterfront.

The City of Milwaukee requests to operate the following bridges remotely: North Plankinton Avenue, mile 1.08, North Sixth Street, mile 1.37, and North Ember Lane, mile 1.95, all over the Menomonee River. Each remotely operated bridge will have sufficient equipment to operate as if a drawtender is in attendance at the bridge. No drawtender will be responsible for monitoring or operating more than 3 drawbridges at any time. At a minimum each remotely operated drawbridge will have the capabilities to communicate by 2-way public address system, equipment capable of making appropriate sound signals as required, and have adequate camera systems in place to safely operate the bridge.

The current regulation allows for no openings from 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m. for vehicular rush hours. The city has requested to start the evening rush hour at 4 p.m. instead of 4:30 p.m. to help relieve vehicle congestion. The city of Milwaukee provided the following vehicle data compiled by the Wisconsin Department of Transportation to support the additional 30 minutes of evening rush hour times. We have averaged the data into the following table:

Bridge name	Daily average vehicle counts	Average vehicle counts 4:30 p.m. to 5:30 p.m.	Average vehicle counts 4 p.m. to 4:30 p.m.	Average vehicle counts 4:00 p.m. to 5:30 p.m.
Broadway	11,201	1,582	332	1,914.
Water St	17,753	1,669	742	2,411.
St Paul Ave	10,344	No Data	No Data	No Data.
Clybourn St	11,262	955	848	1,803.
Michigan St	10,484	1,202	304	1,506.
Wisconsin Ave	10,423	1,144	323	1,467.
Wells St	8,372	1,114	295	1,409.
Kilbourn Ave	15,590	No Data	No Data	No Data.

Bridge name	Daily average vehicle counts	Average vehicle counts 4:30 p.m. to 5:30 p.m.	Average vehicle counts 4 p.m. to 4:30 p.m.	Average vehicle counts 4:00 p.m. to 5:30 p.m.
Juneau Ave	7,265	No Data	No Data	No Data.
Cherry St	No Data	No Data	No Data	No Data.
Pleasant St	6,307	No Data	882 PEAK	No Data.
Knapp St	20,792	No Data	No Data	No Data.
Kinnickinnic Ave	17,019	No Data	No Data	No Data.
South First St	12,992	No Data	No Data	No Data.
North Plankinton Ave	6,578	No Data	768 PEAK Daily	No Data.
North 6th St	15,045	No Data	No Data	No Data.
South 6th St	15,045	No Data	No Data	No Data.
(Muskego) Emmber Ln	4,616	No Data	No Data	No Data.
1st Street	13,772	No Data	902	4,107.

Based on the data provided we intend to extend the rush hour times of no lifts to 4 p.m. to 5:30 p.m. Monday through Friday, except Federal Holidays.

Additionally, at the time when the original regulation was being written the stipulating regulation regarding the opening of bridges for public safety vessels had not yet been promulgated. An exception was included for vessels carrying U.S. mail and vessels that carry over 50 passengers for hire. The mail service no longer arrives by vessel. Limiting the exclusion by passenger count excludes other commercial vessels from transiting the river. This exclusion is only for the times the bridges do not need to open during high traffic times. During the test deviation, which is planned for the summer of 2020, the intent is to modify this exception to read: ''vessels documented at 10 tons or more.'' This prevents tug and barge, cement boats, some passenger vessels, and other large vessels (commercial or recreational) from getting trapped between bridges, which creates an especially unsafe condition.

The new exemption only prevents vessels from being trapped between bridges and does not exempt vessels from any times the bridges are not required to open. In other Great Lakes ports exemptions are allowed for safety reasons, it prevents a large vessel from station keeping in a restricted area with other smaller craft that could be damaged from the larger vessel. Additionally, if all commercial vessels were given a complete exemption to the periods where no bridge openings are required, also known as ''Rush Hours,'' then there would be no relief for the traffic congestion the downtown area is experiencing.

The two-hour advance notice requirement for all other bridges as noted in the ANPRM, has been in place since 1965 with no request to amend it. Most of these bridges have a clearance of 14 feet above IGLD85 or have limited requests for openings.

The test deviation will start at midnight on April 15, 2020 and end at midnight on November 1, 2020.

The operating schedule authorized:

The draws of the bridges over the Milwaukee River shall operate as follows:

(1) The draws of the North Broadway Street bridge, mile 0.5, and North Water Street bridge, mile 0.6, and Michigan Street bridge, mile 1.1, shall open on signal; except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draws need not be opened, and from midnight to 7 a.m. Monday through Saturday, except Federal holidays, the bridges will open on signal if a 2-hour advance notice is provided.

(2) The draws of all other bridges across the Milwaukee River shall open on signal if at least 2-hours' notice is given except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draws need not be opened.

(3) The following bridges are remotely operated, are required to operate a radiotelephone, and shall open as noted in this section; St Paul Avenue, mile 1.21, Clybourn Street, mile 1.28, Wells Street, mile 1.61, Kilbourn Street, mile 1.70, State Street, mile 1.79, Highland Avenue, mile 1.97, and Knapp Street, mile 2.14.

(4) No vessel documented 10 tons or greater shall be held between any bridge at any time and must be passed as soon as possible.

(5) From November 2nd through April 15th, all drawbridges over the Milwaukee River will open on signal if a 12-hour advance notice is provided.

The draws of bridges across the Menomonee River and South Menomonee Canal operate as follows:

(1) The draw of the North Plankinton Avenue bridge across the Menomonee River, mile 1.08, shall open on signal; except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draws need not be opened, and from midnight to 7 a.m. Monday through Friday, except Federal holidays, the bridges will open on signal if a 2-hour advance notice is provided.

(2) The draws of all other bridges across the Menomonee River and South Menomonee Canal shall open on signal if at least 2-hours' notice is given except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draws need not be opened.

(3) The following bridges are remotely operated, are required to operate a radiotelephone, and shall open as noted in this section; North Plankinton Avenue, mile 1.08, North Sixth Street, mile 1.37, and North Ember Lane, mile 1.95, all over the Menomonee River and South Sixth Street, mile 1.51, over the South Menomonee Canal.

(4) No commercial vessel over 50 tons shall be held between any bridge at any time and must be passed as soon as possible.

(5) From November 2nd through April 15th, all drawbridges over the Menomonee River and South Menomonee Canal will open on signal if a 12-hour advance notice is provided.

The draws of bridges across the Kinnickinnic River operate as follows:

(1) The draw of the Kinnickinnic Avenue bridge, mile 1.5, shall open on signal; except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draws need not be opened, and from midnight to 7 a.m. Monday through Friday, except Federal holidays, the bridges will open on signal if a 2-hour advance notice is provided.

(2) The draws of all other bridges across the Kinnickinnic River shall open on signal if at least 2-hours' notice is given except that, from April 16th through November 1st, from 7:30 a.m. to 8:30 a.m. and from 4 p.m. to 5:30 p.m.

Monday through Friday, except Federal holidays, the draws need not be opened.

(3) The following bridges are remotely operated, are required to operate a radiotelephone, and shall open as noted in this section; The South First Street Bridge, mile 1.78.

(4) No commercial vessel over 50 tons shall be held between any bridge at any time and must be passed as soon as possible.

(5) From November 2nd through April 15th, all drawbridges over the Kinnickinnic River will open on signal if a 12-hour advance notice is provided.

The Canadian Pacific Railroad Bridge at Mile 1.74 over the Burnham Canal, and the Sixteenth Street Bridge, mile 2.14, over the Menomonee River are closed by regulation and do not need to open for the passage of vessels.

During non-special event weekdays the owners of all affected bridges will provide records showing the dates and times of bridge openings and the type of vessels the bridge opened for. The city of Milwaukee will also provide information on the vehicle congestion caused or improved by the temporary deviation by providing the number of vehicles waiting for the bridge to close after a vessel passes.

Because we took into consideration the comments from the ANPRM, vehicle counts, and past three years of vehicle counts, we believe the test deviation will have a limited impact on vessels.

The city of Milwaukee held public discussions about the potential rule change through public works meetings conducted throughout the summer of 2018. Prior to asking for our review, this office reached out to several commercial vessels which operate on the affected waterways prior to the release of the ANPRM. These actions were aimed at developing a test deviation that took all pertinent comments and concerns under consideration.

Vessels that can safely pass under the bridge without an opening may do so at any time. The Coast Guard will also inform the users of the waterways of the change in operating schedule for the bridges through our Local and Broadcast Notices to Mariners.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

II. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: February 25, 2020.

D. L. Cottrell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2020–04659 Filed 3–6–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0105]

Safety Zone; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone between mile marker (MM) 95.7 and MM 96.7 above Head of Passes, Lower Mississippi River, LA. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display on March 18, 2020. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 165.845 will be enforced from 9 p.m. to 10 p.m. on March 18, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Commander Corinne Plummer, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2375, email *Corinne.M.Plummer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone located in 33 CFR 165.845 for the River Center Fireworks Display event. The regulations will be enforced from 9:00 p.m. through 10:00 p.m. on March 18, 2020. This action is being taken to provide for the safety of life on navigable waterways during this event, which will be located between MM 95.7 and MM 96.7 above Head of Passes, Lower Mississippi River, LA. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard Ensign.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via a Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: March 2, 2020.

K.M. Luttrell,

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

[FR Doc. 2020–04664 Filed 3–6–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR 165

[Docket Number USCG–2016–1067]

RIN 1625–AA00

Safety Zone; Hurricanes, Tropical Storms and Other Disasters in South Florida

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a safety zone that would restrict certain vessels from entering or transiting through certain navigable waters in the Miami River and Ports of Miami, Everglades, Palm Beach and Fort Pierce during periods of reduced or restricted visibility due to tropical storm force winds (39–73 mph/34–63 knots), hurricanes and/or other disasters. This action is necessary for the safety of life

on these navigable waters within the Sector Miami Captain of the Port (COTP) zone.

DATES: This rule is effective April 8, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2016–1067 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking contact Mr. Omar Beceiro, Sector Miami Waterways Management Division, U.S. Coast Guard at (305) 535–4317, or by email at *Omar.Beceiro@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The COTP has determined reduced or restricted visibility and tropical storm force winds, which may occur during tropical storms, hurricanes and other disasters, constitutes a safety concern for vessels within the Miami COTP zone. As a result, the Coast Guard published a notice of proposed rulemaking (NPRM) on June 5, 2017 [1] to establish a temporary safety zone over certain navigable waters in the Miami River and Ports of Miami, Everglades, Palm Beach and Fort Pierce. Since a considerable amount of time passed and a final rule was not published, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) on October 3, 2019. [2] During the comment period that ended November 4, 2019, the Coast Guard received two comments.

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 Miami has determined reduced or restricted visibility and tropical storm force winds, which may occur during tropical storms, hurricanes and other disasters, constitutes a safety concern. The purpose of this rule is to ensure safety of certain vessels and navigable waters in the safety zone before, during, and after tropical storms, hurricanes and other disasters.

IV. Discussion of Comments, Changes, and the Rule

As noted above, the Coast Guard received two comments on the SNPRM in support of the proposed rule. In the regulatory text of this rule, we made one change by changing the section number of regulation from § 165.785 to § 165.706. We are making this change because § 165.785 is already being used for another regulation.

This rule establishes a safety zone that restricts certain vessels from entering or transiting through certain navigable waters in the Miami River and Ports of Miami, Everglades, Palm Beach and Fort Pierce during periods of reduced or restricted visibility due to tropical storm force winds (39–73 mph/34–63 knots), hurricanes and/or other disasters. The duration of the regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after periods of tropical storm force winds.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Certain vessels will be affected by this rule only when heavy weather is forecast to make imminent landfall within the Sector Miami COTP zone. In addition, vessel traffic would be secured only during port conditions Yankee and Zulu, and only in ports potentially affected by tropical storm force winds. The Coast Guard will issue updates on *https://homeport.uscg.mil/port-directory/miami,* via broadcasts on VHF–FM marine channel 16, and during Severe Weather Advisory Team meetings.

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 did not receive any 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).

[1] See 82 FR 21742.

[2] See 84 FR 52835.

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 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 of limited duration in the Miami COTP zone implemented during tropical storms, hurricanes or other heavy weather events. This action is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. 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 § 165.706 to read as follows:

§ 165.706 Safety Zone; Hurricanes, Tropical Storms and Other Disasters in South Florida.

(a) *Regulated Areas.* All navigable waters, as defined in 33 CFR 2.36, within Sector Miami COTP zone, Miami, Florida, as described in 33 CFR 3.35–10, during specified conditions.

(b) *Definitions.* (1) The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP Miami, in the enforcement of the regulated areas.

(2) Port Condition WHISKEY means a condition set by the COTP when weather advisories indicate sustained tropical storm force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 72 hours.

(3) Port Condition X-RAY means a condition set by the COTP when weather advisories indicate sustained tropical storm force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 48 hours.

(4) Port Condition YANKEE means a condition set by the COTP when weather advisories indicate that sustained tropical storm force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours.

(5) Port Condition ZULU means a condition set by the COTP when weather advisories indicate that sustained tropical storm force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 12 hours.

(c) *Regulations*—(1) *Port Condition WHISKEY.* All vessel and port facilities must exercise due diligence in preparation for potential storm impacts. Slow-moving vessels may be ordered to depart to ensure safe avoidance of the incoming storm upon the anticipation of the setting of Port Condition X-RAY. Ports and waterfront facilities shall begin removing all debris and securing potential flying hazards. Container stacking plans shall be implemented. Waterfront facilities that are unable to reduce container-stacking height to no more than four high must submit a container stacking protocol to the COTP.

(2) *Port Condition X-RAY.* All vessels and port facilities shall ensure that potential flying debris is removed or secured. Hazardous materials/pollution hazards must be secured in a safe manner and away from waterfront areas. Facilities shall continue to implement container-stacking protocol. Containers must not exceed four tiers, unless previously approved by the COTP. Containers carrying hazardous materials may not be stacked above the second tier. All oceangoing commercial vessels greater than 500-gross tons must prepare to depart ports and anchorages within the affected regulated area. These vessels shall depart immediately upon the setting of Port Condition YANKEE. During this condition, slow-moving vessels may be ordered to depart to ensure safe avoidance of the incoming storm. Vessels that are unable to depart the port must contact the COTP to request and receive permission to remain in port. Vessels with COTP's permission to remain in port must implement their pre-approved mooring arrangement. Terminal operators shall prepare to terminate all cargo operations. The COTP may require additional precautions to ensure the safety of the ports and waterways.

(3) *Port Condition YANKEE.* Affected ports would be closed to inbound vessel traffic. All oceangoing commercial vessels greater than 500-gross tons must have departed designated ports within the Sector Miami COTP zone. Appropriate container stacking protocol must be completed. Terminal operators must terminate all cargo operations not

associated with storm preparations. Cargo operations associated with storm preparations include moving cargo within or off the port for securing purposes, crane and other port/facility equipment preparations, and similar activities, but do not include moving cargo onto the port or vessel loading/discharging operations unless specifically authorized by the COTP. All facilities shall continue to operate in accordance with approved Facility Security Plans and comply with the requirements of the Maritime Transportation Security Act (MTSA).

(4) *Port Condition ZULU.* All port waterfront operations are suspended, except final preparations that are expressly permitted by the COTP as necessary to ensure the safety of the ports and facilities. Coast Guard Port Assessment Teams will conduct final port assessments.

(5) *Emergency Restrictions for Other Disasters.* Any natural or other disasters that are anticipated to affect the Sector Miami COTP zone will result in the prohibition of facility operations and commercial vessel traffic transiting or remaining in the affected port.

Dated: January 14, 2020.

J.F. Burdian,

Captain, U.S. Coast Guard, Captain of the Port, Miami.

[FR Doc. 2020–04709 Filed 3–6–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 300, 361, 363, 367, 370, and 381

[Docket ID ED–2020–OSERS–0022]

Assistance to States for the Education of Children With Disabilities; State Vocational Rehabilitation Services; State Supported Employment Services; Independent Living Services for Older Individuals Who Are Blind; Protection and Advocacy of Individual Rights; Client Assistance Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notification of policy statement; request for comment.

SUMMARY: The Office of Special Education and Rehabilitative Services (OSERS) is seeking comment on its October 29, 2019, policy statement and frequently asked questions (Policy Statement) granting prior approval for two direct cost categories under the Department's authority in the Office of Management and Budget's (OMB's) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The prior approval applies to State formula grant programs administered by the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA) for two direct cost categories: Participant support costs and equipment.

DATES: We must receive your comments on or before April 8, 2020.

ADDRESSES: Submit your comments through the Federal eRulemaking portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to use *Regulations.gov*'' in the Help section.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this proposed interpretation, address them to the appropriate individual listed under **FOR FURTHER INFORMATION CONTACT**.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For programs administered by OSEP, Matthew Schneer, U.S. Department of Education, 400 Maryland Avenue SW, Room 5055, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6755. Email: *Matthew.Schneer@ed.gov.*

For programs administered by RSA, David Steele, U.S. Department of Education, 400 Maryland Avenue SW, Room 5157, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6520. Email: *David.Steele@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments on the Policy Statement. See **ADDRESSES** for instructions on how to submit comments.

During and after the comment period, you may inspect all public comments about this proposed interpretation by accessing *Regulations.gov.* You may also inspect the comments in person in Room 5008 between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays. If you want to schedule time to inspect comments, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background: On October 29, 2019, OSERS first published the Policy Statement that granted prior approval for two direct cost categories under the Department's authority in the OMB's Uniform Guidance, codified in 2 CFR 200.407(f) and (t), 200.439(b), and 200.456.

The prior approval applies to two direct cost categories, participant support costs and equipment, in the following State formula grant programs administered by OSEP and RSA:

OSEP

1. Individuals with Disabilities Education Act (IDEA) Part B Section 611 Grants to States;
2. IDEA Section 619 Preschool Grants; and
3. IDEA Part C Grants for Infants and Families.

RSA

1. State Vocational Rehabilitation (VR) Services under the Rehabilitation Act of 1973 (Rehabilitation Act);
2. State Supported Employment (Supported Employment) Services;
3. Independent Living Services for Older Individuals Who Are Blind (OIB);
4. Protection and Advocacy of Individual Rights (PAIR); and
5. Client Assistance Program (CAP).

When we released the Policy Statement last October, we did so on an interim basis to provide grantees with

immediate information to assist them in meeting their obligations under the Uniform Guidance for the listed RSA and OSEP programs. We noted that, ''[w]e intend to publish this further and invite public comments,'' and we are doing so now. We will consider these comments in determining whether to take any future action with respect to the Policy Statement. The Policy Statement is available on the Federal eRulemaking portal, *www.regulations.gov,* under docket no. ED–2020–OSERS–0022.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or portable document format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2020–04462 Filed 3–6–20; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0688; FRL–10005–14–OAR]

RIN 2060–AT00

National Emission Standards for Hazardous Air Pollutants: Stationary Combustion Turbines Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Stationary Combustion Turbines source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing requirements during periods of startup, shutdown, and malfunction (SSM) and to add electronic reporting requirements. The EPA is finalizing our proposed determination that the risks from this source category due to emissions of air toxics are acceptable and that the existing NESHAP provides an ample margin of safety to protect public health. The EPA is also finalizing our proposed determination that we identified no new cost-effective controls under the technology review that would achieve further emissions reductions from the source category.

DATES: This final rule is effective on March 9, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of March 9, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0688. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Melanie King, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2469; fax number: (919) 541–4991; and email address: *king.melanie@epa.gov.* For specific information regarding the risk modeling methodology, contact Mark Morris, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5416; and email address: *morris.mark@epa.gov.* For information about the applicability of the Stationary Combustion Turbines NESHAP to a particular entity, contact Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 77 West Jackson Boulevard (Mail Code E–19J), Chicago, Illinois 60604; telephone number: (312) 353–6266; and email address: *ayres.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ANSI American National Standards Institute
ASME American Society of Mechanical Engineers
BACT best available control technology
CAA Clean Air Act
CAER Combined Air Emissions Reporting
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emissions monitoring systems
CFR Code of Federal Regulations
CMS continuous monitoring system
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FTIR Fourier transform infrared
HAP hazardous air pollutants(s)
HQ hazard quotient
IBR incorporation by reference
km kilometer
LAER lowest achievable emission rate
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NOx oxides of nitrogen
NTTAA National Technology Transfer and Advancement Act
O_2 oxygen
OMB Office of Management and Budget
PB–HAP hazardous air pollutant known to be persistent and bio-accumulative in the environment
ppbvd parts per billion by volume, dry basis
PRA Paperwork Reduction Act
PTC performance test code
RACT reasonably available control technology

RBLC RACT/BACT/LAER Clearinghouse
REL recommended exposure limit
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SCR selective catalytic reduction
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
U.S. United States
U.S.C. United States Code
v. versus
VCS voluntary consensus standard
XML extensible markup language

Background information. On April 12, 2019, the EPA proposed the RTR for the Stationary Combustion Turbines NESHAP as well as amendments addressing periods of SSM and requiring electronic reporting. In this action, we are finalizing certain decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *National Emission Standards for Hazardous Air Pollutants from Stationary Combustion Turbines (40 CFR part 63, subpart YYYY), Residual Risk and Technology Review, Final Amendments, Summary of Public Comments and Responses on Proposed Rule,* Docket ID No. EPA–HQ–OAR–2017–0688. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

At this time, the EPA is not finalizing the proposed removal of the administrative stay of the effectiveness of the standards for new lean premix and diffusion flame gas-fired turbines to allow for additional time to review the public comments on the proposed removal of the stay, as well as a petition to delist the Stationary Combustion Turbines source category that was filed in August 2019. This final rule does not include responses to comments on lifting the stay. The EPA is still reviewing the comments on lifting the stay and will respond to them in any subsequent action.

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code
Stationary Combustion Turbines	2211, 486210, 211111, 211113, 221.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/stationary-combustion-turbines-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal**

Register version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of the final actions is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by May 8, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 15046.

B. What is the Stationary Combustion Turbines source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Stationary Combustion Turbines NESHAP on March 5, 2004 (69 FR 10512). The standards are codified at 40 CFR part 63, subpart YYYY, and apply to stationary combustion turbines at major sources of HAP. The stationary combustion turbine industry consists of facilities that own and operate stationary combustion turbines. The source category covered by this MACT standard currently includes 243 facilities. Stationary combustion turbines are typically located at power plants, compressor stations, landfills and industrial facilities such as chemical plants.

Stationary combustion turbines have been divided into the following eight subcategories: (1) Emergency stationary combustion turbines, (2) stationary combustion turbines which burn landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis or where gasified municipal solid waste is used to generate 10 percent or more of the gross heat input to the stationary combustion turbine on an annual basis, (3) stationary combustion turbines of less than 1 megawatt rated peak power output, (4) stationary lean premix combustion turbines when firing gas

[1] The court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

and when firing oil at sites where all turbines fire oil no more than an aggregate total of 1,000 hours annually (also referred to herein as ''lean premix gas-fired turbines''), (5) stationary lean premix combustion turbines when firing oil at sites where all turbines fire oil more than an aggregate total of 1,000 hours annually (also referred to herein as ''lean premix oil-fired turbines''), (6) stationary diffusion flame combustion turbines when firing gas and when firing oil at sites where all turbines fire oil no more than an aggregate total of 1,000 hours annually (also referred to herein as ''diffusion flame gas-fired turbines''), (7) stationary diffusion flame combustion turbines when firing oil at sites where all turbines fire oil more than an aggregate total of 1,000 hours annually (also referred to herein as ''diffusion flame oil-fired turbines''), and (8) stationary combustion turbines operated on the North Slope of Alaska (defined as the area north of the Arctic Circle (latitude 66.5 degrees North)).

The sources of emissions are the exhaust gases from combustion of gaseous and liquid fuels in a stationary combustion turbine. The HAP that are present in the exhaust gases from stationary combustion turbines include formaldehyde, toluene, benzene, and acetaldehyde. Metallic HAP are present in the exhaust from distillate oil-fired turbines; these metallic HAP are generally carried over from the fuel constituents.

The NESHAP requires new or reconstructed stationary combustion turbines in the lean premix gas-fired, lean premix oil-fired, diffusion flame gas-fired, and diffusion flame oil-fired subcategories to meet a formaldehyde limit of 91 parts per billion by volume, dry basis (ppbvd) at 15-percent oxygen (O_2). Compliance is demonstrated through initial and annual performance testing and continuous monitoring of operating parameters. The requirements of the rule are currently under a stay of effectiveness for new lean premix and diffusion flame gas-fired turbines.

C. What changes did we propose for the Stationary Combustion Turbines source category in our April 12, 2019, proposal?

On April 12, 2019, the EPA published a proposed rule in the **Federal Register** for the Stationary Combustion Turbines NESHAP, 40 CFR part 63, subpart YYYY, that took into consideration the RTR analyses. In the proposed rule, we proposed to find that risks from the Stationary Combustion Turbines source category due to emissions of air toxics are acceptable and that the existing NESHAP provides an ample margin of safety to protect public health. No new cost-effective controls were identified in the technology review for the proposed rule. The EPA also proposed to eliminate the exemption for periods of SSM, and our risk analysis assumed removal of that exemption. We proposed a new requirement to electronically submit performance test results and semiannual compliance reports. Finally, we proposed to remove the stay of the standards for new lean premix and diffusion flame gas-fired turbines. We did not propose any revisions to the emission standards based on our RTR.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Stationary Combustion Turbines source category. This action also finalizes other changes to the NESHAP, including amendments to the SSM provisions and the addition of electronic reporting requirements. This action reflects changes to the April 19, 2019, proposal in consideration of comments received during the public comment period described in section IV of this preamble.

As stated previously, the EPA is not finalizing the proposed removal of the stay of the effectiveness of the standards for new lean premix and diffusion flame gas-fired turbines at this time. The EPA received numerous comments on the proposed stay indicating that 180 days is not sufficient time for owners and operators to conduct all of the activities that are needed for their turbines to come into compliance with the standards, which include the design, procurement, and installation of emission controls and parametric monitoring equipment that can fit within existing sites (as compared to new facilities where the controls are incorporated into the facility design), performance testing, and implementation of procedures for monitoring, recordkeeping, and reporting. More time is needed to review these comments on the removal of the stay. In addition, the EPA received a petition to delist the Stationary Combustion Turbines source category from regulation under CAA section 112 in August 2019. As discussed in more detail in the April 12, 2019, proposal, the EPA proposed to delist certain subcategories of stationary combustion turbines in 2004 under CAA section 112(c)(9)(B) and stayed the effectiveness of the standards for those subcategories, pending the outcome of the proposed delisting. A subsequent 2007 decision by the court [2] held that the EPA has no authority to delist subcategories under CAA section 112(c)(9)(B). Consequently, the EPA proposed to remove the stay in the April 12, 2019, proposal. In recognition of the EPA's inability to delist subcategories under CAA section 112(c)(9)(B), the new August 2019 petition requests delisting of the entire Stationary Combustion Turbines source category and provides an assessment of the risks for the entire source category. A copy of the petition is in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0688). The EPA is in the process of reviewing the petition and has not made a determination regarding whether the information included in the petition supports delisting the entire source category, but notes that the petitioners provided an analysis of the risks from the source category and, based on their analysis, the petitioners concluded that a demonstration can be made that delisting is appropriate under CAA section 112(c)(9)(B). The EPA has determined that it would be reasonable to delay taking final action on the stay until we have made a determination regarding the source category delisting petition, so that turbine owners and operators do not make expenditures on emission controls and performance testing that will not be required if the source category is delisted. Such expenditures would be wasteful and unwarranted if the source category is delisted. Moreover, the EPA has no legal obligation to lift the stay in this RTR rulemaking. Although the EPA often uses the RTR rulemaking vehicle to revise or update various aspects of a NESHAP, as it did here with respect to its proposal to eliminate a stay provision in the rule, the EPA did not do so nor is the EPA required to do so under CAA section 112(d)(6) or (f)(4).

A. What are the final rule amendments based on the risk review for the Stationary Combustion Turbines source category?

We are finalizing our proposed finding that risks remaining after implementation of the existing MACT standards for this source category (as revised in this action to remove the SSM exemption) are acceptable. We are also finalizing our proposed determination that the current NESHAP (as revised in this action to remove the SSM exemption) provides an ample margin of safety to protect public health. Therefore, we are not finalizing any revisions to the numerical emission

[2] *NRDC* v. *EPA,* 489 F.3d 1364 (D.C. Cir. 2007).

limits based on these analyses conducted under CAA section 112(f).

B. What are the final rule amendments based on the technology review for the Stationary Combustion Turbines source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

We have eliminated the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA,* the EPA has established standards in this rule that apply at all times. We have also revised Table 7 (the General Provisions applicability table) in several respects as is explained in more detail in the proposal. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develop an SSM plan. We have also eliminated and revised certain recordkeeping and reporting requirements that are related to the SSM exemption as described in detail in the proposed rule and in section IV.C of this preamble.

D. What other changes have been made to the NESHAP?

The EPA is requiring owners and operators of stationary combustion turbine facilities to submit electronic copies of certain required performance test results and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [3] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format using the attachment module of the ERT. The test methods required by 40 CFR part 63, subpart YYYY that are currently supported by the ERT are EPA Methods 3A and 4 of 40 CFR part 60, appendix A. For periodic compliance reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the template for these reports is located on the CEDRI website.[4]

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. For a more thorough discussion of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2017–0688.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on March 9, 2020. The compliance date for affected sources to comply with the amendments pertaining to SSM and electronic reporting is 180 days after the effective date of the final rule. As discussed elsewhere in this preamble, we are adding a requirement that performance test results and semiannual compliance reports be submitted electronically, and we are changing the requirements for periods of SSM by removing the exemption from the requirement to meet the emission standards during periods of SSM and promulgating an operational standard for startup. Our experience with similar industries that are required to convert reporting mechanisms to install necessary hardware and software, become familiar with the process of submitting performance test results and compliance reports electronically through the EPA's CEDRI, test these new electronic submission capabilities, and reliably employ electronic reporting shows that a time period of a minimum of 90 days and, more typically, 180 days, is generally necessary to successfully accomplish these revisions. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; to evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; and to update their operation, maintenance, and monitoring plans to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable and, thus, is requiring that affected sources must be in compliance with all of the revised requirements within 180 days of the regulation's effective date. All affected facilities would have to continue to meet the current requirements of 40 CFR part 63, subpart YYYY, until the applicable compliance date of the amended rule.

IV. What is the rationale for our final decisions and amendments for the Stationary Combustion Turbines source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

[3] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[4] *https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri.*

A. Residual Risk Review for the Stationary Combustion Turbines Source Category

1. What did we propose pursuant to CAA section 112(f) for the Stationary Combustion Turbines source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the April 12, 2019, proposed rule for 40 CFR part 63, subpart YYYY (84 FR 15046). The results of the risk assessment for the proposal are presented briefly below in Table 2 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Stationary Combustion Turbines Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0688).

TABLE 2—STATIONARY COMBUSTION TURBINES INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at increased risk of cancer ≥1-in-1 million		Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Based on actual emissions level
253	3	3	42,000	42,000	0.04	0.04	0.04	0.04	HQ_{REL} = 2 (acrolein), HQ_{AEGL-1} = 0.07

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory. The respiratory TOSHI was calculated using the California Environmental Protection Agency chronic recommended exposure limit (REL) for acrolein. The EPA is in the process of updating the Integrated Risk Information System reference concentration for acrolein.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the proposal inhalation risk modeling using actual and allowable emissions data, as shown in Table 2 of this preamble, indicate that the maximum lifetime individual cancer risk (MIR) is 3-in-1 million, the maximum chronic noncancer TOSHI is 0.04, and the maximum screening acute noncancer HQ (off-facility site) is 2 (driven by acrolein). Only one facility has an HQ (REL) that exceeds 1. At proposal, the total annual cancer incidence (national) from these facilities was estimated to be 0.04 excess cancer cases per year, or one case in every 25 years. The facility-wide maximum lifetime cancer MIR was estimated to be 2,000-in-1 million at proposal, driven by ethylene oxide emissions from chemical manufacturing. At proposal, the total estimated cancer incidence from whole facility emissions was estimated to be 0.7 excess cancer cases per year, or one excess case in every 1 to 2 years. Approximately 2.8 million people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources at the facilities in the source category. The estimated maximum chronic noncancer TOSHI based on facility-wide emissions is 4 (respiratory), driven by emissions of chlorine from chemical manufacturing, and approximately 360 people are exposed to a TOSHI above 1.

At proposal, potential multipathway human health risks were estimated using a three-tier screening assessment of the persistent bio-accumulative HAP (PB–HAP) emitted by facilities in this source category. The only pollutants with elevated Tier 1 and Tier 2 screening values were arsenic (cancer), cadmium (noncancer), and mercury (noncancer). The Tier 3 screening values for these pollutants were low. For cancer, the Tier 3 screening value for arsenic was 4. For noncancer, the Tier 3 screening value for cadmium was less than 1, and the screening value for mercury was 1.

Several environmental HAP are emitted by sources within this source category: Arsenic, dioxins/furans, and polycyclic organic matter. Therefore, at proposal we conducted a three-tier screening assessment of the potential adverse environmental risks associated with emissions of these pollutants. Based on this assessment (through Tier 2), there were no exceedances of any of the ecological benchmarks evaluated for any of the pollutants, and we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Stationary Combustion Turbines source category are acceptable (section IV.B.1 of proposal preamble, 84 FR 15062, April 12, 2019). We then considered whether 40 CFR part 63, subpart YYYY provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered all health factors evaluated in the risk assessment and evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied to this source category to further reduce the risks (or potential risks) due to emissions of HAP identified in our risk assessment. In this analysis, we considered the results of the technology review, risk assessment, and other aspects of our MACT rule review to determine whether there are any emission reduction measures necessary to provide an ample margin of safety with respect to the risks associated with these emissions. Our risk analysis indicated the risks from the source category are low for both cancer and noncancer health effects, and, therefore, any risk reductions from further available control options would result in minimal health benefits. Moreover, as noted in our discussion of the technology review, no additional cost-effective measures were identified for reducing HAP emissions from affected sources in the Stationary Combustion Turbines source category. Thus, we determined that the current Stationary Combustion Turbines NESHAP provides an ample margin of safety to protect public health.

Our technology review focused on identifying developments in practices, processes, and control technologies that

have occurred since the Stationary Combustion Turbines NESHAP was originally promulgated in 2004. Our review of the developments in technology for the Stationary Combustion Turbines source category did not reveal any changes that require revisions to the emission standards. The only add-on HAP emission control technology identified in the original NESHAP rulemaking was an oxidation catalyst. No new or improved add-on control technologies that reduce HAP emissions from turbines were identified during the technology review. Our review also did not identify any new or improved operation and maintenance practices, process changes, pollution prevention approaches, or testing and monitoring techniques for stationary combustion turbines. Therefore, we determined that no revisions are necessary pursuant to CAA section 112(d)(6).

2. How did the risk review change for the Stationary Combustion Turbines source category?

The only change in the risk assessment for the final rule is that the EPA modeled an additional 46 turbines that were identified in a public comment (Docket ID Item No. EPA–HQ–OAR–2017–0688–0116) as subject to the Stationary Combustion Turbines NESHAP. The emissions data used to model those additional turbines and the results of the modeling are discussed in the memorandum titled *Emissions Data Used in Modeling Files for Additional Turbines for Stationary Combustion Turbines Risk and Technology Review (RTR),* which is in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0688). The modeling input files are also available in the docket. The risks for the additional turbines were all lower than the risks for the turbines modeled for the proposed rule, so the additional risk analysis did not result in changes to our proposed decisions on risk acceptability, ample margin of safety, and adverse environmental effect.

3. What key comments did we receive on the risk review, and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2) for the Stationary Combustion Turbines source category. Generally, the comments that were not supportive of the determination from the risk review suggested changes to the underlying risk assessment methodology. For example, some commenters stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes were necessary. The comments and our specific responses can be found in the document, *National Emission Standards for Hazardous Air Pollutants from Stationary Combustion Turbines (40 CFR part 63, subpart YYYY) Residual Risk and Technology Review, Final Amendments: Summary of Public Comments and Responses on Proposed Rule,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0688).

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using a two-step standard-setting approach, with an analytical first step to make a risk-acceptability determination that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed, even considering the additional 46 turbines modeled. Therefore, for the reasons explained in the proposed rule, we determined that the risks from this source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising this subpart to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the Stationary Combustion Turbines Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Stationary Combustion Turbines source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for control of HAP emissions from stationary combustion turbines. No cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review can be found in the *Technology Review for Stationary Combustion Turbines Risk and Technology Review (RTR)* memorandum, which is in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0688), and in the preamble for the proposed rule (84 FR 15046).

2. How did the technology review change for the Stationary Combustion Turbines source category?

The technology review has not changed since the proposal.

3. What key comments did we receive on the technology review, and what are our responses?

We received both supportive and adverse comments on the proposed technology review. Most commenters supported the EPA's proposed technology review determination. The summarized comments and the EPA's responses are provided in the *National Emission Standards for Hazardous Air Pollutants from Stationary Combustion Turbines (40 CFR part 63, subpart YYYY), Residual Risk and Technology Review, Final Amendments, Summary of Public Comments and Responses on Proposed Rule* document referenced in section IV.A.3 of the preamble. The most significant adverse comments and the EPA's responses are also provided below.

Comment: One commenter stated that the EPA reviewed only the technology used to limit formaldehyde in the technology review and does not evaluate selective catalytic reduction (SCR) or any other of the technologies identified as ''developments'' within the meaning of CAA section 112(d)(6), which is unlawful and arbitrary.

The commenter stated that the EPA ignored other HAP controls in the technology review—such as wet controls (water or steam injection), lean premixed combustion, and SCR—without any rational explanation. The

commenter noted that the EPA is aware of evidence showing that SCR can and does reduce HAP, such as benzene. The commenter cited a 2016 study, *Catalytic Destruction of a Surrogate Organic Hazardous Air Pollutant as a Potential Co-benefit for Coal-fired Selective Catalyst Reduction Systems* (C.W. Lee et al.), which found that ''significant destruction of benzene occurred under a broad range of SCR operating conditions, suggesting that a large number of coalfired utility boilers which are equipped with SCR for NO_X control have potential to achieve reduction of organic HAP emissions as a co-benefit.''

The commenter stated that the EPA must consider ways to reduce emissions through developments such as: Methods to assure more efficient use of turbines; use of lower HAP fuels; and/or alternative energy generation altogether through renewables and/or battery storage systems. According to the commenter, the EPA must consider battery storage in particular because this has the potential to increase efficiency and reduce emissions, and to reduce all of the turbine-based risks the EPA found to zero by reducing the emissions completely if paired with a renewable energy source such as solar. The commenter stated that the EPA does not evaluate or take into account any of these developments, and this is unlawful, arbitrary, and capricious under CAA section 112(d)(6).

The commenter noted that there are also developments in volatile organic compounds, acid gas, and metal controls, leak detection and repair, and monitoring that the EPA must consider and ensure that the standards ''tak[e] into account'' for this source category and these facilities. The commenter stated that since the EPA finalized the original standards, the EPA has recognized such developments in other contexts. The commenter concluded that the EPA would violate CAA section 112(d)(6) by failing to consider and account for the ''developments'' in fenceline monitoring, leak detection and repair, and pollution controls—particularly where data show significant health risks from a range of emitted pollutants, including cancer, chronic noncancer, and acute risk. The commenter stated that refusing to consider these developments is also arbitrary. The commenter explained that many facilities that include turbines are similar to refineries, in their significant potential for leaks and emission spikes that cause health and safety threats, and in their complexity. The commenter concluded that all of the developments discussed are readily available, would improve emission control, reduce health risks and refusing to consider them and revise the standards to ''account'' for them would be unlawful and arbitrary.

Conversely, another commenter stated that, setting aside whether fenceline monitoring technology constitutes a ''development'' under CAA section 112(d)(6), it would be arbitrary and capricious to adopt fenceline monitoring requirements for stationary combustion turbines as part of this RTR. Fenceline monitoring is used to identify sources of fugitive emissions. According to the commenter, stationary combustion turbines do not have fugitive HAP emissions. According to the commenter, even if some combustion turbine facilities may also contain other equipment with the potential for fugitive emissions, such as natural gas transmission pipelines, that other equipment is not part of the source category under review here and cannot be the basis for new requirements adopted pursuant to CAA section 112(d)(6) review for combustion turbines.

Response: The EPA disagrees with the commenter that it only reviewed technologies used to limit formaldehyde emissions. As discussed in the memorandum, *Technology Review for Stationary Combustion Turbines Risk and Technology Review (RTR)* (Docket ID Item No. EPA–HQ–OAR–2017–0688–0066), the EPA reviewed a variety of sources of information during the technology review. Those sources of information included the EPA's RACT/BACT/LAER Clearinghouse (RBLC), construction and operating permits for stationary combustion turbines, information provided by owners and operators of stationary combustion turbines, and manufacturers of emission control technologies and testing equipment. The review was not limited to technologies that limit formaldehyde emissions, as evidenced by the RBLC search criteria documented in Appendix A of the memorandum and the questions asked of industry stakeholders described in Appendix B of the memorandum.

The 2016 study cited by the commenter as evidence that SCR reduces HAP such as benzene evaluated the HAP reductions from SCR applied to simulated coal combustion flue gases. The chemical composition of the coal combustion flue gases is very different from the chemical composition of the exhaust from stationary combustion turbines, and there is no evidence provided that the use of SCR in coal combustion exhaust and the resulting catalytic chemical reactions that cause the destruction of benzene would occur in the same way if SCR is applied to stationary combustion turbines. The information provided to the EPA regarding ''dual-purpose'' catalysts that include SCR for nitrogen oxides (NOx) removal and oxidation for carbon monoxide (CO) and HAP removal indicates that the HAP reduction occurs due to the oxidation and not from the SCR.[5] The commenter did not provide any evidence that water or steam injection would reduce HAP emissions, or that fuels that lead to lower HAP emissions have been developed. Lean premix combustion is not a new technology (and is one of the subcategories established in the original 2004 40 CFR part 63, subpart YYYY rulemaking) and the commenter did not provide any evidence that there have been any developments in the technology. As discussed in the memorandum cited above, the trade organization representing gas turbine manufacturers indicated that there have not been any changes in turbine design since the 2004 rulemaking. We disagree that the EPA must consider alternative energy generation altogether through renewables and/or battery storage and that the use of batteries if paired with renewable energy such as solar would reduce emissions completely. The commenter's suggested technology (renewables and batteries) is not a revision to the emissions standard for the Stationary Combustion Turbines source category, which is what the EPA is required to review and revise as appropriate, under CAA section 112(d)(6). The commenter is suggesting elimination of combustion turbines as a source category and that is beyond the scope of this rulemaking. Even if such an approach were an appropriate ''revision'' of the emission standards for combustion turbines under CAA section 112(d)(6), the commenter did not provide any information to show that using renewables or battery storage has been demonstrated on the scale that would be needed to replace the generation produced by the combustion turbines subject to subpart YYYY.

Regarding the comment that the EPA should consider leak detection and repair and fenceline monitoring requirements, the EPA notes that those requirements were included in the NESHAP for Petroleum Refineries (40 CFR part 63, subpart CC). Those requirements for refineries target refinery MACT-regulated fugitive emission sources (*e.g.,* storage tanks,

[5] See the memorandum, *Technology Review for Stationary Combustion Turbines Risk and Technology Review (RTR)* (Docket ID Item No. EPA–HQ–OAR–2017–0688–0066).

equipment leaks, and wastewater). Fenceline monitoring, as discussed in the preamble to the proposed Petroleum Refinery rule (79 FR 36920), may identify significant increases in emissions, but small increases in emissions are unlikely to impact the fenceline concentrations. Fenceline monitoring would not be beneficial for the Stationary Combustion Turbines source category because stationary turbines have very low fugitive HAP emissions and their operation does not involve storage and transport of large volumes of volatile organic materials unlike the refinery sector. The potential for fugitive volatile organic HAP emissions, as a result of the reduced amount of transport and the reduced storage of volatile organic materials, is vastly lower.

4. What is the rationale for our final approach for the technology review?

We evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed based on the comments. For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review and how we evaluate cost effectiveness can be found in the *Technology Review for Stationary Combustion Turbines Risk and Technology Review (RTR)* memorandum, which is in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0688), and in the preamble for the proposed rule (84 FR 15046). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

C. SSM Provisions for the Stationary Combustion Turbines Source Category

1. What did we propose for the Stationary Combustion Turbines source category?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the court vacated portions of two provisions in the EPA's CAA section 112 General Provisions regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

The EPA proposed to revise provisions related to SSM that are not consistent with the requirement that standards apply at all times. More information concerning our proposal on SSM can be found in the proposed rule (84 FR 15046). As discussed in the proposal, the EPA proposed an operational standard in lieu of a numeric emission limit during periods of startup, in accordance with CAA section 112(h). The EPA proposed that during turbine startup, owners and operators must minimize the turbine's time spent at idle or holding at low load levels and minimize the turbine's startup time to a period needed for appropriate and safe loading of the turbine, not to exceed 1 hour for simple cycle stationary combustion turbines and 3 hours for combined cycle stationary combustion turbines, after which time the formaldehyde emission limitation of 91 ppbvd at 15-percent O_2 would apply. We did not propose a different standard that would apply during shutdown.

2. How did the SSM provisions change for the Stationary Combustion Turbines source category?

In the final rule, we revised aspects of the operational standard for startup from the proposal based on public comments. We removed the language specifying that the owner or operator must minimize the turbine's time spent at idle or holding at low levels and minimize the turbine's startup time to a period needed for appropriate and safe loading of the turbine. We have also added a definition for startup that is specific to stationary combustion turbines, rather than using the general definition in the General Provisions (subpart A) of 40 CFR part 63. The definition specifies that startup begins at the first firing of fuel in the stationary combustion turbine.

In response to comments regarding the proposed operational standard for startup and the proposed conclusion that a standard for shutdown is not necessary, the EPA evaluated Acid Rain Program hourly emissions data for stationary combustion turbines from 2018.[6] The stabilization of NOx emissions, an indicator of stable combustion and post-combustion processes, was used to determine startup and shutdown times for turbines subject to 40 CFR part 63, subpart YYYY. Based on the Acid Rain Program emissions data, the EPA determined that the majority of turbine startup times were less than 1 hour for simple cycle turbines and the majority of startup times were less than 3 hours for combined cycle turbines. Upper prediction limits for the best performers for startup time were also determined following statistical methods used to define upper prediction limits for MACT emission standards (*e.g.,* methods detailed in the memorandum, *CO CEMS MACT Floor Analysis August 2012 for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants Major Source,* Docket ID Item No. EPA–HQ–OAR–2002–0058–3877). Upper prediction limits were less than 1 hour for simple cycle turbines and less than 3 hours for combined cycle turbines regardless of startup type (*i.e.,* cold, warm, and hot starts). Additionally, the majority of shutdown times were less than 30 minutes for both simple cycle and combined cycle turbines. Finally, utilizing oxidation catalyst had minimal effect on startup and shutdown times.

3. What key comments did we receive on the SSM provisions, and what are our responses?

Comment: Commenters stated that the proposed rule does not define what constitutes the period of startup, including the beginning and the ending. The commenters added that 40 CFR part 63 defines startup as ''the setting in operation of an affected source or portion of an affected source for any purpose.'' The commenters stated that this definition is vague and does not specify when startup ends. The commenters suggested that the EPA provide a definition of startup as it applies to simple cycle and combined cycle combustion turbines. A commenter also stated that some combined cycle combustion turbines can operate in simple cycle mode. Therefore, the EPA also needs to address these types of turbines in the definitions or the standard itself, according to the commenter. A commenter added that the definition used in the standard should not interfere with the definition of startup in other parts of the CAA or in operating permits, nor should it constrain normal operations. The commenter specifically suggested that the EPA revise the operational standard to apply only upon the first firing of fuel in the combustion turbine.

Response: The EPA agrees with the commenters that it would be appropriate to define startup as beginning at the first firing of fuel in the stationary combustion turbine and to

[6] See the memorandum titled *Stationary combustion turbine startups and shutdowns based on Acid Rain Program CEMS data,* which can be found in the rulemaking docket (Docket ID No. EPA–HQ–OAR–2017–0688).

specify when the startup standard ends. The EPA has specified different startup times for simple cycle and combined cycle turbines, as discussed elsewhere in this section. For simple cycle turbines, the EPA has specified in the final rule that startup ends when the stationary combustion turbine has reached stable operation or after 1 hour, whichever is less. For combined cycle turbines, startup ends when the stationary combustion turbine has reached stable operation or after 3 hours, whichever is less. If a turbine in a combined cycle configuration is operating as a simple cycle turbine, it must follow the requirements for simple cycle turbines. Regarding the comment that the definition should not interfere with the definition of startup in other parts of the CAA or in operating permits or constrain normal operations, the EPA does not anticipate any interference. As discussed elsewhere in this section, the standard is based on turbine startup times gathered from emissions data, and it also allows the turbine to take longer to start up if needed (while requiring that the turbine meet the applicable formaldehyde limit).

Comment: Many commenters expressed support for the establishment of the operational standard during startup operations but asserted that the EPA must allow more time for certain startup operations for combined cycle stationary combustion turbines. Some commenters stated that they believe the record does not demonstrate the feasibility of a 3-hour startup time for combined cycle units. They added that it appears the 3-hour limit was taken from a document from the Gas Turbine Association (Docket ID Item No. EPA–HQ–OAR–2017–0688–0033). These commenters stated that while this document discusses a period of 3 hours for startup, the document also discusses the wide range of variability in the time needed. Several commenters explained that the startup time for a combined cycle turbine is impacted by its integration with other site facilities and the type of startup. Some commenters cited specific instances when additional startup time beyond what was proposed for combined cycle turbines may be expected, including:

- Startups following extended downtime or a unit turnaround which commenters asserted may take up to 10 hours. A commenter provided a list of nine major steps for startup following a unit turnaround in their comment letter to support the need for additional startup time;
- startup involving combined heat and power units as the startup typically involves purging and setup of the heat recovery steam generator, followed by gas speed-up and loading, followed by the steam turbine speedup and loading;
- various types of startup including a ''warm'' start (*i.e.,* when the steam turbine first stage or reheat inner metal temperature is between 400 and 700 degrees Fahrenheit) and a ''cold'' start (*i.e.,* when the steam turbine first stage or reheat inner metal temperature is less than 400 degrees Fahrenheit). One commenter reviewed operating data from 2017–2019 for some of its stationary combined cycle combustion turbines, noting that 32 out of 82 ''warm'' startups exceeded a 3-hour duration with an average duration of 3.3–4 hours, and all 23 of the ''cold'' startups exceeded the 3-hour duration with an average duration of 5–6 hours. Another commenter stated that member companies will be submitting facility-specific data showing the impact of startup type on duration;
- startup involving gas fuel turbines integrated with other systems associated with multiple boilers to produce electricity and steam for a large manufacturing complex; and
- pre-startup commissioning activities and initial startup at liquid natural gas terminals.

These commenters suggested that the EPA provide additional time in the startup operational standard for combined cycle turbines.

Some commenters suggested that 4 hours be provided in the standard. Other commenters suggested that the EPA allow 5.5 hours as the baseline with provisions for site-specific requests for additional time. Some commenters suggested that the final action should provide a procedure for the EPA or state permitting authorities to provide application of an alternative standard for combined cycle turbines if an operator demonstrates that it is needed. A commenter suggested that the EPA allow between 6–8 hours in the standard. Another commenter suggested that the EPA allow up to 10 hours in the standard. One commenter suggested that, consistent with their state operating permit requirements and due to the unique nature of their operations, the EPA should allow up to 12 hours in the standard. Another commenter added that the EPA could provide different time frames if they differentiated between different startup types (*i.e.,* provide the most time for cold startups and the least time for hot startups).

Alternatively, other commenters suggested that the EPA could maintain the 3-hour standard for combined cycle turbines but allow a more extended startup time to facilities if they document the need for the additional startup time; maintain associated records; provide semi-annual reporting; and take steps during the startup to minimize emissions consistent with good air pollution control practices.

Commenters suggested the standard should require that owners and operators of combined cycle units minimize the time the turbines spend at idle or low load operations, and that they complete the startup process while operating the equipment in a manner consistent with good air pollution control practices for minimizing emissions, rather than having the EPA impose a one-size-fits-all hour limit. One commenter suggested that the end of the startup period should be when the unit begins to operate in ''normal mode'' as signaled from the turbine control system. Commenters also suggested that if the EPA maintains an hour limit, the standard should be amended to exclude malfunctions encountered during startup from the calculation of the startup time as such events could cause sources to exceed the window.

One commenter recommended that the final rule not supersede site-specific requirements with a one-size-fits-all approach. The commenter suggested that the final standard include approved procedural work practices to provide additional assurance of an efficient and expeditious startup process (*i.e.,* a procedural startup work practice could specify that ammonia injection would begin when the catalyst temperature meets a certain minimum temperature). According to the commenter, these procedural work practices can be maintained, submitted, and approved by the administrator outside of the air permit to minimize permit changes similar to the way quality assurance/quality control manuals are handled.

One commenter suggested that if a more generic startup requirement cannot not be implemented, the EPA should address any imposition of a time limit for startup of a reconstructed combined cycle unit on a case-by-case basis in recognition of the diverse combined cycle plant designs and how such designs impact the rate at which startup can be achieved.

As with the proposed operational standard for combined cycle turbines, several commenters expressed support for the proposed operational standard for simple cycle turbines during startup but expressed concern with the amount of time provided for startup. Commenters noted that 1 hour for a simple cycle turbine is sufficient in most cases, however, the commenter explained that the EPA should provide

additional time for extenuating circumstances including the startup of associated post-combustion control technology which can take over an hour to warm-up and achieve the required destruction rate. One commenter added that initial commissioning or maintenance may require additional startup time. The commenter suggested that the EPA allow longer startup times and require facilities utilizing a longer startup time to document the circumstance in their periodic report to ensure there was a reasonable basis.

Similarly, other commenters stated that more time should be provided for simple cycle turbines and suggested that the EPA provide 2 hours consistent with some state permits. One commenter asserted that the federal requirements should not contradict state operating permit conditions already in place which provide more time than the proposed rule. Commenters stated that the final action should provide a procedure for the EPA or state permitting authority to provide application of an alternative standard if an operator demonstrates that it is needed.

Response: In the final action, the definition of startup is specified to begin at the initial combustion of fuel in the turbine. Other operations prior to this event are not included in the time period allocated for startup in this rule.

In response to the comments that the proposed time limit for startup in the operational standard for startup was not sufficient, as discussed previously in this section, the EPA reviewed continuous emission monitoring systems (CEMS) data from 2018 for 182 turbines subject to 40 CFR part 63, subpart YYYY. This includes both simple and combined cycle turbines representing a range of different designs. The analysis is documented in the memorandum titled *Stationary Combustion Turbine Startups and Shutdowns Based on Acid Rain Program CEMS Data,* which can be found in the rulemaking docket (Docket ID No. EPA–HQ–OAR–2017–0688). As discussed in the memorandum, the stabilization of NO_X emission rates indicates stable operation (*i.e.,* of combustion and post-combustion controls) and was used to determine the length of startup and shutdown periods. For simple cycle turbines, 90 percent of startups were less than 1 hour for stabilization of emissions for all startup types (*i.e.,* ''cold,'' ''warm,'' ''hot''; turbine out of operation for more than 48 hours, 8–48 hours, and 0–8 hours, respectively). For combined cycle turbines, 90 percent of ''warm'' and ''hot'' startups were less than 3 hours and 72 percent of ''cold'' startups were less than 3 hours.

In a second part of the analysis, the EPA reviewed CEMS data from 2018 for turbines with oxidation catalyst. For simple cycle turbines with oxidation catalyst, 80 percent of cold startups, 76 percent of warm startups, and 93 percent of hot startups were less than 1 hour. For combined cycle turbines with oxidation catalyst, at least 93 percent of startups were less than 3 hours for each startup type. Finally, in all cases the 99-percent upper prediction limits for startup of turbines were within the proposed time limits (at most 0.92 hours for cold starts for simple cycle turbines with oxidation catalyst and 2.93 hours for cold starts for combined cycle turbines subject to 40 CFR part 63, subpart YYYY). Upper prediction limits were determined for the best performing turbines in terms of startup time based on NO_X emission stabilization.

As noted in the memorandum, NO_X emissions were not used as a surrogate for HAP emissions. Rather, NO_X emissions were only used as an indicator for when stabilization of combustion and post-combustion processes may occur. Collectively, the analyses demonstrate that time limits in the proposed operational standards for startup are justified. Furthermore, upper prediction limits for the startup time to stabilization of NO_X emissions were near the startup time limits of 1 hour for simple cycle turbines and 3 hours for combined cycle turbines, suggesting that the startup time limits are generally neither too short nor too long with respect to emissions stabilization.

Based on the review of CEMS data, the EPA determined that the proposed time limits for the application of the operational standard for startup are reasonable and consistent with what the best performers achieve. Therefore, the EPA is not changing the proposed time limits based on public comments. Regarding the comments that the EPA should address time limits on a case-by-case basis, if situations occur that warrant an alternative standard, the owner/operator can request an alternative standard pursuant to the requirements specified in CAA section 112(h)(3) and 40 CFR 63.6(g).

Comment: Commenters stated that the requirement within the proposed operational standard to ''minimize the turbine's time spent at idle or holding at low load levels'' is problematic in their opinion.

One commenter stated that greater clarity is needed between what is termed ''startup'' and what is termed ''idle'' in the process. The commenter explained that startup by its very nature begins at ''low load levels'' before the turbine is safely loaded and questioned where is the dividing line between which levels are considered startup and which levels are considered idle, or, alternatively, at what point in time do low load levels of startup become idle low load levels? The commenter stated that implicit in the proposed distinction seems to be the assumption that operators would run a turbine at ''idle'' for unknown reasons during the startup process. The commenter asserted that this is contrary to generally accepted operating practices. See, *e.g., Sierra Club* v. *EPA,* 884 F.3d 1185, 1203 (D.C. Cir. 2018) (''Boiler operators lack incentives to combust fuel for no useful purpose, simply as a means to avoid engaging pollution controls, so presumably they do not tarry in heating their equipment to that point.'').

One commenter stated that the terms ''idle'' and ''holding at low load levels'' have not been defined. The commenter asserted that without defining these terms and how the EPA intends for units to measure compliance with the operational standard, it is unclear what standards combustion turbine operators need to meet outside of their existing permit terms. The commenter stated that the proposed language in Table 1 to 40 CFR part 63, subpart YYYY, therefore, creates confusion as to whether these combustion turbines can continue to operate as intended. Other commenters explained that combustion turbines are often designed, built, permitted, and operated to be load-following and to sometimes idle or be held at low load, when necessary, to enable faster ramping as support for intermittent renewable resources (*e.g.,* solar panels). A commenter stated that some operators may need to hold a combustion turbine at low load to allow the heat recovery steam generator and steam turbine associated with a combined cycle to reach normal operating temperature. According to the commenter, the metal in the steam turbine must be warmed in a controlled manner to allow the proper expansion of moving parts. The commenter stated that once the heat recovery steam generator and steam turbine metal are properly warmed and expanded, the combined cycle can, at that time, ramp up load to meet demand. The commenter contended that any artificial restrictions on the amount of minimum operating time allowed may require turbine operators to risk damaging critical equipment. The commenter added that good engineering practices require testing at low loads following a planned maintenance outage to ensure

the equipment is operating safely and performing as expected. The commenter stated that some manufacturers require this type of testing as part of contractual agreement. Therefore, the commenter suggested that the operational standard be revised as follows: ''During turbine startup, you must minimize the turbine's time needed to achieve the operating limitations provided in Table 2, taking into account the appropriate and safe loading of the turbine and auxiliary equipment, not to exceed 1 hour for simple cycle stationary combustion turbines and 3 hours for combined cycle stationary combustion turbines, after which time the operating limitation and continuous compliance requirements in Table 2 and 5 apply.'' Another commenter provided an example of a Prevention of Significant Deterioration permit that has specifically authorized operation at low loads in order to provide fast-ramping capacity to support the integration of renewable resources (*e.g.,* Maricopa County Air Quality Permit Department, Title V Permit No. V95–007, ''Ocotillo PSD Permit''). The commenter noted that the permit conditions clearly distinguish between ''startup'' and operation at low load. The commenter also noted that the EPA's Environmental Appeals Board reviewed and approved the Prevention of Significant Deterioration limits in this permit.

One commenter suggested that the EPA amend the proposed language to allow adequate time to ensure safe loading of the turbine even if it is beyond the otherwise applicable startup time limits.

Another commenter stated that, at a minimum, the standard should not be written to prohibit low loads, especially if the unit is equipped with an oxidation catalyst and can meet its 4-hour average catalyst inlet temperature operating limit during low load operation.

One commenter recommended that the EPA either eliminate the proposed requirement, ''minimize the turbine's time spent at idle or holding at low load levels'' or clarify the proposed language by replacing the phrase ''time spent at idle or holding at low load levels'' with the phrase ''operating time outside normal operations.''

Other commenters concluded that the EPA should not finalize this requirement as part of the operational standard.

One commenter encouraged the EPA to revise the operational standard for startup in a manner that distinguishes between continuous, stable operation at low loads and true startup conditions.

Response: Based on these comments, the EPA is not finalizing the proposed requirement to minimize a turbine's time spent at idle or holding at low load levels. As stated by the commenters, some turbines are designed and permitted to operate at idle or low load conditions. For the final rule, there will not be an operational requirement to minimize time spent operating in an idle or low load status. Operation in such a status (except during startup) will be treated as normal operation and will not have a separate standard. As discussed elsewhere in this section, the EPA has clarified the definition for startup to distinguish the beginning and end of the startup operational standard.

Comment: One commenter noted that 40 CFR 63.6125 states, ''If you are operating a stationary combustion turbine that is required to comply with the formaldehyde emission limitation and you use an oxidation catalyst emission control device, you must monitor on a continuous basis your catalyst inlet temperature in order to comply with the operating limitation in Table 2 and as specified in Table 5 of this subpart.'' The commenter then pointed out that Tables 2 and 5 refer to the calculation of a 4-hour rolling average catalyst inlet temperature. The commenter explained that the catalyst must achieve a certain inlet temperature before formaldehyde emissions are controlled, so the inlet temperature monitoring should begin at the conclusion of startup. The commenter suggested that the EPA clarify that the calculation of the 4-hour rolling average begins at the start of the first full clock hour after startup.

For the same reasons (*i.e.,* turbines using an oxidation catalyst will need time to reach the desired temperature), other commenters suggested that the EPA clarify that the operating limitations in Table 2 do not apply during startup. These commenters also suggested that the operating limits in Table 2 not apply during shutdown as the inlet temperature may fall below the desired level as the combustion turbine transitions out of operation.

One commenter also requested that the EPA clarify that the demonstration of continuous compliance with the operating limits specified in Table 5 do not include hours containing SSM in the calculation. The commenter recommended that the EPA revise the operating limitations in Table 5 of 40 CFR part 63, subpart YYYY to include the following language, ''Any hour during which the startup work practice standard is applicable or during which shutdown or malfunction occurs must not be included in the calculation to demonstrate continuous compliance with the operating limitation.''

Response: The EPA agrees with the commenter that the catalyst inlet temperature operating limitation should not apply during startup, since the catalyst needs time to heat up to the required temperature. The EPA has revised the rule to reflect this change. The EPA does not agree that the catalyst inlet temperature recorded during periods of shutdown should not be included in the 4-hour rolling average catalyst inlet temperature used for compliance with the catalyst inlet temperature operating limitation. Our information is that shutdown periods are usually brief and there is no information that the catalyst temperature would fall below the required levels while the turbine is still operating. Since compliance with the operating limitation is demonstrated on a 4-hour rolling average, factoring in brief periods of shutdown should not result in exceedances of the operating limitation.

With respect to malfunctions, the EPA is not establishing separate emission standards for periods of malfunction and the formaldehyde emission standards and the associated catalyst inlet temperature monitoring requirements apply during periods of malfunction. Therefore, we did not accept the commenter's recommendation that the catalyst inlet temperature during a malfunction should be excluded from the calculation of the 4-hour rolling average catalyst inlet temperature. The EPA also notes that catalyst inlet temperatures may not be affected by all types of malfunction. In addition, as discussed in the proposed rule, if a source fails to comply with a requirement as a result of a malfunction event, the EPA would determine an appropriate response and if the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).

4. What is the rationale for our final approach for the SSM provisions?

For the reasons explained in the proposed rule (84 FR 15046), these amendments revise provisions related to SSM that are not consistent with the requirement that the standards must apply at all times. We evaluated all of the comments received on the EPA's

proposed amendments to the SSM provisions and made some changes to the proposed amendments for the reasons stated above and in the *Summary of Public Comments and Responses* document. We are finalizing the proposed amendments to revise provisions related to SSM, as revised based on public comments.

D. Electronic Reporting Requirements for the Stationary Combustion Turbines Source Category

1. What did we propose for the Stationary Combustion Turbines source category?

The April 12, 2019, proposal included requirements for owners and operators of stationary combustion turbines subject to 40 CFR part 63, subpart YYYY to submit electronic copies of required performance test results and semiannual compliance reports through the EPA's CDX using CEDRI. The original 2004 rule did not include any requirements for electronic reporting.

2. How did the electronic reporting requirements change for the Stationary Combustion Turbines source category?

The proposed amendments to require owners and operators to submit performance test results and semiannual compliance reports through the EPA's CDX using CEDRI are being finalized with minor corrections and clarifications. The language at 40 CFR 63.6150(a) was amended from the proposal to specify that the electronic report submitted semiannually also incorporates the excess emissions and monitoring system performance reports. The delegation of authority provision at 40 CFR 63.6170(c) was amended to specify that the EPA does not delegate the authority to modify electronic reporting requirements to states, to ensure that the reported information is submitted to the EPA. Table 7 of 40 CFR part 63, subpart YYYY was modified to make inapplicable the requirements in 40 CFR 63.13 for submission of additional copies to the EPA Regional office for electronically submitted reports.

3. What key comments did we receive on the electronic reporting requirements, and what are our responses?

Comment: Commenters stated that the electronic reporting provisions should clarify the electronic reporting requirements as they relate to reports submitted to state agencies and should consider the increase in burden if owners/operators must submit reports to both entities rather than submitting one combined report to their delegated authority.

One commenter stated that as proposed, the owner/operator would be required to submit one report to the EPA through the CEDRI system and then be required to prepare a written report for state agencies such as the Texas Commission on Environmental Quality to satisfy the regulatory reporting obligation, thus creating a redundant reporting requirement. The commenter requested that the final rule clarify whether the electronic reporting requirement also applies to affected sources that are not currently required to submit copies of reports to the EPA because they are located in states like Texas that have received delegation for NESHAP under 40 CFR part 63.

One commenter stated that when developing electronic reporting provisions, the EPA should work with other regulatory authorities (*i.e.,* states, local agencies) to establish comparable or compatible electronic systems. The commenter noted that companies reporting electronically to the EPA will likely still have to submit hardcopy reports to other agencies that do not have electronic systems, thereby reducing or eliminating any burden savings associated with EPA electronic reporting. In one example, based on the template structure, an annual number for landfill gas fuel rate and heating values would be supplied to the EPA but monthly values would still have to be supplied to the state.

One commenter stated that if the EPA finalizes a requirement for submission of electronic reports to CEDRI, the EPA should make inapplicable the requirement in 40 CFR 63.13 for submission of additional copies to the EPA Regional office. According to the commenter, submission to CEDRI should be deemed compliance with that requirement, because EPA Regional employees can access the reports on CEDRI. The commenter recommended that the EPA also should include a procedure for state agencies to similarly opt out of receiving a paper copy.

Similarly, one commenter noted that the EPA did not add an additional burden related to the requirement to report emissions test data using the ERT within the Supporting Statement for the Information Collection Request. The commenter stated that most state or local permitting authorities will still require submittal of a paper copy of the test report, so the ERT entry and electronic submittal to the EPA does not replace the submittal of a test report to the local agency.

Response: To clarify the EPA's intent that electronic reporting is required for all sources subject to the subpart, regardless of state, local, or tribal reporting requirements, the final rule has been amended at 63.6170(c) to add (6), that the EPA does not delegate authority for electronic reporting requirements. The EPA is not delegating the authority in order to ensure that the information required to be reported is received by the EPA. The reported information is needed for several purposes, including assessing compliance, developing emission factors (in the case of emissions data), and future reviews of the NESHAP. Table 7 has been revised for the final rule to reflect that 63.13(a) is only applicable to those reports not required to be submitted electronically.

We acknowledge that certain sources may be required to submit a report electronically through CEDRI and a hard copy report to an air agency that has delegation to enforce the NESHAP. The ERT is designed to provide PDF or printed copies of reports, and these copies can be mailed to an air agency that does not wish to use the EPA's electronic reporting system. The burden associated with creating an emission test report is incorporated in the cost of the emission test presented in the Supporting Statement for the Information Collection Request (Docket ID Item No. EPA–HQ–OAR–2017–0688–0073). This includes the development of the test report through the ERT.

The EPA routinely discusses electronic reporting with air agencies and EPA Regional offices. Quarterly calls are conducted with EPA Regional offices to provide information that will be helpful in their outreach efforts to the air agencies in their regions. The EPA has performed demonstrations of the CEDRI reporting program and the ERT for EPA Regional offices and their associated air agencies, as well as for air agency groups like the Mid-Atlantic Regional Air Management Association.

Additionally, through the E-Enterprise's Combined Air Emissions Reporting (CAER) project, the EPA is working with air agencies to streamline multiple emissions reporting processes. Currently, air emissions information is collected by the EPA and air agencies through numerous separate regulations, in a variety of formats, according to different reporting schedules, and using multiple routes of data transfer. The CAER project seeks to reduce the cost to industry and government for providing and managing important environmental data. More information on CAER can be found at: *https://www.epa.gov/e-enterprise/e-enterprise-combined-air-emissions-reporting-caer.*

4. What is the rationale for our final approach for the electronic reporting requirements?

The EPA evaluated all of the comments on the proposed electronic reporting requirements for this subpart. For the reasons explained in the proposed rule and this final rule, including the document in the docket summarizing the public comments and our responses,[7] we are finalizing the amendments with minor changes.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

The EPA has identified 777 turbines at 243 facilities that are currently subject to the Stationary Combustion Turbines NESHAP. We are projecting that 51 new stationary combustion turbines at 20 facilities will become subject to the NESHAP over the next 3 years. The 51 new turbines include 48 natural gas-fired units, one oil-fired unit, and two landfill gas or digester gas-fired units. More information about the number of new turbines projected over the next 3 years can be found in the *Projected Number of Turbine Units and Facilities Subject to the Stationary Combustion Turbine National Emission Standards for Hazardous Air (NESHAP)* memorandum in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0688).

B. What are the air quality impacts?

The baseline emissions of HAP for 777 stationary combustion turbines at 243 facilities subject to 40 CFR part 63, subpart YYYY are estimated to be 5,466 tpy. The HAP that is emitted in the largest quantity is formaldehyde. The final amendments will require turbines subject to the Stationary Combustion Turbines NESHAP to operate without the SSM exemption. We were unable to quantify emission reductions associated with eliminating the SSM exemption. However, eliminating the SSM exemption will reduce emissions by requiring facilities to meet the applicable standard during periods of SSM. We are not making any other revisions to the emission limits, so there are no other air quality impacts as a result of the final amendments.

[7] *National Emission Standards for Hazardous Air Pollutants from Stationary Combustion Turbines (40 CFR part 63, subpart YYYY) Residual Risk and Technology Review, Final Amendments, Summary of Public Comments and Responses on Proposed Rule,* January 2020.

C. What are the cost impacts?

Owners or operators of stationary combustion turbines that are subject to the amendments to 40 CFR part 63, subpart YYYY, will incur costs to review the final rule. Nationwide annual costs associated with reviewing the final rule are estimated to be a total of $42,362 (2017 dollars) for the first year after the final rule only, or approximately $174 (2017 dollars) per facility. We do not expect that the amendments revising the SSM provisions and requiring electronic reporting will impose additional burden and may result in a cost savings.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a proposed rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a proposed rule. The total costs associated with reviewing the final rule are estimated to be $42,362 (2017 dollars), or $174 (2017 dollars) per facility, for the first year after the final rule. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The EPA is not making changes to the emission limits and estimates that the changes to the SSM requirements and requirements for electronic reporting are not economically significant. Because these amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were projected, we did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

As discussed in the preamble to the proposed rule, to examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Stationary Combustion Turbines source category across different demographic groups within the populations living near facilities. The results of this analysis indicated 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. The documentation for this decision is contained in section IV.A of the preamble to the proposed rule and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Stationary Combustion Turbines Source Category Operations,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0688).

G. What analysis of children's environmental health did we conduct?

This action's health and risk assessments are contained in sections IV.A and B of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Stationary Combustion Turbines Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0688).

VI. Statutory and Executive Order Reviews

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

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

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

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

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

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0540. We do not expect that the final amendments revising the SSM provisions and requiring electronic reporting will impose additional burden

not already accounted for under the existing approved burden.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small energy companies or governmental jurisdictions. The Agency has determined that 10 small entities representing approximately 4 percent of the total number of entities subject to the final rule may experience an impact of less than 0.1 percent of revenues.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. None of the stationary combustion turbines that have been identified as being affected by this action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and B and sections IV.A and B of this preamble, and further documented in the risk document.

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

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

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use ANSI/ASME PTC 19.10–1981 Part 10 (1981), ''Flue and Exhaust Gas Analyses'' (the manual portion only) as an alternative to EPA Method 3B and to incorporate the alternative method by reference. The ANSI/ASME PTC 19.10–1981 Part 10 (1981) method incorporates both manual and instrumental methodologies for the determination of O_2 content. The manual method segment of the O_2 determination is performed through the absorption of O_2. The method is reasonably available from the American Society of Mechanical Engineers at *http://www.asme.org;* by mail at Three Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. The EPA has decided to use ASTM D6522–11, ''Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers and Process Heaters Using Portable Analyzers'' as an alternative to EPA Method 3A for turbines fueled by natural gas and to incorporate the alternative method by reference. The ASTM D6522–11 method is an electrochemical cell based portable analyzer method which may be used for the determination of NO_X, CO, and O_2 in emission streams form stationary sources. Also, instead of the current ASTM D6348–12e1 standard (''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy''), the Stationary Combustion Turbines NESHAP currently references ASTM D6348–03 as an alternative to EPA Method 320. We are updating the NESHAP to reference the most current version of the ASTM D6348 method as an alternative to EPA Method 320. When using this method, the test plan preparation and implementation requirements in Annexes A1 through A8 to ASTM D6348–12e1 are mandatory. The ASTM D6348–12e1 method is an extractive FTIR spectroscopy-based field test method and is used to quantify gas phase concentrations of multiple target compounds in emission streams from stationary sources. The ASTM standards are reasonably available from the American Society for Testing and Materials, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org/.*

The EPA identified an additional seven voluntary consensus standards (VCS) as being potentially applicable to this rule. After reviewing the available standards, the EPA determined that the seven VCS would not be practical due to lack of equivalency, documentation, validation data, and/or other important technical and policy considerations. For further information, see the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Stationary Combustion Turbines Risk and Technology,* in the docket for this rule (Docket ID No. EPA–HQ–OAR–2017–0688).

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

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

The documentation for this decision is contained in section IV.A of this preamble and the technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Stationary Combustion Turbines Source Category Operations.*

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 31, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (e)(1) and (h)(85), redesignating paragraphs (h)(94) through (111) as (h)(95) through (112), and adding new paragraph (h)(94) to read as follows.

§ 63.14 Incorporations by reference.

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(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.1282(d) and (g), 63.1625(b), 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 to subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

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(h) * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for § 63.1571(a) and table 3 to subpart YYYY.

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(94) ASTM D6522–11, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, Approved December 1, 2011, IBR approved for table 3 to subpart YYYY.

* * * * *

Subpart YYYY—National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

■ 3. Revise § 63.6105 to read as follows:

§ 63.6105 What are my general requirements for complying with this subpart?

(a) Before September 8, 2020, you must be in compliance with the emission limitations and operating limitations which apply to you at all times except during startup, shutdown, and malfunctions. After September 8, 2020, you must be in compliance with the emission limitations, operating limitations, and other requirements in this subpart which apply to you at all times.

(b) Before September 8, 2020, if you must comply with emission and operating limitations, you must operate and maintain your stationary combustion turbine, oxidation catalyst emission control device or other air pollution control equipment, and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at all times including during startup, shutdown, and malfunction.

(c) After September 8, 2020, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 4. Section 63.6120 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.6120 What performance tests and other procedures must I use?

* * * * *

(b) Each performance test must be conducted according to the requirements in Table 3 of this subpart. Before September 8, 2020, each performance test must be conducted according to the requirements of the General Provisions at § 63.7(e)(1).

(c) Performance tests must be conducted at high load, defined as 100 percent plus or minus 10 percent. Before September 8, 2020, do not conduct performance tests or compliance evaluations during periods of startup, shutdown, or malfunction. After September 8, 2020, performance tests shall be conducted under such conditions based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 5. Section 63.6125 is amended by adding paragraph (e) to read as follows:

§ 63.6125 What are my monitor installation, operation, and maintenance requirements?

* * * * *

(e) After September 8, 2020, if you are required to use a continuous monitoring system (CMS), you must develop and implement a CMS quality control program that included written procedures for CMS according to § 63.8(d)(1) through (2). You must keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

■ 6. Section 63.6140 is amended by revising paragraph (c) to read as follows:

§ 63.6140 How do I demonstrate continuous compliance with the emission and operating limitations?

* * * * *

(c) Before September 8, 2020, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, and malfunction are not violations if you have operated your stationary combustion turbine in accordance with § 63.6(e)(1)(i).

■ 7. Section 63.6150 is amended by:

■ a. Revising paragraph (a) introductory text, paragraph (a)(4) introductory text, paragraph (c) introductory text, and paragraph (e) introductory text, and
■ b. Adding paragraphs (a)(5), (f), (g), (h) and (i).

The revisions and additions read as follows:

§ 63.6150 What reports must I submit and when?

(a) *Compliance report.* Anyone who owns or operates a stationary combustion turbine which must meet the emission limitation for formaldehyde must submit a semiannual compliance report according to Table 6 of this subpart. The semiannual compliance report must contain the information described in paragraphs (a)(1) through (5) of this section. The semiannual compliance report, including the excess emissions and monitoring system performance reports of § 63.10(e)(3), must be submitted by the dates specified in paragraphs (b)(1) through (5) of this section, unless the Administrator has approved a different schedule. After September 8, 2020, or once the reporting template has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website for 180 days, whichever date is later, you must submit all subsequent reports to the EPA following the procedure specified in paragraph (g) of this section.

* * * * *

(4) Before September 8, 2020, for each deviation from an emission limitation, the compliance report must contain the information in paragraphs (a)(4)(i) through (iii) of this section.

* * * * *

(5) After September 8, 2020, report each deviation in the semiannual compliance report. Report the information specified in paragraphs (a)(5)(i) through (iv) of this section.

(i) Report the number of deviations. For each instance, report the start date, start time, duration, and cause of each deviation, and the corrective action taken.

(ii) For each deviation, the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions.

(iii) Information on the number, duration, and cause for monitor downtime incidents (including unknown cause, if applicable, other than downtime associated with zero and span and other daily calibration checks), as applicable, and the corrective action taken.

(iv) Report the total operating time of the affected source during the reporting period.

* * * * *

(c) If you are operating as a stationary combustion turbine which fires landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, or a stationary combustion turbine where gasified MSW is used to generate 10 percent or more of the gross heat input on an annual basis, you must submit an annual report according to Table 6 of this subpart by the date specified unless the Administrator has approved a different schedule, according to the information described in paragraphs (d)(1) through (5) of this section. You must report the data specified in (c)(1) through (3) of this section. After September 8, 2020, you must submit all subsequent reports to the EPA following the procedure specified in paragraph (g) of this section.

* * * * *

(e) If you are operating a lean premix gas-fired stationary combustion turbine or a diffusion flame gas-fired stationary combustion turbine as defined by this subpart, and you use any quantity of distillate oil to fire any new or existing stationary combustion turbine which is located at the same major source, you must submit an annual report according to Table 6 of this subpart by the date specified unless the Administrator has approved a different schedule, according to the information described in paragraphs (d)(1) through (5) of this section. You must report the data specified in (e)(1) through (3) of this section. After September 8, 2020, you must submit all subsequent reports to the EPA following the procedure specified in paragraph (g) of this section.

* * * * *

(f) *Performance test report.* After September 8, 2020, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test (as specified in § 63.6145(f)) following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (f)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f)(1) of this section.

(g) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium

as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(h) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 8. Section 63.6155 is amended by revising paragraph (a) introductory text and paragraphs (a)(3) through (5) and adding paragraphs (a)(6), (a)(7), and (d) to read as follows:

§ 63.6155 What records must I keep?

(a) You must keep the records as described in paragraphs (a)(1) through (7) of this section.

* * * * *

(3) Before September 8, 2020, records of the occurrence and duration of each startup, shutdown, or malfunction as required in § 63.10(b)(2)(i).

(4) Before September 8, 2020, records of the occurrence and duration of each malfunction of the air pollution control equipment, if applicable, as required in § 63.10(b)(2)(ii).

(5) Records of all maintenance on the air pollution control equipment as required in § 63.10(b)(2)(iii).

(6) After September 8, 2020, records of the date, time, and duration of each startup period, recording the periods when the affected source was subject to the standard applicable to startup.

(7) After September 8, 2020, keep records as follows.

(i) Record the number of deviations. For each deviation, record the date, time, cause, and duration of the deviation.

(ii) For each deviation, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(iii) Record actions taken to minimize emissions in accordance with § 63.6105(c), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 9. Section 63.6170 is amended by adding paragraph (c)(6) to read as follows:

§ 63.6170 Who implements and enforces this subpart?

* * * * *

(c) * * *

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

* * * * *

■ 10. Section 63.6175 is amended by revising the definition for ''Deviation'' and adding a definition for ''Startup'' to read as follows:

§ 63.6175 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation or operating limitation;

(2) Fails to meet any term or condition that is adopted to implement an

applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit;

(3) Fails to meet any emission limitation or operating limitation in this subpart during malfunction, regardless of whether or not such failure is permitted by this subpart;

(4) Before September 8, 2020, fails to satisfy the general duty to minimize emissions established by § 63.6(e)(1)(i), or

(5) After September 8, 2020, fails to satisfy the general duty to minimize emissions established by § 63.6105.

* * * * *

Startup begins at the first firing of fuel in the stationary combustion turbine. For simple cycle turbines, startup ends when the stationary combustion turbine has reached stable operation or after 1 hour, whichever is less. For combined cycle turbines, startup ends when the stationary combustion turbine has reached stable operation or after 3 hours, whichever is less. Turbines in combined cycle configurations that are operating as simple cycle turbines must meet the startup requirements for simple cycle turbines while operating as simple cycle turbines.

* * * * *

■ 11. Table 1 to Subpart YYYY of Part 63 is revised to read as follows:

Table 1 to Subpart YYYY of Part 63—Emission Limitations

As stated in § 63.6100, you must comply with the following emission limitations.

For each new or reconstructed stationary combustion turbine described in § 63.6100 which is . . .	You must meet the following emission limitations . . .
1. a lean premix gas-fired stationary combustion turbine as defined in this subpart, 2. a lean premix oil-fired stationary combustion turbine as defined in this subpart, 3. a diffusion flame gas-fired stationary combustion turbine as defined in this subpart, or 4. a diffusion flame oil-fired stationary combustion turbine as defined in this subpart.	limit the concentration of formaldehyde to 91 ppbvd or less at 15-percent O_2, except during turbine startup. The period of time for turbine startup is subject to the limits specified in the definition of startup in § 63.6175.

■ 12. Table 2 to Subpart YYYY of Part 63 is revised to read as follows:

Table 2 to Subpart YYYY of Part 63—Operating Limitations

As stated in §§ 63.6100 and 63.6140, you must comply with the following operating limitations.

For . . .	You must . . .
1. each stationary combustion turbine that is required to comply with the emission limitation for formaldehyde and is using an oxidation catalyst.	maintain the 4-hour rolling average of the catalyst inlet temperature within the range suggested by the catalyst manufacturer. You are not required to use the catalyst inlet temperature data that is recorded during engine startup in the calculations of the 4-hour rolling average catalyst inlet temperature.
2. each stationary combustion turbine that is required to comply with the emission limitation for formaldehyde and is not using an oxidation catalyst.	maintain any operating limitations approved by the Administrator.

■ 13. Table 3 to Subpart YYYY of Part 63 is revised to read as follows:

Table 3 to Subpart YYYY of Part 63—Requirements for Performance Tests and Initial Compliance Demonstrations

As stated in § 63.6120, you must comply with the following requirements for performance tests and initial compliance demonstrations.

You must . . .	Using . . .	According to the following requirements . . .
a. demonstrate formaldehyde emissions meet the emission limitations specified in Table 1 by a performance test initially and on an annual basis AND.	Test Method 320 of 40 CFR part 63, appendix A; ASTM D6348–12e1 [1] provided that the test plan preparation and implementation provisions of Annexes A1 through A8 are followed and the %R as determined in Annex A5 is equal or greater than 70% and less than or equal to 130%; [2] or other methods approved by the Administrator.	formaldehyde concentration must be corrected to 15-percent O_2, dry basis. Results of this test consist of the average of the three 1-hour runs. Test must be conducted within 10 percent of 100-percent load.
b. select the sampling port location and the number of traverse points AND.	Method 1 or 1A of 40 CFR part 60, appendix A.	if using an air pollution control device, the sampling site must be located at the outlet of the air pollution control device.
c. determine the O_2 concentration at the sampling port location AND.	Method 3A or 3B of 40 CFR part 60, appendix A; ANSI/ASME PTC 19.10–1981 [1] (Part 10) manual portion only; ASTM D6522–11 [1] if the turbine is fueled by natural gas.	measurements to determine O_2 concentration must be made at the same time as the performance test.

You must . . .	Using . . .	According to the following requirements . . .
d. determine the moisture content at the sampling port location for the purposes of correcting the formaldehyde concentration to a dry basis.	Method 4 of 40 CFR part 60, appendix A or Test Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–12e1 [1].	measurements to determine moisture content must be made at the same time as the performance test.

[1] Incorporated by reference, see § 63.14.
[2] The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound using the following equation:
Reported Results = ((Measured Concentration in Stack)/(%R)) × 100.

■ 14. Table 7 to Subpart YYYY of Part 63 is revised to read as follows:

Table 7 to Subpart YYYY of Part 63—Applicability of General Provisions to Subpart YYYY

You must comply with the applicable General Provisions requirements:

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.1	General applicability of the General Provisions.	Yes	Additional terms defined in § 63.6175.
§ 63.2	Definitions	Yes	Additional terms defined in § 63.6175.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities	Yes.	
§ 63.5	Construction and reconstruction.	Yes.	
§ 63.6(a)	Applicability	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new and reconstructed sources.	Yes.	
§ 63.6(b)(5)	Notification	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major.	Yes.	
§ 63.6(c)(1)–(2)	Compliance dates for existing sources.	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)(i)	General duty to minimize emissions.	Yes before September 8, 2020. No after September 8, 2020. See § 63.6105 for general duty requirement.	
§ 63.6(e)(1)(ii)	Requirement to correct malfunctions ASAP.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Yes.	
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	SSMP	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.6(f)(1)	Applicability of standards except during startup, shutdown, or malfunction (SSM).	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.6(f)(2)	Methods for determining compliance.	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternative standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards.	No	Subpart YYYY does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria.	Yes.	
§ 63.6(j)	Presidential compliance exemption.	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart YYYY contains performance test dates at § 63.6110.
§ 63.7(a)(3)	Section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test.	Yes.	
§ 63.7(b)(2)	Notification of rescheduling	Yes.	

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.7(c)	Quality assurance/test plan	Yes.	
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart YYYY specifies test methods at § 63.6120.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions.	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements.	Yes	Subpart YYYY contains specific requirements for monitoring at § 63.6125.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring for control devices	No.	
§ 63.8(b)(1)	Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Monitoring system operation and maintenance.	Yes.	
§ 63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.8(c)(1)(ii)	Parts for repair of CMS readily available.	Yes.	
§ 63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart YYYY does not require continuous opacity monitoring systems (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No.	
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart YYYY does not require COMS.
§ 63.8(d)(1)–(2)	CMS quality control	Yes.	
§ 63.8(d)(3)	Written procedures for CMS	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.8(e)	CMS performance evaluation	Yes	Except for § 63.8(e)(5)(ii), which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test.	Yes.	
§ 63.8(g)	Data reduction	Yes	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§ 63.6135 and 63.6140.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	
§ 63.9(b)(1)–(5)	Initial notifications	Yes	Except that § 63.9(b)(3) is reserved.
§ 63.9(c)	Request for compliance extension.	Yes.	
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes.	
§ 63.9(e)	Notification of performance test.	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test.	No	Subpart YYYY does not contain opacity or VE standards.
§ 63.9(g)(1)	Notification of performance evaluation.	Yes.	

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.9(g)(2)	Notification of use of COMS data.	No	Subpart YYYY does not contain opacity or VE standards.
§ 63.9(g)(3)	Notification that criterion for alternative to relative accuracy test audit (RATA) is exceeded.	Yes.	
§ 63.9(h)	Notification of compliance status.	Yes	Except that notifications for sources not conducting performance tests are due 30 days after completion of performance evaluations. § 63.9(h)(4) is reserved.
§ 63.9(i)	Adjustment of submittal deadlines.	Yes.	
§ 63.9(j)	Change in previous information.	Yes.	
§ 63.10(a)	Administrative provisions for recordkeeping and reporting.	Yes.	
§ 63.10(b)(1)	Record retention	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of occurrence and duration of startups and shutdowns.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.10(b)(2)(ii)	Recordkeeping of failures to meet a standard.	Yes before September 8, 2020. No after September 8, 2020. See § 63.6155 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.	
§ 63.10(b)(2)(iii)	Maintenance records	Yes.	
§ 63.10(b)(2)(iv)–(v).	Records related to actions during SSM.	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.10(b)(2)(vi)–(xi).	CMS records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA.	Yes.	
§ 63.10(b)(2)(xiv)	Records of supporting documentation.	Yes.	
§ 63.10(b)(3)	Records of applicability determination.	Yes.	
§ 63.10(c)(1)–(14).	Additional records for sources using CMS.	Yes	Except that § 63.10(c)(2)–(4) and (9) are reserved.
§ 63.10(c)(15)	Use of SSM Plan	Yes before September 8, 2020. No after September 8, 2020.	
§ 63.10(d)(1)	General reporting requirements.	Yes.	
§ 63.10(d)(2)	Report of performance test results.	Yes.	
§ 63.10(d)(3)	Reporting opacity or VE observations.	No	Subpart YYYY does not contain opacity or VE standards.
§ 63.10(d)(4)	Progress reports	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	No. After September 8, 2020, see 63.6150(a) for malfunction reporting requirements.	
§ 63.10(e)(1) and (2)(i).	Additional CMS reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	Subpart YYYY does not require COMS.
§ 63.10(e)(3)	Excess emissions and parameter exceedances reports.	Yes	After September 8, 2020 submitted with the compliance report through CEDRI according to § 63.6150(a).
§ 63.10(e)(4)	Reporting COMS data	No	Subpart YYYY does not require COMS.
§ 63.10(f)	Waiver for recordkeeping and reporting.	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations.	Yes.	

Citation	Subject	Applies to subpart YYYY	Explanation
§ 63.13	Addresses	Yes	After September 8, 2020 not applicable to reports required to be submitted through CEDRI by 63.6150(c), (e), (f), or (g).
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

[FR Doc. 2020–02714 Filed 3–6–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0571; FRL–10003–94]

Chrysodeixis includens; Nucleopolyhedrovirus Isolate #460; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 in or on all food commodities when used in accordance with label directions and good agricultural practices. AgBiTech Pty Ltd. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 in or on all food commodities under FFDCA.

DATES: This regulation is effective March 9, 2020. Objections and requests for hearings must be received on or before May 8, 2020 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0571, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0571 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before May 8, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0571, 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 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.*

II. Background

In the **Federal Register** of December 21, 2018 (83 FR 65660) (FRL–9985–67), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 7F8641) by AgBiTech Pty Ltd., 8 Rocla Ct., Glenvale, Queensland 4350, Australia (c/o MacIntosh & Associates,

Inc., 1203 Hartford Ave., St. Paul, MN 55116–1622). The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 in or on all agricultural commodities. That notice referenced a summary of the petition prepared by the petitioner AgBiTech Pty Ltd. and available in the docket via *http://www.regulations.gov.* One comment was received on the notice of filing. EPA's response to this comment is discussed in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A summary of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for *Chrysodeixis includens* Nucleopolyhedrovirus isolate #460'' (''Safety Determination Document''). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that, with regard to humans, *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 is not toxic, pathogenic, or infective via any reasonably foreseeable route of exposure and when used in accordance with label directions and good agricultural practices. Baculoviruses, such as *Chrysodeixis includens* nucleopolyhedrovirus isolate #460, are ubiquitous in the environment and have been extensively studied with no adverse effects in mammals observed or known. Although there may be dietary and non-occupational exposure to residues when *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 is used on food commodities, there is not a concern due to the lack of potential for adverse effects when used in accordance with label directions and good agricultural practices. EPA also determined that retention of the Food Quality Protection Act safety factor was not necessary as part of the qualitative assessment conducted for *Chrysodeixis includens* nucleopolyhedrovirus isolate #460.

Based upon its evaluation in the Safety Determination Document, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 when used in accordance with label directions and good agricultural practices. Therefore, an exemption from the requirement of a tolerance is established for residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method for enforcement purposes is not required because EPA has determined that reasonably foreseeable exposure to residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 from use of the pesticide will be safe, due to lack of toxicity, pathogenicity, and infectivity. Under those circumstances, it is unnecessary to have an analytical method to monitor for residues.

C. Response to Comments

EPA received one comment on the notice of filing expressing concern about the petitioner's belief that an analytical method is not needed. The FFDCA allows EPA to establish a tolerance exemption without an analytical method if it determines that there is no need for such a method and states its reasons for such determination. 21 U.S.C. 346a(c)(3)(B). As indicated in Unit III.B., EPA has determined that such a method is not needed and explained its reasons for that determination.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions

of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 13, 2020.

Richard Keigwin,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1373 to subpart D to read as follows:

§ 180.1373 *Chrysodeixis includens* nucleopolyhedrovirus isolate #460; exemption from the requirement of a tolerance.

Residues of *Chrysodeixis includens* nucleopolyhedrovirus isolate #460 are exempt from the requirement of a tolerance in or on all food commodities, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2020–04525 Filed 3–6–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0061; FRL–10004–86]

Penoxsulam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of penoxsulam in or on globe artichoke. Interregional Research Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 9, 2020. Objections and requests for hearings must be received on or before May 8, 2020, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0061, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0061 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before May 8, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–

2019–0061, 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 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.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 9, 2019 (84 FR 20320) (FRL–9992–36), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E8727) by IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.605 be amended by establishing a tolerance for residues of the herbicide penoxsulam, including its metabolites and degradates, in or on artichoke, globe at 0.01 parts per million (ppm). That document referenced a summary of the petition prepared by Dow AgroSciences, the registrant, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for penoxsulam including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with penoxsulam follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The kidney was the major target organ for penoxsulam in the rat and dog following subchronic and chronic dietary exposure. There are no mechanistic studies characterizing the mode of action for renal toxicity of penoxsulam or other triazolopyrimidine herbicides, but the presence of crystals in the urinary tract and lack of tissue bioaccumulation suggest that cellular inflammation and damage may occur secondary to their presence. Hyperplasia (rat and dog) and inflammation (rat) of the renal pelvic epithelium were observed by week 4 in dietary dose range-finding studies. The dog was the more sensitive species in studies of all durations. The rat, but not the dog, showed progression of the severity of kidney toxicity with prolonged exposure. In dogs, renal toxicity in the subchronic and chronic studies occurred at comparable dose levels and measurable effects on renal function were not observed. In the rat, effects on renal function (increased blood urea nitrogen in both sexes, urinary bladder mucosal hyperplasia, and increased severity of chronic glomerulonephropathy in males) were observed only following chronic exposure, although the doses at which kidney toxicity occurred were comparable to doses tested in the subchronic study. A consistent pattern that identified a greater sensitivity of either sex was not observed.

Other effects in the rat included decreased red blood cell parameters and decreased body weight and/or weight gain. Liver effects were observed at the higher dose levels in the dog 4-week feeding study but not in other studies in the database. The findings of liver and/or kidney effects are consistent with effects observed for other triazolopyrimidine herbicides.

No effects of toxicological significance were observed in the mouse. Penoxsulam showed no evidence of neurotoxicity or immunotoxicity in the rodent, and no effects were seen in rats following dermal exposure. The Agency waived the requirement for inhalation data based on high inhalation margins of exposure using an oral endpoint, lack of observed irritation effects, and low vapor pressure.

There was no evidence of increased pre- and/or post-natal susceptibility. No developmental effects were observed in the rat or rabbit. Maternal effects in the rat included decreased body weight gain and food consumption and increased kidney weights. In the rabbit, maternal effects included mortality, clinical signs of toxicity, and decreased body weight gain and food consumption. In the rat 2-generation reproductive toxicity study, delayed preputial separation and lactation body weights were observed in F1 offspring at a dose that caused kidney lesions in parental females.

Although there is evidence of an increased incidence of mononuclear cell leukemia (MNCL) in Fisher 344 rats from exposure to penoxsulam, EPA has concluded that a quantitative assessment of cancer is not necessary and that the chronic reference dose (cRfD) is considered protective of possible cancer effects.

Specific information on the studies received and the nature of the adverse effects caused by penoxsulam as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled ''Penoxsulam: Human Health Risk Assessment for the Proposed Use on Globe Artichoke'' (Penoxsulam HHRA) on pages 32–37 in docket ID number EPA–HQ–OPP–2019–0061. For further discussion of the Agency's rationale for its cancer conclusion, see page 16 of the Penoxsulam HHRA.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human

exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticide.*

A summary of the toxicological endpoints for penoxsulam used for human risk assessment is discussed in Unit III.B of the final rule published in the **Federal Register** of March 2, 2016 (81 FR 10771) (FRL–9940–36).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to penoxsulam, EPA considered exposure under the petitioned-for tolerance as well as all existing penoxsulam tolerances in 40 CFR 180.605. EPA assessed dietary exposures from penoxsulam in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for penoxsulam; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the United States Department of Agriculture's (USDA's) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, the chronic dietary exposure assessment was unrefined and used tolerance-level residues and 100 percent crop treated (PCT).

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that the cRfD is protective of potential cancer risk from exposure to penoxsulam.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for penoxsulam. Tolerance-level residues and 100 PCT were assumed for all food commodities as well as contribution to the 5–OH-penoxsulam metabolite in fish.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for penoxsulam in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of penoxsulam. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Penoxsulam is registered for control of aquatic weeds. For that use pattern, the maximum application rate is 150 parts per billion (ppb) in the water column. For the chronic dietary risk assessment, the water concentration value of 150 ppb was used to assess the contribution to drinking water. This value is likely to be an overestimate of actual residues in drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Penoxsulam is currently registered for the following uses that could result in residential exposures: Residential and commercial turf (lawns and golf courses) and aquatic use sites. EPA assessed residential exposure using the following assumptions: For handlers, it is assumed that residential use will result in short-term (1 to 30 days) dermal and inhalation exposures. Residential post-application exposure is also assumed to be short-term (1 to 30 days) in duration, resulting from the following exposure scenarios:

Physical activities on turf: Adults (dermal) and children 1 to 2 years old (dermal and incidental oral);

Mowing turf: Adults (dermal) and children 11 to <16 years old (dermal);

Exposure to golf courses during golfing: Adults (dermal), children 11 to <16 years old (dermal), and children 6 to <11 years old (dermal); and

Exposure during aquatic activities (e.g. swimming): Adults (dermal, inhalation, ingestion) and children 3 to <6 years old (dermal, inhalation, ingestion).

Due to the lack of a dermal endpoint, EPA did not quantify exposure and risk estimates from dermal exposure scenarios. EPA did not combine exposure resulting from adult handler and post-application exposure resulting from treated gardens, lawns, golfing, and/or aquatic areas in residential settings because of the conservative assumptions and inputs within each estimated exposure scenario. The Agency believes that combining exposures resulting from handler and post-application activities would result in an overestimate of adult exposure. EPA selected the most conservative adult residential scenario (adult handler inhalation exposure from backpack sprayer applications to lawns/turf) as the contributing source of residential exposure to be combined with the dietary exposure for the aggregate assessment. The exposure for the aggregate assessment for children 3 to <6 years old is based on post-application combined inhalation and ingestion exposures during aquatic activities. The oral exposure for the aggregate assessment for children 1 to <2 years old is based on post-application hand-to-mouth exposures from applications to lawns/turf. To include exposure from object-to-mouth and soil ingestion in addition to hand-to-mouth would overestimate the potential for oral exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to penoxsulam and any other substances

and penoxsulam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that penoxsulam has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of quantitative or qualitative increased susceptibility, as compared to adults, of rat fetuses to *in utero* or postnatal exposure was observed in developmental toxicity studies in rats or rabbits or a reproduction study in rats. Developmental toxicity was not observed in the rat or rabbit up to doses resulting in maternal toxicity. In the rat reproductive toxicity study, slightly increased time to preputial separation in F1 males and decreased pup weight gain were observed in the presence of parental toxicity (kidney lesions in females).

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for penoxsulam is complete.

ii. There is no indication that penoxsulam is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that penoxsulam results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions by using the high-end EDWC of 150 ppb from the aquatic weed use pattern to assess exposure to penoxsulam in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by penoxsulam.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, penoxsulam is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to penoxsulam from food and water will utilize 5.6% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of penoxsulam is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Penoxsulam is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to penoxsulam.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 5,500 for adults, 1,700 for children 1 to 2 years old, and 4,500 for children 3 to 5 years old. Because EPA's level of concern for penoxsulam is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, penoxsulam is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for penoxsulam.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has determined that an RfD approach based on the chronic point of departure is appropriate for evaluating cancer risk. As there are not chronic aggregate risks of concern, there are no cancer aggregate risk concerns.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to penoxsulam residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies using high performance liquid chromatography with tandem mass spectroscopy (HPLC–MS/MS) are available to enforce the tolerance expression. These methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for penoxsulam on globe artichoke.

C. Response to Comments

Two comments were received in response to the notice of filing. One was against the Agency granting the use of penoxsulam and one was against the use of pesticides in general. Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes EPA to establish tolerances when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that these penoxsulam tolerances are safe. The commenters have provided no information to support an Agency conclusion that penoxsulam is not safe.

V. Conclusion

Therefore, tolerances are established for residues of penoxsulam, including its metabolites and degradates, in or on artichoke, globe at 0.01 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 6, 2020.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.605, add alphabetically the entry ''Artichoke, globe'' to the table in paragraph (a) to read as follows:

§ 180.605 Penoxsulam; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	0.01
* * * * *	

[FR Doc. 2020–04524 Filed 3–6–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 191002–0052; RTID 0648–XX046]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From NC to VA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notification; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2020 commercial summer flounder quota to the Commonwealth of Virginia. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised 2020 commercial quotas for North Carolina and Virginia.

DATES: Effective March 6, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2020 allocations were published on October 9, 2019 (84 FR 54041).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP), as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would not preclude the overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and, the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Act. The Regional Administrator has determined these three criteria have been met for the transfer approved in this notice.

North Carolina is transferring 10,276 (4,661 kg) of summer flounder commercial quota to Virginia. This transfer was requested to repay landings made by a North Carolina-permitted vessel in Virginia under a safe harbor agreement. Based on the revised summer flounder, scup, and black sea bass specifications, the summer flounder quotas for 2020 are now: North Carolina, 3,154,229 lb (1,430,734 kg); and, Virginia, 2,468,098 lb (1,119,510 kg).

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

Dated: March 2, 2020.

Karyl K. Brewster-Geisz,

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

[FR Doc. 2020–04567 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227–0066]

RIN 0648–XH080

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2020 and 2021 Harvest Specifications for Groundfish

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

ACTION: Final rule; harvest specifications and closures.

SUMMARY: NMFS announces final 2020 and 2021 harvest specifications, apportionments, and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the remainder of the 2020 and the start of the 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 (Magnuson-Stevens Act).

DATES: Harvest specifications and closures are effective from 1200 hours, Alaska local time (A.l.t.), March 9, 2020, through 2400 hours, A.l.t., December 31, 2021.

ADDRESSES: Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (EIS), Record of Decision (ROD), 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.fisheries.noaa.gov/region/alaska.* The 2019 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2019, as well as the SAFE reports for previous years, are available from the North Pacific Fishery Management Council (Council) at 1007 West 3rd Ave, Suite #400, Anchorage, AK 99501, phone 907–271–2809, or from the Council's website at *https://www.npfmc.org/.*

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 Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species category. The sum of all TAC 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)). This final rule specifies the total TAC at 2.0 million mt for both 2020 and 2021. NMFS also must specify apportionments of TAC, prohibited species catch (PSC) allowances, and 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 the Amendment 80 cooperative for flathead sole, rock sole, and yellowfin sole. The final harvest specifications set forth in Tables 1 through 22 of this action satisfy these requirements.

Section 679.20(c)(3)(i) further requires that NMFS consider public comment on the proposed harvest specifications and,

after consultation with the Council, publish final harvest specifications in the **Federal Register**. The proposed 2020 and 2021 harvest specifications for the groundfish fishery of the BSAI were published in the **Federal Register** on December 3, 2019 (84 FR 66129). Comments were invited and accepted through January 2, 2020. As discussed in the Response to Comments section below, NMFS received one comment letter during the public comment period for the proposed BSAI groundfish harvest specifications. No changes were made to the final rule in response to the comment letter received.

NMFS consulted with the Council on the final 2020 and 2021 harvest specifications during the December 2019 Council meeting in Anchorage, AK. After considering public comments, as well as biological and socioeconomic data that were available at the Council's December meeting, NMFS implements in this final rule the final 2020 and 2021 harvest specifications as recommended by the Council.

ABC and TAC Harvest Specifications

The final ABC amounts for Alaska groundfish 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. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers to define OFL and ABC amounts 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 December 2019, the Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) reviewed current biological and harvest information about the condition of the BSAI groundfish stocks. The Council's BSAI Groundfish Plan Team (Plan Team) compiled and presented this information in the 2019 SAFE report for the BSAI groundfish fisheries, dated November 2019 (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 BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. NMFS notified the public of the comment period for these harvest specifications—and of the publication of the 2019 SAFE report—in the notice of proposed harvest specifications. From the data and analyses in the SAFE report, the Plan Team recommended an OFL and ABC for each species or species group at the November 2019 Plan Team meeting.

In December 2019, the SSC, AP, and Council reviewed the Plan Team's recommendations. The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of all the TACs within the required OY range of 1.4 million to 2.0 million mt. As required by annual catch limit rules for all fisheries (74 FR 3178, January 16, 2009), none of the Council's recommended 2020 or 2021 TACs exceed the final 2020 or 2021 ABCs for any species or species group. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the preferred harvest strategy and the biological condition of groundfish stocks as described in the 2019 SAFE report that was approved by the Council. Therefore, this final rule provides notice that the Secretary of Commerce approves the final 2020 and 2021 harvest specifications as recommended by the Council.

The 2020 harvest specifications set in this final action will supersede the 2020 harvest specifications previously set in the final 2019 and 2020 harvest specifications (84 FR 9000, March 13, 2019). The 2021 harvest specifications herein will be superseded in early 2021 when the final 2021 and 2022 harvest specifications are published. Pursuant to this final action, the 2020 harvest specifications therefore will apply for the remainder of the current year (2020), while the 2021 harvest specifications are projected only for the following year (2021) and will be superseded in early 2021 by the final 2021 and 2022 harvest specifications. Because this final action (published in early 2020) will be superseded in early 2021 by the publication of the final 2021 and 2022 harvest specifications, it is projected that this final action will implement the harvest specifications for the BSAI for approximately one year.

Other Actions 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 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 rulemaking would prohibit directed fishing for sculpins, maintain recordkeeping and reporting requirements, and establish a sculpin maximum retainable amount at 20 percent when directed fishing for groundfish species to discourage sculpin 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 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 AFA Program 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 20–22 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 2021 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 Plan Team, SSC, and 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 approves, 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) equal to 35 percent of the 2020 AI ABC or 7,210 mt. 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). For 2020, 35 percent of the 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 ABC recommendations for Pacific cod in the AI. Accordingly, the Council recommended, and NMFS approves, 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.

Changes From the Proposed 2020 and 2021 Harvest Specifications for the BSAI

The Council's recommendations for the proposed 2020 and 2021 harvest specifications (84 FR 66129, December 3, 2019) were based largely on information contained in the 2018 SAFE report for the BSAI groundfish fisheries. Through the proposed harvest specifications, NMFS notified the public that these harvest specifications could change, as the Council would consider information contained in the 2019 SAFE report; recommendations from the Plan Team, SSC, and AP committees; and public comments when making its recommendations for final harvest specifications at the December 2019 Council meeting. NMFS further notified the public that, as required by the FMP and its implementing regulations, the sum of the TACs must be within the OY range of 1.4 million and 2.0 million mt.

Information contained in the 2019 SAFE report indicates biomass changes from the 2018 SAFE report for several groundfish species. The 2019 report was made available for public review during the public comment period for the proposed harvest specifications. At the December 2019 Council meeting, the SSC recommended the 2020 and 2021 ABCs based on the best and most recent information contained in the 2019 SAFE report. The SSC recommended slight model adjustments for Eastern Bering Sea pollock and BS Pacific cod, but accepted Plan Team recommendations for all other species, except for sablefish. The SSC's recommendation resulted in an ABC sum total for all BSAI groundfish species in excess of 2.0 million mt for both 2020 and 2021.

For sablefish, as discussed in the proposed 2020 and 2021 harvest specifications (84 FR 66129, December 3, 2019) the SSC considered the appropriateness of continuing to specify sablefish OFLs at the separate Bering Sea, Aleutian Islands, and Gulf of Alaska (GOA) management area levels. The SSC reviewed the information available regarding area apportionment of the OFL, and decided that the best scientific information available regarding stock structure for sablefish supports an Alaska-wide OFL specification. Therefore, based on biological considerations, the SSC recommended specification of a single Alaska-wide sablefish OFL, which includes the Bering Sea, Aleutian Islands, and the GOA. Also, the SSC agreed with the Plan Team that a substantial reduction in the 2020 and 2021 ABCs from the maximum permissible ABCs were warranted. However, the SSC revised the Plan Team's recommendation for the sablefish ABCs by revising the method and amount of the reduction of the sablefish ABCs from the maximum permissible ABCs.

Based on increased fishing effort in 2019, the Council recommends final BS pollock TACs increase by 4,176 mt in 2020 and 29,176 mt in 2021 compared to the proposed 2020 and 2021 BS pollock TACs. In terms of percentage, the largest increases in final 2020 TACs relative to the proposed 2020 TACs include BS ''other rockfish'' and BSAI northern rockfish. The increases account for anticipated higher incidental catches of these species, based on increased incidental catches in 2019. Other increases in the final 2020 TACs relative to the proposed 2020 TACs include BS Pacific cod, Aleutian Islands (AI) Pacific cod, AI Greenland turbot, BSAI arrowtooth flounder, BSAI Kamchatka flounder, BSAI flathead sole, Bering Sea and Eastern Aleutian Islands (BS/EAI) blackspotted/rougheye rockfish, Central Aleutian and Western Aleutian (CAI/WAI) blackspotted/rougheye rockfish, BSAI shortraker rockfish, Eastern Aleutian Islands and Bering Sea (EAI/BS) Atka mackerel, Western Aleutian Islands (WAI) Atka mackerel, Central Aleutian Islands (CAI) Atka mackerel, BSAI sculpins, and BSAI sharks. The 2020 increases account for higher interest in directed fishing or higher anticipated incidental catch needs.

Decreases in final 2020 TACs compared to the proposed 2020 TACs include AI sablefish, BS sablefish, BS Pacific ocean perch, CAI Pacific ocean perch, Eastern Aleutian Islands (EAI) Pacific ocean perch, BSAI yellowfin sole, BSAI rock sole, BSAI Alaska plaice, BSAI ''other flatfish,'' BSAI octopuses, and BSAI skates. The decreases are for anticipated lower incidental catch needs of these species relative to 2019. The changes to TACs between the proposed and final harvest specifications are based on the most recent scientific and economic information and are consistent with the FMP, regulatory obligations, and harvest strategy as described in the proposed harvest specifications, including the upper limit for OY of 2.0 million mt. These changes are compared in Table 1A.

Table 1 lists the Council's recommended final 2020 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve allocations of the BSAI groundfish species or species groups; and Table 2 lists the Council's recommended final 2021 OFL, ABC, TAC, ITAC, and CDQ reserve allocations of the BSAI groundfish species or species groups. NMFS concurs in these recommendations. These final 2020 and 2021 TAC amounts for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any species or species group. The apportionment of TAC amounts among

fisheries and seasons is discussed below.

TABLE 1—FINAL 2020 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	2020				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	4,085,000	2,043,000	1,425,000	1,282,500	142,500
	AI	66,973	55,120	19,000	17,100	1,900
	Bogoslof	183,080	137,310	75	75	-
Pacific cod [5]	BS	191,386	155,873	141,799	126,627	15,172
	AI	27,400	20,600	13,796	12,320	1,476
Sablefish [6]	Alaska	50,481	n/a	n/a	n/a	n/a
	BS	n/a	2,174	1,861	1,535	256
	AI	n/a	2,952	2,039	1,657	344
Yellowfin sole	BSAI	287,307	260,918	150,700	134,575	16,125
Greenland turbot	BSAI	11,319	9,625	5,300	4,505	n/a
	BS	n/a	8,403	5,125	4,356	548
	AI	n/a	1,222	175	149	-
Arrowtooth flounder	BSAI	84,057	71,618	10,000	8,500	1,070
Kamchatka flounder	BSAI	11,495	9,708	6,800	5,780	-
Rock sole [7]	BSAI	157,300	153,300	47,100	42,060	5,040
Flathead sole [8]	BSAI	82,810	68,134	19,500	17,414	2,087
Alaska plaice	BSAI	37,600	31,600	17,000	14,450	-
Other flatfish [9]	BSAI	21,824	16,368	4,000	3,400	-
Pacific ocean perch	BSAI	58,956	48,846	42,875	37,678	n/a
	BS	n/a	14,168	14,168	12,043	-
	EAI	n/a	11,063	10,613	9,477	1,136
	CAI	n/a	8,144	8,094	7,228	866
	WAI	n/a	15,471	10,000	8,930	1,070
Northern rockfish	BSAI	19,751	16,243	10,000	8,500	-
Blackspotted/Rougheye rockfish [10]	BSAI	861	708	349	297	-
	BS/EAI	n/a	444	85	72	-
	CAI/WAI	n/a	264	264	224	-
Shortraker rockfish	BSAI	722	541	375	319	-
Other rockfish [11]	BSAI	1,793	1,344	1,088	925	-
	BS	n/a	956	700	595	-
	AI	n/a	388	388	330	-
Atka mackerel	BSAI	81,200	70,100	59,305	52,959	6,346
	BS/EAI	n/a	24,535	24,535	21,910	2,625
	CAI	n/a	14,721	14,721	13,146	1,575
	WAI	n/a	30,844	20,049	17,904	2,145
Skates	BSAI	49,792	41,543	16,313	13,866	.....
Sculpins	BSAI	67,817	50,863	5,300	4,505	.....
Sharks	BSAI	689	517	150	128	.....
Octopuses	BSAI	4,769	3,576	275	234	.....
Total	.....	5,584,382	3,272,581	2,000,000	1,791,907	195,935

[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 (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead 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 footnotes 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 arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, blackspotted/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 (3.7 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, except 35 percent of the AI ABC exceeds the State guideline harvest level of 15 million pounds (6,804 mt), in which case the TAC is set to account for the State guideline harvest level of 6,804 mt.

[6] The sablefish OFL is Alaska-wide and includes the Gulf of Alaska.

[7] ''Rock sole'' includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[8] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[9] ''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.

[10] "Blackspotted/Rougheye rockfish" includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).
[11] "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).

TABLE 1A—COMPARISON OF FINAL 2020 AND 2021 WITH PROPOSED 2020 AND 2021 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2020 final TAC	2020 proposed TAC	2020 difference from proposed	2020 percentage difference from proposed	2021 final TAC	2021 proposed TAC	2021 difference from proposed	2021 percentage difference from proposed
Pollock	BS	1,425,000	1,420,824	4,176	0.3	1,450,000	1,420,824	29,176	2.1
	AI	19,000	19,000	.....	.....	19,000	19,000		
	Bogoslof	75	75	.....	.....	75	75		
Pacific cod	BS	141,799	124,625	17,174	13.8	92,633	124,625	(31,992)	(25.7)
	AI	13,796	13,390	406	3.0	13,796	13,390	406	3.0
Sablefish	BS	1,861	1,994	(133)	(6.7)	2,865	1,994	871	43.7
	AI	2,039	2,688	(649)	(24.1)	2,500	2,688	(188)	(7.0)
Yellowfin sole	BSAI	150,700	166,425	(15,725)	(9.4)	168,900	166,425	2,475	1.5
Greenland turbot	BS	5,125	5,125	.....	.....	5,125	5,125		
	AI	175	169	6	3.6	251	169	82	48.5
Arrowtooth flounder	BSAI	10,000	8,000	2,000	25.0	10,000	8,000	2,000	25.0
Kamchatka flounder	BSAI	6,800	5,000	1,800	36.0	7,000	5,000	2,000	40.0
Rock sole	BSAI	47,100	57,100	(10,000)	(17.5)	49,000	57,100	(8,100)	(14.2)
Flathead sole	BSAI	19,500	14,500	5,000	34.5	24,000	14,500	9,500	65.5
Alaska plaice	BSAI	17,000	18,000	(1,000)	(5.6)	20,000	18,000	2,000	11.1
Other flatfish	BSAI	4,000	6,500	(2,500)	(38.5)	5,000	6,500	(1,500)	(23.1)
Pacific ocean perch	BS	14,168	14,274	(106)	(0.7)	13,600	14,274	(674)	(4.7)
	EAI	10,613	11,146	(533)	(4.8)	10,619	11,146	(527)	(4.7)
	CAI	8,094	8,205	(111)	(1.4)	7,817	8,205	(388)	(4.7)
	WAI	10,000	10,000	.....	.....	10,000	10,000	.....	.....
Northern rockfish	BSAI	10,000	6,500	3,500	53.8	10,000	6,500	3,500	53.8
Blackspotted and Rougheye rockfish.	BS/EAI	85	75	10	13.3	85	75	10	13.3
	CAI/WAI	264	204	60	29.4	339	204	135	66.2
Shortraker rockfish	BSAI	375	358	17	4.7	375	358	17	4.7
Other rockfish	BS	700	275	425	154.5	700	275	425	154.5
	AI	388	388	.....	.....	388	388	.....	.....
Atka mackerel	EAI/BS	24,535	22,190	2,345	10.6	22,540	22,190	350	1.6
	CAI	14,721	13,310	1,411	10.6	13,524	13,310	214	1.6
	WAI	20,049	18,135	1,914	10.6	18,418	18,135	283	1.6
Skates	BSAI	16,313	26,000	(9,687)	(37.3)	16,000	26,000	(10,000)	(38.5)
Sculpins	BSAI	5,300	5,000	300	6.0	5,000	5,000	.....	.....
Sharks	BSAI	150	125	25	20.0	150	125	25	20.0
Octopuses	BSAI	275	400	(125)	(31.3)	300	400	(100)	(25.0)
Total	BSAI	2,000,000	2,000,000	.....	.....	2,000,000	2,000,000	.....	.....

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands management area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

TABLE 2—FINAL 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	2021				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	3,385,000	1,767,000	1,450,000	1,305,000	145,000
	AI	70,970	58,384	19,000	17,100	1,900
	Bogoslof	183,080	137,310	75	75	.....
Pacific cod [5]	BS	125,734	102,975	92,633	82,721	9,912
	AI	27,400	20,600	13,796	12,320	1,476
Sablefish [6]	Alaska wide	64,765	n/a	n/a	n/a	n/a
	BS	n/a	2,865	2,865	1,218	107
	AI	n/a	3,891	2,500	531	47
Yellowfin sole	BSAI	287,943	261,497	168,900	150,828	18,072
Greenland turbot	BSAI	10,006	8,510	5,376	4,570	n/a
	BS	n/a	7,429	5,125	4,356	548
	AI	n/a	1,081	251	213	.....
Arrowtooth flounder	BSAI	86,647	73,804	10,000	8,500	1,070
Kamchatka flounder	BSAI	11,472	9,688	7,000	5,950	.....
Rock sole [7]	BSAI	236,800	230,700	49,000	43,757	5,243
Flathead sole [8]	BSAI	86,432	71,079	24,000	21,432	2,568
Alaska plaice	BSAI	36,500	30,700	20,000	17,000	.....
Other flatfish [9]	BSAI	21,824	16,368	5,000	4,250	.....

TABLE 2—FINAL 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]—Continued

[Amounts are in metric tons]

Species	Area	2021				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pacific ocean perch	BSAI	56,589	46,885	42,036	36,953	n/a
	BS	n/a	13,600	13,600	11,560	
	EAI	n/a	10,619	10,619	9,483	1,136
	CAI	n/a	7,817	7,817	6,981	836
	WAI	n/a	14,849	10,000	8,930	1,070
Northern rockfish	BSAI	19,070	15,683	10,000	8,500	
Blackspotted/Rougheye rockfish [10]	BSAI	1,090	899	424	360	
	BS/EAI	n/a	560	85	72	
	CAI/WAI	n/a	339	339	288	
Shortraker rockfish	BSAI	722	541	375	319	
Other rockfish [11]	BSAI	1,793	1,344	1,088	925	
	BS	n/a	956	700	595	
	AI	n/a	339	388	330	
Atka mackerel	BSAI	74,800	64,400	54,482	48,652	5,830
	EAI/BS	n/a	22,540	22,540	20,128	2,412
	CAI	n/a	13,524	13,524	12,077	1,447
	WAI	n/a	28,336	18,418	16,447	1,971
Skates	BSAI	48,289	40,248	16,000	13,600	
Sculpins	BSAI	67,817	50,863	5,000	4,250	
Sharks	BSAI	689	517	150	128	
Octopuses	BSAI	4,769	3,576	300	255	
Total		4,910,201	3,020,278	2,000,000	1,789,193	194,816

[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 (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and 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 footnotes 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 arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). The 2021 hook-and-line or pot gear portion of the sablefish ITAC and CDQ reserve will not be specified until the final 2021 and 2022 harvest specifications. Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, blackspotted/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 (3.7 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] Assuming an increase in the 2021 guideline harvest level based on the actual 2020 harvest, the 2021 BS Pacific cod TAC is set to account for the 10 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 2021 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, except 35 percent of the AI ABC exceeds the State guideline harvest level of 15 million pounds (6,804 mt), in which case the TAC is set to account for the State guideline harvest level of 6,804 mt.

[6] The sablefish OFL is Alaska-wide and includes the Gulf of Alaska.

[7] ''Rock sole'' includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[8] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[9] ''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.

[10] ''Blackspotted/Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[11] ''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 Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires that NMFS reserves 15 percent of the TAC for each target species (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 for 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 allocations of sablefish in the BS and AI and 10.7 percent of the Bering Sea 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, Aleutian Islands 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) also require that 10 percent of the Bering Sea pollock TAC be allocated to the pollock CDQ directed fishing

allowance (DFA). Sections 679.20(a)(5)(iii)(B)(*2*)(*i*) and 679.31(a) require that 10 percent of the Aleutian Islands 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 allocations by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 3.7 percent of the BS 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 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 establishes a pollock ICA of 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 allocates ICAs of 3,000 mt of flathead sole, 6,000 mt of rock sole, 4,000 mt of yellowfin sole, 10 mt of WAI Pacific ocean perch, 60 mt of CAI Pacific ocean perch, 100 mt of EAI Pacific ocean perch, 20 mt of WAI Atka mackerel, 75 mt of CAI Atka mackerel, and 800 mt of EAI and BS Atka mackerel TAC after subtracting the 10.7 percent CDQ reserve. These ICA allowances are based on NMFS's examination of the 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 reserves 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)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 1 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 3 from the non-specified reserve to increase the ITAC for AI ''other rockfish'' by 15 percent of the ''other rockfish'' TAC in 2020 and 2021.

TABLE 3—FINAL 2020 AND 2021 APPORTIONMENT OF NON-SPECIFIED RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species-area or subarea	2020 ITAC	2020 Reserve amount	2020 Final TAC	2021 ITAC	2021 Reserve amount	2021 Final TAC
Other rockfish-Aleutian Islands subarea ..	330	58	388	330	58	388
Total	330	58	388	330	58	388

Allocation of Pollock TAC under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the BS pollock TAC be apportioned as a DFA, after subtracting 10 percent for the CDQ program and 3.7 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–June 10), and 55 percent of the DFA is allocated to the B season (June 10–November 1) (§§ 679.20(a)(5)(i)(B)(*1*) and 679.23(e)(2)). The Aleutian Islands 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 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 TAC is allocated to the B season (§ 679.20(a)(5)(iii)(B)(*3*)). Tables 4 and 5 list these 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 Aleutian Islands pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the Aleutian Islands pollock ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the Aleutian Islands pollock ABC.

Section 679.20(a)(5)(i)(A)(*4*) also 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 (CVs) 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. Tables 4 and 5 list the 2020 and 2021 allocations of pollock TAC. Table 20 lists the AFA C/P prohibited species sideboard limits, and Tables 21 and 22 list the AFA CV prohibited species and groundfish sideboard limits. The tables for the pollock allocations to the BS inshore pollock cooperatives and open access sector will be posted on the Alaska Region website at *https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-groundfish-fisheries-management.*

Tables 4 and 5 also list 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. Tables 4 and 5 list these final 2020 and 2021 amounts by sector.

TABLE 4—FINAL 2020 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 Allocations	2020 A season [1]		2020 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,425,000	n/a	n/a	n/a
CDQ DFA	142,500	64,125	39,900	78,375
ICA [1]	47,453	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,235,048	555,771	345,813	679,276
AFA Inshore	617,524	277,886	172,907	339,638
AFA Catcher/Processors [3]	494,019	222,309	138,325	271,710
Catch by C/Ps	452,027	203,412	n/a	248,615
Catch by CVs [3]	41,992	18,896	n/a	23,095
Unlisted C/P Limit [4]	2,470	1,112	n/a	1,359
AFA Motherships	123,505	55,577	34,581	67,928
Excessive Harvesting Limit [5]	216,133	n/a	n/a	n/a
Excessive Processing Limit [6]	370,514	n/a	n/a	n/a
Aleutian Islands subarea ABC	55,120	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	1,900	n/a	
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	14,700	n/a	
Area harvest limit [7]	n/a	n/a	n/a	n/a
541	16,536	n/a	n/a	n/a
542	8,268	n/a	n/a	n/a
543	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 Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (3.7 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—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 Aleutian Islands 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 pollock directed fishery. In the Aleutian Islands 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 a 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 catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processor 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 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of 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.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 5—FINAL 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	2021 Allocations	2021 A season [1]		2021 Bseason [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,450,000	n/a	n/a	n/a
CDQ DFA	145,000	65,250	40,600	79,750
ICA [1]	48,285	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,256,715	565,522	351,880	691,193
AFA Inshore	628,358	282,761	175,940	345,597
AFA Catcher/Processors [3]	502,686	226,209	140,752	276,477
Catch by C/Ps	459,958	206,981	n/a	252,977
Catch by CVs [3]	42,728	19,228	n/a	23,501
Unlisted C/P Limit [4]	2,513	1,131	n/a	1,382
AFA Motherships	125,672	56,552	35,188	69,119
Excessive Harvesting Limit [5]	219,925	n/a	n/a	n/a
Excessive Processing Limit [6]	377,015	n/a	n/a	n/a
Aleutian Islands subarea ABC	58,384	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140

TABLE 5—FINAL 2021 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2021 Allocations	2021 A season [1]		2021 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	21,394	n/a	(6,694)
Area harvest limit [7].				
541	17,515	n/a	n/a	n/a
542	8,758	n/a	n/a	n/a
543	2,919	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 Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (3.7 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—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 Aleutian Islands 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 pollock directed fishery. In the Aleutian Islands 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 a 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 catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processor 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 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of 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.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

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 sector, and the jig gear allocation (Tables 6 and 7). 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 EAI and the BS Atka mackerel ITAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including, among other criteria, the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the EAI and BS to the jig gear sector 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 CDQ Atka mackerel trawl fishing. The ICAs 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 TACs 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.

Tables 6 and 7 list these 2020 and 2021 Atka mackerel seasonal and 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 sole Amendment 80 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.

TABLE 6—FINAL 2020 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2020 allocation by area		
		Eastern Aleutian District/ Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	24,535	14,721	20,049
CDQ reserve	Total	2,625	1,575	2,145
	A	1,313	788	1,073
	Critical Habitat	n/a	473	644
	B	1,313	788	1,073
	Critical Habitat	n/a	473	644
Non-CDQ TAC	n/a	21,910	13,146	17,904
ICA	Total	800	75	20
Jig [7]	Total	106	.....	.....
BSAI trawl limited access	Total	2,100	1,307	.....
	A	1,050	654	.....
	Critical Habitat	n/a	392	.....
	B	1,050	654	.....
	Critical Habitat	n/a	392	.....
Amendment 80 sector	Total	18,904	11,764	17,884
	A	9,452	5,882	8,942
	Critical Habitat	n/a	3,529	5,365
	B	9,452	5,882	8,942
	Critical Habitat	n/a	3,529	5,365

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, 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; section 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 section 679.20(a)(8)(ii)(C)(*2*) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Sections 679.2 and 679.20(a)(8)(i) require that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS sets the amount of this allocation for 2020 at 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 7—FINAL 2021 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2021 allocation by area		
		Eastern Aleutian District/ Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	22,540	13,524	18,418
CDQ reserve	Total	2,412	1,447	1,971
	A	1,206	724	985
	Critical Habitat	n/a	434	591
	B	1,206	724	985
	Critical Habitat	n/a	434	591
non-CDQ TAC	n/a	20,128	12,077	16,447
ICA	Total	800	75	20
Jig [7]	Total	97	.....	.....
BSAI trawl limited access	Total	1,923	1,200	.....
	A	962	600	.....
	Critical Habitat	n/a	360	.....
	B	962	600	.....
	Critical Habitat	n/a	360	.....
Amendment 80 sectors [7]	Total	17,308	10,802	16,427
	A	8,654	5,401	8,214
	Critical Habitat	n/a	3,241	4,928
	B	8,654	5,401	8,214

TABLE 7—FINAL 2021 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2021 allocation by area		
		Eastern Aleutian District/ Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
	Critical Habitat	n/a	3,241	4,928

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, 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; section 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 section 679.20(a)(8)(ii)(C)(*2*) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Sections 679.2 and 679.20(a)(8)(i) require that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS sets the amount of this allocation for 2021 at 0.5 percent. The jig gear allocation is not apportioned by season.

[7] 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.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Pacific Cod TAC

The Council separated Bering Sea and Aleutian Islands 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 Bering Sea TAC and the Aleutian Islands TAC to the CDQ program. After CDQ allocations have been deducted from the respective Bering Sea and Aleutian Islands Pacific cod TACs, the remaining Bering Sea and Aleutian Islands 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 Bering Sea or the Aleutian Islands subareas, NMFS will prohibit non-CDQ directed fishing for 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 Pacific cod TAC in the combined BSAI 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 Amendment 80 sector; and 22.1 percent to trawl CVs. 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. For 2020 and 2021, the Regional Administrator establishes an ICA of 400 mt based on anticipated incidental catch by these sectors in other fisheries.

The 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 sole Amendment 80 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.

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 seasonal Pacific cod 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 as determined by the annual stock assessment process. Based on the 2019 stock assessment, the Regional Administrator determined for 2020 and 2021 the estimated amount of Pacific cod abundance in Area 543 is 15.7 percent of the total AI abundance. NMFS will first subtract the State GHL Pacific cod amount from the Aleutian Islands 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, the Area 543 harvest limit is 2,166 mt for 2020 and 2021.

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 final rule is not specifying amounts for the AI Pacific Cod Catcher Vessel Harvest Set-Aside Program (see § 679.20(a)(7)(viii)).

Table 8 and Table 9 list the CDQ and non-CDQ seasonal allowances by gear based on the final 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 8—FINAL 2020 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2020 share of total	2020 share of sector total	2020 seasonal apportionment	
				Season	Amount
BS TAC	n/a	141,799	n/a	n/a	n/a
BS CDQ	n/a	15,172	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	126,627	n/a	n/a	n/a
AI TAC	n/a	13,796	n/a	n/a	n/a
AI CDQ	n/a	1,476	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	12,320	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	2,166	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	138,946	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	84,479	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	84,079	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	67,346	Jan 1–Jun 10	34,347
				Jun 10–Dec 31	33,000
Hook-and-line catcher vessel ≥60 ft LOA	0.2	n/a	277	Jan 1–Jun 10	141
				Jun 10–Dec 31	136
Pot catcher/processor	1.5	n/a	2,074	Jan 1–Jun 10	1,058
				Sept 1–Dec 31	1,016
Pot catcher vessel ≥60 ft LOA	8.4	n/a	11,616	Jan 1–Jun 10	5,924
				Sept 1–Dec 31	5,692
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2.0	n/a	2,766	n/a	n/a
Trawl catcher vessel	22.1	30,707	n/a	Jan 20–Apr 1	22,723
				Apr 1–Jun 10	3,378
				Jun 10–Nov 1	4,606
AFA trawl catcher/processor	2.3	3,196	n/a	Jan 20–Apr 1	2,397
				Apr 1–Jun 10	799
				Jun 10–Nov 1	.....
Amendment 80	13.4	18,619	n/a	Jan 20–Apr 1	13,964
				Apr 1–Jun 10	4,655
				Jun 10–Nov 1	.....
Jig	1.4	1,945	n/a	Jan 1–Apr 30	1,167
				Apr 30–Aug 31	389
				Aug 31–Dec 31	389

[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 the subtraction of the reserves for the CDQ Program. If the TAC for Pacific cod in either the AI or BS is or will be reached, then directed fishing for Pacific cod in that subarea will be prohibited, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

[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 approves an ICA of 400 mt for 2020 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 9—FINAL 2021 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2020 share total	2020 share of sector total	2020 seasonal apportionment	
				Season	Amount
BS TAC	n/a	92,633	n/a	n/a	n/a
BS CDQ	n/a	9,912	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	82,721	n/a	n/a	n/a
AI TAC	n/a	13,796	n/a	n/a	n/a
AI CDQ	n/a	1,476	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	12,320	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	2,166	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	n/a	95,041	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	57,785	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	57,385	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	45,965	Jan 1–Jun 10	23,442
				Jun 10–Dec 31	22,523
Hook-and-line catcher vessel ≥60 ft LOA	0.2	n/a	189	Jan 1–Jun 10	96
				Jun 10–Dec 31	92
Pot catcher/processor	1.5	n/a	1,416	Jan 1–Jun 10	722
				Sept 1–Dec 31	694
Pot catcher vessel ≥60 ft LOA	8.4	n/a	7,928	Jan 1–Jun 10	4,043
				Sept 1–Dec 31	3,885
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2.0	n/a	1,888	n/a	n/a

TABLE 9—FINAL 2021 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Sector	Percent	2020 share total	2020 share of sector total	2020 seasonal apportionment	
				Season	Amount
Trawl catcher vessel	22.1	21,004	n/a	Jan 20–Apr 1	15,543
				Apr 1–Jun 10	2,310
				Jun 10–Nov 1	3,151
AFA trawl catcher/processor	2.3	2,186	n/a	Jan 20–Apr 1	1,639
				Apr 1–Jun 10	546
				Jun 10–Nov 1	
Amendment 80	13.4	12,736	n/a	Jan 20–Apr 1	9,552
				Apr 1–Jun 10	3,184
				Jun 10–Dec 31	
Jig	1.4	1,331	n/a	Jan 1–Apr 30	798
				Apr 30–Aug 31	266
				Aug 31–Dec 31	266

[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 the subtraction of the reserves for the CDQ Program. If the TAC for Pacific cod in either the AI or BS is or will be reached, then directed fishing for Pacific cod in that subarea will be prohibited, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

[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 approves an ICA of 400 mt for 2021 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Sablefish Gear Allocation

Section 679.20(a)(4)(iii) and (iv) require allocation of the sablefish TAC for the BS and AI subareas between trawl gear and hook-and-line or pot gear sectors. 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 apportions 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 in the BS and AI 7.5 percent of the trawl gear allocation of sablefish TAC from the non-specified reserve, established under § 679.20(b)(1)(i), be assigned to the CDQ reserve.

The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear 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 10 lists the 2020 and 2021 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 10—FINAL 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	2020 CDQ reserve	2021 Share of TAC	2021 ITAC	2021 CDQ reserve
Bering Sea							
Trawl [1]	50	931	791	70	1,433	1,218	107
Hook-and-line/pot gear [2]	50	931	744	186	n/a	n/a	n/a
Total	100	1,861	1,535	256	1,433	1,218	107
Aleutian Islands							
Trawl [1]	25	510	433	38	625	531	47
Hook-and-line/pot gear [2]	75	1,529	1,223	306	n/a	n/a	n/a
Total	100	2,039	1,657	344	625	531	47

[1] For the sablefish trawl gear allocations, 15 percent of TAC is apportioned to the non-specific reserve (§ 679.20(b)(1)(i)). The ITAC is the remainder of the TAC after subtracting these reserves. In the BS and AI, 7.5 percent of the trawl non-specified reserve is assigned to the CDQ reserves (§ 679.20(b)(1)(ii)(D)(1)).

[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 gear sablefish IFQ fisheries be limited to one year.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Aleutian Islands 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 Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole ITACs between the Amendment 80 sector and the BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserves and ICAs for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocations of the ITACs for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector are established in accordance with Tables 33 and 34 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 sole Amendment 80 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. Tables 11 and 12 list the 2020 and 2021 allocations of the Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 11—FINAL 2020 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	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	10,613	8,094	10,000	19,500	47,100	150,700
CDQ	1,136	866	1,070	2,087	5,040	16,125
ICA	100	60	10	3,000	6,000	4,000
BSAI trawl limited access	938	717	178	.....	.....	17,172
Amendment 80	8,440	6,451	8,742	14,414	36,060	113,403

Note: Sector apportionments may not total precisely due to rounding.

TABLE 12—FINAL 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	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	10,619	7,817	10,000	24,000	49,000	168,900
CDQ	1,136	836	1,070	2,568	5,243	18,072
ICA	100	60	10	3,000	6,000	4,000
BSAI trawl limited access	938	692	178	.....	.....	23,673
Amendment 80 [1]	8,444	6,229	8,742	18,432	37,757	123,154

[1] 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.

Note: Sector apportionments may not total precisely due to rounding.

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 shall be the ABC reserves minus the CDQ ABC reserves. 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 13 lists the 2020 and 2021 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole.

TABLE 13—FINAL 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	2020 Flathead sole	2020 Rock sole	2020 Yellowfin sole	2021 [1] Flathead sole	2021 [1] Rock sole	2021 [1] Yellowfin sole
ABC	68,134	153,300	260,918	71,079	230,700	261,497
TAC	19,500	47,100	150,700	24,000	49,000	168,900
ABC surplus	48,634	106,200	110,218	47,079	181,700	92,597
ABC reserve	48,634	106,200	110,218	47,079	181,700	92,597

TABLE 13—FINAL 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—Continued

[Amounts are in metric tons]

Sector	2020 Flathead sole	2020 Rock sole	2020 Yellowfin sole	2021 [1] Flathead sole	2021 [1] Rock sole	2021 [1] Yellowfin sole
CDQ ABC reserve	5,204	11,363	11,793	5,037	19,442	9,908
Amendment 80 ABC reserve	43,430	94,837	98,425	42,042	162,258	82,689

[1] 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.

PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(b), (e), (f), and (g) sets 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) authorizes apportionment of the BSAI non-trawl halibut PSC limit into PSC allowances among six fishery categories in Table 17, and § 679.21(b)(1)(ii)(A) and (B), (e)(3)(i)(B), and (e)(3)(iv) requires apportionment of the trawl PSC limits in Tables 15 and 16 into PSC allowances among seven fishery categories.

Pursuant to Section 3.6 of the FMP, the Council recommends, and NMFS agrees, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consultation with the Council, NMFS exempts 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 that legal-size halibut be retained by vessels using fixed 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)).

The 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 of Alaska 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).

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://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

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. Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent from 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 29.009 million lbs (12,705 mt). Based on the criteria set out at § 679.21(e)(1)(i), the 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 mature 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 RKCSS red king crab bycatch limit to 25 percent of the red king crab PSC limit, based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2019, the Council recommended and NMFS concurs that the red king crab bycatch limit for 2020 and 2021 be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 15).

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 2020 and 2021 *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 253,207 mt. This amount was developed by the Alaska Department of Fish and Game based on biomass for spawning aggregations. Therefore, the herring PSC limit for 2020 and 2021 is 2,532 mt for all trawl gear as listed in Tables 14 and 15.

Section 679.21(e)(3)(i)(A) requires that PSQ reserves be subtracted from the total trawl gear crab PSC limits. The crab and halibut PSC limits apportioned to the Amendment 80 and BSAI trawl limited access sectors are listed in Table 35 to 50 CFR part 679. The resulting 2020 and 2021 allocations of PSC limit to CDQ PSQ reserves, the Amendment 80 sector, and the BSAI trawl limited access sector are listed in Table 14. 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. In 2020, there are no vessels in the Amendment 80 limited access sector and one Amendment 80 cooperative. The 2021 PSC 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. Section 679.21(e)(3)(i)(B) requires that NMFS apportion each trawl PSC limit for crab and herring not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories in § 679.21(e)(3)(iv).

Section 679.21(b)(2) and (e)(5) authorizes NMFS, after consulting with the Council, to establish seasonal apportionments of halibut and crab PSC amounts for the BSAI trawl limited access and non-trawl sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species relative to prohibited species distribution, (3) PSC 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 approves the seasonal PSC apportionments in Tables 16 and 17 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC.

TABLE 14—FINAL 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 and zone [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	BSAI PSC limits not allocated [3]
Halibut mortality (mt) BSAI	3,515	710	315	n/a	1,745	745	.....
Herring (mt) BSAI	2,532	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	16,839
C. opilio (animals) COBLZ	8,580,898	n/a	918,156	7,662,742	3,766,238	2,462,805	1,433,699
C. bairdi crab (animals) Zone 1	980,000	n/a	104,860	875,140	368,521	411,228	95,390
C. bairdi crab (animals) Zone 2	2,970,000	n/a	317,790	2,652,210	627,778	1,241,500	782,932

[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 15—FINAL 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	110	n/a
Rock sole/flathead sole/Alaska plaice/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	2,299	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	2,532	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 December 2019, the Council recommended, and NMFS approves, 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 16—FINAL 2020 AND 2021 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access fisheries	Prohibited species and area or zone [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/Alaska plaice/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 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: Seasonal or sector allowances may not total precisely due to rounding.

TABLE 17—FINAL 2020 AND 2021 HALIBUT PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON-TRAWL FISHERIES

		Halibut mortality (mt) BSAI		
Non-trawl fisheries	Seasons	Catcher/ processor	Catcher vessel	All non-trawl
Pacific cod	Total Pacific cod	648	13	661
	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

Note: Seasonal or sector allowances may not total precisely due to rounding.

Estimates of Halibut Biomass and Stock Condition

The International Pacific Halibut Commission (IPHC) annually assesses the abundance and potential yield of the Pacific halibut stock using all available data from the commercial and sport fisheries, other removals, and scientific surveys. Additional information on the Pacific halibut stock assessment may be found in the IPHC's 2019 Pacific halibut stock assessment (December 2019), available on the IPHC website at *www.iphc.int.* The IPHC considered the 2019 Pacific halibut stock assessment at its February 2020 annual meeting when

it set the 2020 commercial halibut fishery catch limits.

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 (IPHC, 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 new 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.

At the December 2019 meeting, the SSC, AP, and Council reviewed and concurred in the revised DMRs. The 2020 and 2021 DMRs use an updated 2-year reference period. Comparing the 2020 and 2021 final DMRs to the final DMRs from the 2019 and 2020 harvest specifications, the DMR for motherships and catcher/processors using non-pelagic trawl gear decreased to 75 percent from 78 percent, the DMR for catcher vessels using non-pelagic trawl gear decreased to 58 percent from 59 percent, the DMR for catcher/processors using hook-and-line gear increased to 9 percent from 8 percent, the DMR for catcher vessels using hook-and-line gear increased to 9 percent from 4 percent, and the DMR for pot gear increased to 27 percent from 19 percent. Table 18 lists the final 2020 and 2021 DMRs.

TABLE 18—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	Mothership and catcher/processor	75
Non-pelagic trawl	Catcher vessel	58
Hook-and-line	Catcher/processor	9
Hook-and-line	Catcher vessel	9
Pot	All	27

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea, regulatory area, or district (see § 679.20(d)(1)(iii)). Similarly, pursuant to § 679.21(b)(4) and (e)(7), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species or species group in that fishery category in the area specified by regulation for the remainder of the season or fishing year.

Based on historic catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in Table 19 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2020 and 2021 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 19 as zero mt. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species or species groups in the specified areas effective at 1200 hours, A.l.t., March 9, 2020, through 2400 hours, A.l.t., December 31, 2021. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in Table 19 are insufficient to support directed fisheries. Therefore, in accordance with § 679.21(b)(4)(i) and (e)(7), NMFS is prohibiting directed fishing for these sectors, species, and fishery categories in the specified areas effective at 1200 hours, A.l.t., March 9, 2020, through 2400 hours, A.l.t., December 31, 2021.

TABLE 19—2020 AND 2021 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2020 Incidental catch allowance	2021 Incidental catch allowance
Bogoslof District	All	Pollock	75	75
Aleutian Islands subarea	All	ICA pollock	2,400	2,400
		"Other rockfish" [2]	388	388
Aleutian Islands subarea	Trawl non-CDQ	Sablefish	433	531
Eastern Aleutian District/Bering Sea.	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Atka mackerel	800	800
Eastern Aleutian District/Bering Sea.	All	Blackspotted/Rougheye rockfish	72	72
Eastern Aleutian District	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Pacific ocean perch	100	100
Central Aleutian District	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Atka mackerel	75	75
		ICA Pacific ocean perch	60	60
Western Aleutian District	Non-amendment 80, CDQ and BSAI trawl limited access.	ICA Atka mackerel	20	20
		ICA Pacific ocean perch	10	10
Western and Central Aleutian Districts.	All	Blackspotted/Rougheye rockfish	224	288
Bering Sea subarea	Trawl non-CDQ	Sablefish	633	847
Bering Sea subarea	All	Pacific ocean perch	12,043	11,560
		"Other rockfish" [2]	595	595
		ICA pollock	47,453	48,285
Bering Sea and Aleutian Islands	All	Northern rockfish	8,500	8,500
		Shortraker rockfish	319	319
		Skates	13,866	13,600
		Sculpins	4,505	4,250
		Sharks	128	128
		Octopuses	234	255
	Hook-and-line and pot gear	ICA Pacific cod	400	400
	Non-amendment 80 and CDQ	ICA flathead sole	3,000	3,000
		ICA rock sole	6,000	6,000
	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA yellowfin sole	4,000	4,000
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.		
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.		
		Rockfish—red king crab Zone 1		

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

Closures implemented under the final 2019 and 2020 BSAI harvest specifications for groundfish (84 FR 9000, March 13, 2019) remain effective under authority of these final 2020 and 2021 harvest specifications and until the date specified in those notices. Closures are posted at the following website under the Alaska filter for Management Area: *https://www.fisheries.noaa.gov/rules-and-announcements/bulletins.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found at 50 CFR part 679.

Listed AFA Catcher/Processor 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 final 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 20 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the final 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 final 2020 or 2021 PSC sideboard limit listed in Table 20 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 20—FINAL 2020 AND 2021 BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area [1]	Ratio of PSC catch to total PSC	2020 and 2021 PSC available to trawl vessels after subtraction of PSQ [2]	2020 and 2021 AFA catcher/processor sideboard limit [2]
Halibut mortality BSAI	n/a	n/a	286
Red king crab Zone 1	0.0070	86,621	606
C. opilio (COBLZ)	0.1530	7,662,742	1,172,400
C. bairdi Zone 1	0.1400	875,140	122,520
C. bairdi Zone 2	0.0500	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 Catcher Vessel 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 fishery 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). Section 679.64(b)(6) exempts AFA CVs 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. The remainder of the sideboard limits for non-exempt AFA C/Vs are in Table 21.

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). Table 21 lists the final 2020 and 2021 AFA CV sideboard limits.

TABLE 21–FINAL 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 Initial TAC	2020 AFA catcher vessel sideboard limits	2021 Initial TAC	2021 AFA catcher vessel sideboard limits
BSAI	n/a	n/a	n/a	n/a	n/a
Trawl gear CV	n/a	n/a	n/a	n/a	n/a
Jan 20–Apr 1	0.8609	22,723	19,562	15,543	13,381
Apr 1–Jun 10	0.8609	3,378	2,908	2,310	1,989
Jun 10–Nov 1	0.8609	4,606	3,965	3,151	2,712

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 22 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 final 2020 and 2021 PSC sideboard limit listed in Table 22 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 22–FINAL 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	2020 and 2021 PSC limit after subtraction of PSQ reserves [3]	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/Alaska plaice/other flatfish [4].	n/a	n/a	228
	Greenland turbot/arrowtooth/Kamchatka/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 trawl 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, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[5] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, and octopuses.

Response to Comments

NMFS received one letter raising one comment during the public comment period for the proposed BSAI groundfish harvest specifications. No changes were made to the final rule in response to the comment letter received.

Comment 1: NMFS is allowing the massive taking of 2.0 million mt of groundfish from the Bering Sea, Alaska, which should be cut by 50% immediately, because the allocation is too high and is harming marine mammals and other animals that rely on groundfish for food.

Response 1: The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the TAC for each target species or species group, and the sum of all TACs for all groundfish species in the BSAI must be within the optimum yield (OY) range of 1.4 million to 2.0 mt (see § 679.20(a)(1)(i)(A)). For 2020 and 2021, the sum of all TACs is 2.0 million mt, which is the upper end of the required OY range of 1.4 to 2.0 million mt. For each groundfish species or species group in the BSAI, the Council and NMFS set annual harvest levels for 2020 and 2021 based on the best available scientific information on the biological condition of the groundfish species, the status of ecosystem, and other socio-economic factors. NMFS's primary objective in the harvest specifications process is the conservation and management of fish resources for the Nation as a whole, and the annual harvest specifications process is a key element to ensuring that Alaska fisheries are sustainably managed in a controlled and orderly manner. This process incorporates the best available scientific information from the most recent SAFE reports, which include information on the condition of each groundfish species and other ecosystem components, such as marine mammals and seabirds. In addition, NMFS has considered impacts on endangered and threatened species and marine mammals and has developed measures to address those impacts. For example, there are a broad suite of conservation and management measures in place to protect Steller sea lions that were subject to consultation under Section 7 of the Endangered Species Act, including those described at *https://www.fisheries.noaa.gov/species/steller-sea-lion#management.*

Classification

NMFS has determined that the final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866. This final 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 (see **ADDRESSES**) 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. In January 2020, NMFS prepared a Supplementary Information Report (SIR) for this action. 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 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.

The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2020 and 2021 groundfish harvest specifications. An SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2020 and 2021 harvest specifications, which were set according to the preferred harvest strategy in the Final EIS, does not constitute a substantial change in the action; and (2) there are no significant new

circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2020 and 2021 harvest specifications will result in environmental, social, and economic impacts within the scope of those analyzed and disclosed in the Final EIS. Therefore, an SEIS is not necessary to implement the 2020 and 2021 harvest specifications.

Section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 604) requires that, when an agency promulgates a final rule under 5 U.S.C. 553, after being required by that section, or any other law, to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA). The following constitutes the FRFA prepared for the final action.

The required contents of a FRFA, as described in section 604, are: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this action, its purpose, and its legal basis are included at the beginning of the preamble to this final rule and are not repeated here.

NMFS published the proposed rule on December 3, 2019 (84 FR 66129). NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to accompany the proposed action, and included a summary in the proposed rule. The comment period closed on January 2, 2020. No comments were received on the IRFA or on the economic impacts of the rule more generally. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments on the proposed rule.

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 catcher vessels and catcher/processors 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.

Using the most recent data available (2018), the estimated number of directly regulated small entities include approximately 182 catcher vessels, three catcher/processors, 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, and, since under the RFA the aggregate gross receipts of all participating members of the cooperative must meet the ''under $11 million'' threshold, the cooperatives are considered to be large entities within the meaning of the RFA. Thus, the estimate of 182 catcher vessels may be an overstatement of the number of small entities. Average gross revenues in 2018 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 catcher/processors are not reported, due to confidentiality considerations.

This action does not modify recordkeeping or reporting requirements.

The significant alternatives were those considered as alternative harvest strategies when the Council selected its preferred harvest strategy (Alternative 2) in December 2006. These included the following:

- Alternative 1: Alternative 1 set TAC to produce fishing mortality rates, *F,* that are equal to *maxFABC,* unless the sum of the TAC is constrained by the OY established in the FMP. This is equivalent to setting TAC to produce harvest levels equal to the maximum permissible ABC, as constrained by OY. The term ''*maxFABC*'' refers to the maximum permissible value of *FABC* under Amendment 56 to the BSAI and Gulf of Alaska groundfish fishery management plans. Historically, the TAC has been set at or below the ABC; therefore, this alternative represents a likely upper limit for setting the TAC within the OY and ABC limits.
- Alternative 3: For species in Tiers 1, 2, and 3, Alternative 3 set TAC to produce *F* equal to the most recent 5-year average actual *F.* For species in Tiers 4, 5, and 6, Alternative 3 set TAC equal to the most recent 5-year average actual catch. For stocks with a high level of scientific information, TAC would be set to produce harvest levels equal to the most recent 5-year average actual fishing mortality rates. For stocks with insufficient scientific information, TAC would be set equal to the most recent 5-year average actual catch. This alternative recognizes that for some stocks, catches may fall well below ABC, and recent average *F* may provide a better indicator of actual *F* than *FABC* does.
- Alternative 4: First, Alternative 4 set TAC for rockfish species in Tier 3 at *F*75%; set TAC for rockfish species in Tier 5 at *F* = 0.5M; and set spatially explicit TAC for shortraker and rougheye rockfish in the BSAI. Second, taking the rockfish TAC as calculated above, Alternative 4 would reduce all other TAC by a proportion that does not vary across species, so that the sum of all TAC, including rockfish TAC, is equal to the lower bound of the area OY (1.4 million mt in the BSAI). This alternative sets conservative and spatially explicit TAC for rockfish species that are long-lived and late to mature, and sets conservative TAC for the other groundfish species.
- Alternative 5: Alternative 5 (No Action) set TAC at zero.

Alternative 2 is the preferred alternative chosen by the Council. Alternative 2 set TACs that fall within the range of ABCs recommended through the Council harvest specifications process and TACs recommended by the Council. Under this scenario, *F* is set equal to a constant fraction of *maxFABC.* The recommended fractions of *maxFABC* may vary among species or stocks, based on other considerations unique to each.

This is the method for determining TACs that has been used in the past.

Alternatives 1, 3, 4, and 5 do not meet the objectives of this action. Alternatives 1 and 3 may have a smaller adverse economic impact on small entities than the preferred alternative, but would be inconsistent with the objectives of this action. Alternatives 4 and 5 likely would have a significant adverse economic impact on small entities. The Council rejected these alternatives as harvest strategies in 2006, and the Secretary of Commerce did so in 2007.

Alternative 1 would lead to TAC limits whose sum exceeds the fishery OY, which is set out in statute and the FMP. As shown in Table 1 and Table 2, the sum of ABCs in 2020 and 2021 would be 3,272,581 mt and 3,020,278 mt, respectively. Both of these are substantially in excess of the fishery OY for the BSAI. This result would be inconsistent with the objectives of this action, in that it would violate the Consolidated Appropriations Act of 2004, Public Law 108–199, Division B, Title VIII, section 803(c), the FMP, and implementing regulations (§ 679.20(a)(1)(i)(A)), which set a 2.0 million mt maximum harvest for BSAI groundfish.

Alternative 3 selects harvest rates based on the most recent 5 years' worth of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years' worth of harvests (for species in Tiers 4 through 6). This alternative is inconsistent with the objectives of this action, as well as National Standard 2 of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(2)), because it does not take into account the most recent biological information for this fishery. 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 category for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all groundfish species and would reduce TAC from the upper end of the OY range in the BSAI to its lower end of 1.4 million mt. This result would lead to significant reductions in harvests of species by small entities. While reductions of this size could be associated with offsetting price increases, the size of these increases is uncertain, and, assuming volume decreases would lead to price increases, it is unclear whether price increases would be sufficient to offset the volume decreases and to leave revenues unchanged for small entities. Thus, this alternative would have an adverse economic impact on small entities, compared to the preferred alternative.

Alternative 5, which sets all harvests equal to zero, may address conservation issues, but would have a significant adverse economic impact on small entities and would be inconsistent with achieving OY on a continuing basis, as mandated by the Magnuson-Stevens Act (16 U.S.C. 1851(a)(1)).

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**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in the date of effectiveness for this rule because delaying this rule is contrary to the public interest. The Plan Team review of the 2019 SAFE report occurred in November 2019, and based on the 2019 SAFE report the Council considered and recommended the final harvest specifications in December 2019. Accordingly, NMFS's review of the final 2020 and 2021 harvest specifications could not begin until after the December 2019 Council meeting, and after the public had time to comment on the proposed action.

If this rule's effectiveness is delayed, fisheries that might otherwise remain open under these rules may prematurely close based on the lower TACs established in the final 2019 and 2020 harvest specifications (84 FR 9000, March 13, 2019). If implemented immediately, this rule would allow these fisheries to continue fishing, because some of the new TACs implemented by this rule are higher than the TACs under which they are currently fishing.

In addition, immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly pertinent for those species that have lower 2020 ABCs and TACs than those established in the 2019 and 2020 harvest specifications (84 FR 9000, March 13, 2019). If implemented immediately, this rule would ensure that NMFS can properly manage those fisheries for which this rule sets lower 2020 ABCs and TACs, which are based on the most recent biological information on the condition of stocks, rather than managing species under the higher TACs set in the previous year's harvest specifications.

Certain fisheries, such as those for pollock and Pacific cod, are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, skates, sharks, and octopuses, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TAC limits in these fisheries would cause confusion in the industry and potential economic harm through unnecessary discards, thus undermining the intent of this rule. Predicting which fisheries may close is difficult because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries, for example by freeing up fishing vessels, which would allow those vessels to move from closed fisheries to open ones and lead to an increase in the fishing capacity in those open fisheries, thereby causing those open fisheries to close at an accelerated pace.

Additionally, in fisheries subject to declining sideboard limits, delaying this rule's effectiveness could allow some vessels to inadvertently reach or exceed their new sideboard limits. Because sideboard limits are intended to protect traditional fisheries in other sectors, allowing one sector to exceed its new sideboard limits by delaying this rule's effectiveness would effectively reduce the available catch for sectors that the sideboard limits are meant to protect. Moreover, the new TACs and sideboard limits protect the fisheries from being overfished. Thus, the delay is contrary to the public interest in protecting traditional fisheries and fish stocks.

If the final harvest specifications are not effective by March 14, 2020, which is the start of the 2020 Pacific halibut season as specified by the IPHC, the fixed gear sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both fixed gear sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2020 and 2021 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season.

Finally, immediate effectiveness also would provide the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in the date of effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

This final rule is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2020 and 2021 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2020 and 2021 fishing years and to accomplish the goals and objectives of the FMP. This action directly affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC amounts are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

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: February 27, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–04475 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RTID 0648–XY079

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2020 total allowable catch of pollock in Statistical Area 630 of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 9, 2020, through 1200 hours, A.l.t., March 10, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 23, 2020.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2019–0102 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 5,783 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish in the GOA (84 FR 9416, March 14, 2019) and inseason adjustment (84 FR 70436, December 23, 2019).

NMFS closed directed fishing for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on February 23, 2020 (85 FR 10994, February 26, 2020).

As of March 2, 2020, NMFS has determined that approximately 3,000 mt of pollock remain in the A season allowance for pollock in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2020 TAC of pollock in Statistical Area 630 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA, effective 1200 hours, A.l.t., March 9, 2020.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in Statistical Area 630 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 2, 2020.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for

pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 23, 2020.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 4, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–04742 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RTID 0648–XY080

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2020 total allowable catch of pollock in Statistical Area 610 of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 9, 2020, through 1200 hours, A.l.t., March 10, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 23, 2020.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2019–0102 by any 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. 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 will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 517 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish in the GOA (84 FR 9416, March 14, 2019) and inseason adjustment (84 FR 70436, December 23, 2019).

NMFS closed directed fishing for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on January 22, 2020 (85 FR 4602, January 27, 2020).

As of March 2, 2020, NMFS has determined that approximately 517 mt of pollock remain in the A season allowance for pollock in Statistical Area 610 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2020 TAC of pollock in Statistical Area 610 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA, effective 1200 hours, A.l.t., March 9, 2020.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in Statistical Area 610 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 2, 2020.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 610 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 23, 2020.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 4, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–04741 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 46
Monday, March 9, 2020

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0197; Product Identifier 2019–NM–200–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–25–16, which applies to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2017–25–16 requires repetitive inspections of certain fuel pumps for cavitation erosion, corrective action if necessary, and revision of the minimum equipment list (MEL). Since the FAA issued AD 2017–25–16, the FAA has determined that the inspection area must be expanded, and Model A330–941 airplanes are also subject to the unsafe condition. This proposed AD would retain the requirements of AD 2017–25–16, expand the inspection area, add certain maintenance actions, and expand the applicability, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 23, 2020.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0197.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0197; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0197; Product Identifier 2019–NM–200–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The FAA issued AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (''AD 2017–25–16''), which applied to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A340–200, A340–300, A340–500 and A340–600 series airplanes. The FAA issued AD 2017–25–16 to address cavitation erosion of certain fuel pumps, which could result, if the pump is running dry, in an ignition source in the fuel tank and consequent fuel tank explosion.

Actions Since AD 2017–25–16 Was Issued

Since the FAA issued AD 2017–25–16, the FAA has determined that AD 2017–25–16 must be superseded for the following reasons:

- The inspection area must be expanded to include location B, the collector cell, which is subject to the unsafe condition.
- Certain maintenance actions related to defueling and ground fuel transfer operations are also necessary for all affected airplanes.
- Model A330–941 airplanes, which were not in production at the time AD 2017–25–16 was issued, are also subject to the unsafe condition. The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0291, dated November 29, 2019 (''EASA AD 2019–0291'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, and A340–300 series, and A340–541, –542, –642, and –643 airplanes. EASA AD 2019–0291 supersedes EASA AD 2017–0224 (which corresponds to FAA AD

2017–25–16). Model A340–542 and –643 airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by reports of a fuel pump showing cavitation erosion that breached the fuel pump housing through the inlet webs and exposed the fuel pump power supply wires, and by new findings that suggest the need to expand the inspection area and the applicability. The FAA is proposing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2017–25–16, this proposed AD would retain most of the requirements of AD 2017–25–16. Those requirements are referenced in EASA AD 2019–0291, which, in turn, is referenced in paragraph (g) of this proposed AD. The reporting requirement in AD 2017–25–16 is not included in this proposed AD.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0291 describes procedures for repetitive inspections of all affected parts, replacement if necessary, updating of the applicable Master Minimum Equipment List (MMEL), and certain maintenance actions related to defueling and ground fuel transfer operations, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0291 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0291 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0291 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0291 that is required for compliance with EASA AD 2019–0291 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0197 after the FAA final rule is published.

Interim Action

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

Costs of Compliance

The FAA estimates that this proposed AD affects 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2017–25–16	Up to 4 work-hours × $85 per hour = Up to $340.	$0	Up to $340	Up to $36,380.
New proposed actions	Up to 68 work-hours × $85 per hour = Up to $5,780.	$0	Up to $5,780	Up to $618,460.
MEL revision	1 workhour × $85 = $85	$0	$85	$9,095.

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
Up to 126 work-hours × $85 per hour = Up to $10,710	Up to $173,680	Up to $184,390.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (''AD 2017–25–16''), and adding the following new AD:

Airbus SAS: Docket No. FAA–2020–0197; Product Identifier 2019–NM–200–AD.

(a) Comments Due Date

The FAA must receive comments by April 23, 2020.

(b) Affected ADs

This AD replaces AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (''AD 2017–25–16'').

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, and identified in paragraphs (c)(1) through (8) of this AD.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–941 airplanes.

(4) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(5) Model A340–211, –212, and –213 airplanes.

(6) Model A340–311, –312, and –313 airplanes.

(7) Model A340–541 airplanes.

(8) Model A340–642 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by new findings that suggest the need to expand the inspection area and the applicability. The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0291, dated November 29, 2019 (''EASA AD 2019–0291'').

(h) Exceptions to EASA AD 2019–0291

(1) Where EASA AD 2019–0291 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0291 does not apply to this AD.

(3) Where EASA AD 2019–0291 refers to the master minimum equipment list (MMEL), this AD refers to the operator's minimum equipment list (MEL).

(4) Where paragraph (1) of EASA AD 2019–0291 specifies a compliance time of ''Before an affected part exceeds 10,000 flight hours (FH) since first installation on an aeroplane,'' for this AD the compliance time is ''Before an affected pump exceeds 10,000 flight hours since first installation on an airplane, or the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD, whichever occurs later.''

(i) For a center tank, rear center tank, or aft transfer fuel pump: Within 30 days after December 29, 2017 (the effective date of AD 2017–25–16).

(ii) For a stand-by fuel pump: Within 40 days after December 29, 2017 (the effective date of AD 2017–25–16).

(5) Where EASA AD 2019–0291 refers to the ''effective date of EASA AD 2017–0224,'' this AD requires using ''December 29, 2017 (the effective date of AD 2017–25–16).''

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(i) 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.

(ii) AMOCs approved previously for AD 2017–25–16 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0291 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC*): For any service information referenced in EASA AD 2019–0291 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2019–0291, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0197.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on March 1, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–04724 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0107; Product Identifier 2019–NM–205–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019–03–06, which applies to certain The Boeing Company Model 737–300, –400, and –500 series airplanes. AD 2019–03–06 requires installing lanyard assemblies to the passenger service units (PSUs) and, for certain airplanes, on the life vest panels. Since AD 2019–03–06 was issued, the FAA has determined that additional actions are necessary for five airplanes. This proposed AD would retain the requirements of AD 2019–03–06 and require installation of lanyard assemblies to the life vest panels on those five airplanes. 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 April 23, 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 Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0107.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0107; 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: Scott Craig, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3566; email: *Michael.S.Craig@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0107; Product Identifier 2019–NM–205–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 received about this proposed AD.

Discussion

The FAA issued AD 2019–03–06, Amendment 39–19558 (84 FR 5587, February 22, 2019) (''AD 2019–03–06''), for certain Boeing Model 737–300, –400, and –500 series airplanes. AD 2019–03–06 requires installing lanyard assemblies to the PSUs and, for certain airplanes, to the life vest panels. AD 2019–03–06 was prompted by a report indicating that the PSUs became separated from their attachments during several survivable accident sequences. The FAA issued AD 2019–03–06 to address the potential for a PSU to detach and fall into the cabin, which could lead to passenger injuries and impede egress during an evacuation.

Actions Since AD 2019–03–06 Was Issued

Since AD 2019–03–06 was issued, the FAA made a determination, based on additional information provided by Boeing, that lanyard assemblies must also be installed to the life vest panels on additional airplanes. That action was not specified for these additional airplanes in previous service information or required by AD 2019–03–06.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019. The service information describes procedures for installing lanyard assemblies to the PSUs and life vest panels, as applicable to the airplane group.

This proposed AD would also require Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017, which the Director of the Federal Register approved for incorporation by reference as of March 29, 2019 (84 FR 5587, February 22, 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.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2019–03–06. This proposed AD would also require installation of lanyard assemblies to the life vest panels on certain airplanes. Therefore, this proposed AD would require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019, and the actions identified in the Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0107.

Costs of Compliance

The FAA estimates that this proposed AD affects 221 airplanes of U.S. registry. The new actions in this proposed AD apply to only 5 airplanes, none of which is registered in the U.S. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Lanyard assembly installation ..	Up to 124 work-hours × $85 per hour = Up to $10,540.	Up to $11,000	$21,540	Up to $4,760,340.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA has determined that this 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 that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2019–03–06, Amendment 39–19558 (84 FR 5587, February 22, 2019), and adding the following new AD:

The Boeing Company: Docket No. FAA–2020–0107; Product Identifier 2019–NM–205–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by April 23, 2020.

(b) Affected ADs

This AD replaces AD 2019–03–06, Amendment 39–19558 (84 FR 5587, February 22, 2019) (''AD 2019–03–06'').

(c) Applicability

This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category, as identified in the service information specified in paragraphs (c)(1) and (2) of this AD.

(1) Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019.

(2) Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report indicating that the passenger service units (PSUs) became separated from their attachments during several survivable accident sequences. The FAA is issuing this AD to address the potential for the PSU to detach and fall into the cabin, which could lead to passenger injuries and impede egress during an evacuation.

(f) Compliance

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

(g) Required Actions

(1) For airplanes identified in Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1728, Revision 1, dated November 26, 2019.

(2) For airplanes identified in Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017: Except as required by paragraph (h) of this AD, at the applicable times specified in the ''Compliance''

paragraph of Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017.

Note 1 to paragraph (g)(2): Guidance for accomplishing the actions required by paragraph (g)(2) of this AD can be found in Boeing Service Bulletin 737–25–1758, dated November 8, 2017, which is referred to in Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017.

(h) Exception to Service Information Specifications

Where Boeing Requirements Bulletin 737–25–1758 RB, dated November 8, 2017, uses the phrase ''the original issue date of the Requirements Bulletin (RB),'' this AD requires using March 29, 2019 (the effective date of AD 2019–03–06).

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 737–25–1728, dated October 10, 2016.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

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

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

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

(k) Related Information

(1) For more information about this AD, contact Scott Craig, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3566; email: *Michael.S.Craig@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* 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.

Issued on March 1, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–04660 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0106; Product Identifier 2020–NM–005–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. This proposed AD was prompted by a determination that certain inspection procedures specified an incorrect inspection area. This proposed AD would require repetitive detailed inspections of a certain stringer location, and applicable corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 23, 2020.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 89990 1000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0106.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0106; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229; email: *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send

your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0106; Product Identifier 2020–NM–005–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0315, dated December 23, 2019 (''EASA AD 2019–0315'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes.

This proposed AD was prompted by a determination that certain inspection procedures specified the inspection area as stringer (STR) 43 right-hand (RH) at fuselage frame (FR) 67 instead of STR 44 RH at fuselage FR 67. The FAA is proposing this AD to address potential undetected damage, which could affect the structural integrity of the affected area, leading to potential in-flight loss of the bulk cargo door, and possible consequent damage to the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0315, dated December 23, 2019, describes procedures for repetitive detailed inspections of STR 44 RH at fuselage FR 67 for discrepancies (such as cracking), and applicable corrective actions. Corrective actions may include repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, The FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA has evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0315 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0315 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0315 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0315 that is required for compliance with EASA AD 2019–0315 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0106 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 113 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$9,605

The FAA has received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0106; Product Identifier 2020–NM–005–AD.

(a) Comments Due Date

The FAA must receive comments by April 23, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus SAS Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Airbus SAS Model A330–223F and -243F airplanes.

(3) Airbus SAS Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a determination that certain inspection procedures specified the inspection area as stringer (STR) 43 right-hand (RH) at fuselage frame (FR) 67 instead of STR 44 RH at fuselage FR 67. The FAA is issuing this AD to address potential undetected damage, which could affect the structural integrity of the affected area, leading to potential in-flight loss of the bulk cargo door, and possible consequent damage to the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0315, dated December 23, 2019 (''EASA AD 2019–0315'').

(h) Exceptions to EASA AD 2019–0315

(1) Where EASA AD 2019–0315 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0315 does not apply to this AD.

(3) Where EASA AD 2019–0315 specifies to comply with ''the instructions of the AOT,'' this AD requires compliance with the procedures marked as required for compliance (RC) in the Alert Operators Transmission (AOT).

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2019–0315 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC*): For any service information referenced in EASA AD 2019–0315 that contains RC procedures and tests: Except as required by paragraphs (h)(3) and (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) For information about EASA AD 2019–0315, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 89990 6017; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0106.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229; email: *vladimir.ulyanov@faa.gov.*

Issued on February 25, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–04725 Filed 3–6–20; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Investment Security

31 CFR Parts 800 and 802

RIN 1505–AC65

Filing Fees for Notices of Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States

AGENCY: Office of Investment Security, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a fee for parties filing a voluntary notice of certain transactions for review by the Committee on Foreign Investment in the United States (CFIUS). In establishing a fee for such notices, this proposed rule would implement section 1723 of the Foreign Investment Risk Review Modernization Act of 2018, which amends section 721 of the Defense Production Act of 1950 to allow CFIUS to collect fees.

DATES: Written comments must be received by April 8, 2020.

ADDRESSES: Written comments on this proposed rule may be submitted through one of two methods:

- *Electronic Submission:* Comments may be submitted electronically through the Federal government eRulemaking portal at *https://www.regulations.gov*. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department of the Treasury (Treasury Department) to make the comments available to the public. Please note that comments submitted through *https://www.regulations.gov* will be public, and can be viewed by members of the public.
- *Mail:* Send to U.S. Department of the Treasury, Attention: Laura Black, Director of Investment Security Policy and International Relations, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Please submit comments only and include your name and company name (if any), and cite ''Filing Fees for Notices of Certain Investments in the United States by Foreign Persons and Certain Transactions By Foreign Persons Involving Real Estate in the United States'' in all correspondence. In general, the Treasury Department will post all comments to *https://www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting material, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed rule, contact: Laura Black, Director of Investment Security Policy and International Relations; Meena R. Sharma, Deputy Director of Investment Security Policy and International Relations; David Shogren, Senior Policy Advisor; or James Harris, Senior Policy Advisor, at U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622–3425; email: *CFIUS.FIRRMA@treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On August 13, 2018, the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), Subtitle A of Title XVII of Public Law 115–232, 132 Stat. 2173, was enacted. FIRRMA amends section 721 (section 721) of the Defense Production Act of 1950 (DPA), which delineates the authorities and jurisdiction of the Committee on Foreign Investment in the United States (CFIUS or the Committee). Executive Order 13456, 73 FR 4677 (Jan. 23, 2008), directs the Secretary of the Treasury to issue regulations implementing section 721. This proposed rule is being issued pursuant to that authority.

FIRRMA maintains the Committee's jurisdiction over any transaction which could result in foreign control of any U.S. business, and it broadens the authorities of the President and CFIUS under section 721 to review and to take action to address any national security concerns arising from certain non-controlling investments and real estate transactions. FIRRMA refers to the transactions over which CFIUS has jurisdiction as ''covered transactions.'' This statutory reference is implemented in the final rule for 31 CFR part 800 at 85 FR 3112 (Part 800 rule) as the definition of ''covered transaction'' and in the final rule for 31 CFR part 802 at 85 FR 3158 (Part 802 rule) as the definition of ''covered real estate transaction.'' FIRRMA also modernizes CFIUS's processes to better enable timely and effective reviews of transactions falling under its jurisdiction, including by introducing the concept of a declaration—an abbreviated notification to which the Committee must respond within a 30-day assessment period—as an alternative to a voluntary notice, which has been the traditional means of filing a transaction with CFIUS.

FIRRMA further provides that ''the Committee may assess and collect a fee in an amount determined by the Committee in regulations . . . with respect to each covered transaction for which a written notice is submitted to the Committee.'' FIRRMA, section 1723. FIRRMA directs that the fee be based on the value of the transaction, taking various factors into account. It also provides that such fees may not exceed an amount equal to the lesser of one percent of the value of the transaction, or $300,000, adjusted annually for inflation.

On January 17, 2020, the Treasury Department published two rules implementing FIRRMA. The Part 800 rule continues CFIUS's jurisdiction over transactions that could result in control of a U.S. business. It also implements the provisions of FIRRMA relating to CFIUS's new jurisdiction to review certain non-controlling investments in a U.S. business that afford a foreign person specified access to information in the possession of, rights in, or involvement in the substantive decisionmaking of U.S. businesses with certain activities relating to critical technologies, critical infrastructure, or sensitive personal data. In addition, the Part 800 rule makes certain changes to CFIUS's existing process and procedures, including allowing parties to submit any transaction to CFIUS through a declaration. The Part 802 rule implements the provisions of FIRRMA relating to CFIUS's new jurisdiction to review the purchase or lease by, or concession to, a foreign person of certain real estate in the United States. Those two rules did not include any provisions regarding filing fees.

This proposed rule would establish a filing fee for ''covered transactions'' under the Part 800 rule and ''covered real estate transactions'' under the Part 802 rule that are filed with the Committee as voluntary written notices. The proposed fee structure and amounts are the same for the Part 800 rule and the Part 802 rule. In accordance with FIRRMA, there is no fee for any declaration submitted to the Committee,

or for any unilateral review of a transaction based on an agency notice filed by any member of the Committee. However, the filing fee does apply to notices filed by parties to a covered transaction or a covered real estate transaction after the Committee has completed its assessment of a declaration and taken action under § 800.407 or § 802.405 (*i.e.,* in cases where the Committee requests that the parties file a written notice and in cases where the Committee informs parties that it is not able to conclude action and that the parties may file a written notice). The filing fee also applies where parties choose to notify CFIUS of a transaction subject to § 800.401 through a notice instead of a declaration.

The Treasury Department has proposed a fee structure that it believes will not discourage filings and will allow parties to continue the practice of determining whether to file a voluntary written notice based on an evaluation of the facts and circumstances of the transaction. The proposed fees for notices are based on the value of the notified transaction, with the smallest transactions (*i.e.,* those with a value of less than $500,000) not being assessed a filing fee. For transactions with values equal to or exceeding $500,000, the filing fee is based on a tiered approach, as follows:

- Where the value of the transaction is equal to or greater than $500,000 but less than $5,000,000, a filing fee of $750 is assessed;
- Where the value of the transaction is equal to or greater than $5,000,000 but less than $50,000,000, a filing fee of $7,500 is assessed;
- Where the value of the transaction is equal to or greater than $50,000,000 but less than $250,000,000, a filing fee of $75,000 is assessed;
- Where the value of the transaction is equal to or greater than $250,000,000 but less than $750,000,000, a filing fee of $150,000 is assessed; and
- Where the value of the transaction is equal to or greater than $750,000,000, a filing fee of $300,000 is assessed.

The applicable fee must be paid to the Treasury Department prior to the Staff Chairperson accepting a notice for review, except in certain limited circumstances where the Staff Chairperson waives the filing fee. Payment instructions will be available on the Treasury Department website prior to the effective date of the final rule implementing the filing fees.

The proposed rule describes how a transaction's value is determined, the manner of payment, circumstances in which the Treasury Department may issue a refund, when an additional fee may be required in the event of the withdrawal and refiling of a notice, and the consequences of fee underpayment.

II. Methodology for Establishing the Fee Structure

A. Consideration of Various Factors

In establishing a filing fee, FIRRMA requires the Committee to take into account the effect of the fee on small business concerns, the expenses of the Committee associated with conducting activities under section 721, the effect of the fee on foreign investment, and any other matters the Committee considers appropriate.

The Treasury Department and CFIUS member agencies considered the effect of a fee on small businesses, and a more detailed discussion of the potential impact of the proposed fee structure on small businesses is included in the Regulatory Flexibility Act discussion, below. The proposed fee structure accounts for and attempts to minimize the impact on small business concerns by not assessing a fee on transactions that are valued at less than $500,000. Additionally, the fee for transactions valued between $500,000 and $5,000,000 is set at only $750. Should the filing fee pose a concern to a small business, the declaration process, for which there is no filing fee, is available for any transaction. Furthermore, there is the possibility, which is not intended to be used frequently, for the Staff Chairperson to waive the filing fee in whole or in part if extraordinary circumstances relating to national security warrant.

The Treasury Department also considered the expenses of the Committee associated with carrying out section 721. As noted above, the Committee's jurisdiction has expanded through the enactment of FIRRMA. The Treasury Department and CFIUS member agencies are increasing personnel and making infrastructure and other resource expenditures to implement section 721. In light of this, the Treasury Department determined that the proposed fee amounts were appropriate and has estimated that the fees would allow the Committee to recoup a portion of the costs associated with, but would not exceed the cost of, administering section 721. The Treasury Department will monitor the amount of fees generated and administration costs and will adjust fees as needed, including through new rule making, as appropriate.

The Treasury Department considered alternatives to the proposed fee structure in seeking to assess the impact on foreign investment. In particular, the Treasury Department considered setting a fixed or variable rate to be applied to all notices, as well as a uniform fixed fee amount for all notices—before determining that the proposal in this rule was the most appropriate based on various factors including proportionality, administration, clarity, and impact on parties' decision whether to file a notice. The proposed fees represent only a small amount (0.15 percent or less) of the overall value of the transactions for which a fee will be assessed, and the Treasury Department does not believe the proposed fees will discourage foreign investment in the United States or the filing of written notices with the Committee. However, the Treasury Department is interested in learning from the public about the impact that filing fees may have on a party's decision to engage in a transaction and whether to seek safe harbor through the submission of a voluntary notice.

B. Tiered Fixed-Fee Proposal

The proposed rule sets forth a tiered, fixed-fee schedule based on transaction value. This structure allows the Treasury Department to set the fees consistent with the requirements in FIRRMA and is informed by the nature and value of transactions that have typically been filed as notices.

The tiers set a generally consistent fee rate relative to the value of the transaction. Because parties must pay fees prior to the Staff Chairperson accepting a notice for review, the fee tiers are structured in a manner that allows the required fee for a transaction that has not yet closed to be determined with relative certainty. This structure was intended to achieve the Treasury Department's goals of clarity and administrative efficiency.

The Treasury Department expects that the filing fee will represent a relatively small proportion of the total transaction costs associated with any given transaction. In each case, the fee amount set in the proposed rule is no more than 0.15 percent of the overall transaction value. If, however, the filing fee is burdensome in the context of a particular transaction, parties can consider filing a declaration instead of a notice, which does not require payment of a fee.

The Treasury Department is interested in comments from the public on the impact of the proposed tiered fixed-fee structure and whether additional tiers or additional features should be considered.

C. Calculating Transaction Value

The proposed rule describes with particularity how to determine the value of a transaction for purposes of determining the applicable fee. This determination is relevant only for calculating the applicable filing fee and is not determinative of the Committee's assessment as to what constitutes the ''covered transaction'' or ''covered real estate transaction'' subject to its review. The Treasury Department anticipates that, in most instances, determining the value of the transaction will be straightforward, based on the amount of money the foreign person is paying in the transaction.

Generally, for transactions subject to the Part 800 rule and for purchases of real estate subject to the Part 802 rule, the value of a transaction will be the total value of all consideration that has been or will be paid in the context of the transaction by or on behalf of the foreign person who is a party to the transaction, including cash, assets, shares or other ownership interests, debt forgiveness, services, or other in-kind consideration. Where a covered transaction is a part of a transaction that includes one or more non-U.S. businesses, the total value of the transaction will generally be assessed based on the global value of the transaction encompassing both U.S. and non-U.S. businesses. There is an exception for transactions under the Part 800 rule where the value of the transaction is equal to or greater than $5,000,000, but the value of the interests or rights acquired in the U.S. business is less than $5,000,000. In such cases, the fee will be $750. This exception was intended to minimize any potential disincentives the fee may pose to parties filing a notice with CFIUS, where the target company has a limited presence in the United States. The Treasury Department is interested in comments on whether a similar approach should be taken for transactions under the Part 802 rule, where the value of the covered real estate is relatively small in the context of the overall transaction.

The proposed rule also specifies how the transaction value for leases and concessions under the Part 802 rule will be determined. Specifically, leases and concessions would be valued according to the sum of the consideration, including lease inducements, fixed payments, certain variable lease payments, and other types of identifiable consideration applicable to real estate transactions. Within the general categories of real estate transactions, certain variations in terms of valuation, payment structures, and other consideration will impact the fee calculation. The Treasury Department welcomes comments on the approach taken in the proposed rule and whether and how the rule could be further tailored to address industry practices.

The Treasury Department recognizes that, for some transactions, consideration may be paid in securities or other non-cash assets, or even in services or other in-kind consideration, and the proposed rule addresses these scenarios. For transactions where the consideration is a security that is traded on a national securities exchange, the value of the transaction is calculated based on the closing price on the national securities exchange on which the securities are primarily listed on the trading day immediately prior to the date the parties file a notice with the Committee. If the security was not traded on that day, the last published closing price would be used. Where the consideration includes other non-cash assets, interests, or services or other in-kind consideration, the value of the consideration would be the fair market value as of the date the parties file the notice. Where the transaction is a lending transaction, the value of the consideration is the cash value of the loan or similar financing arrangement. Additionally, where the transaction arises from the conversion of a contingent equity interest previously acquired by a foreign person, the value of the transaction would include the consideration that was paid by or on behalf of the foreign person to initially acquire the contingent equity interest in addition to any other consideration.

In the rare circumstance in which the consideration for a transaction has not been determined, the value of the transaction would be based on the fair market value of the assets or real estate being acquired in the transaction as of the date the parties file the notice, or the fair market value of the U.S. business being merged or contributed. The proposed rule includes a definition of fair market value, which tracks the basic definition described in the Financial Accounting Standards Board Statement No. 157.

In order to assist the parties and the Committee in determining the appropriate fee amount associated with a transaction, the proposed rule also makes modest revisions to the content requirements for joint voluntary notices under the Part 800 rule and the Part 802 rule. Specifically, the proposed rule adds a requirement that, along with a good faith estimate of the net value of the interest acquired in the U.S. business by the foreign person, the parties provide the Committee with the value of the transaction and an explanation of the methodology used to determine such valuation and the applicable fee.

Additionally, as discussed above, the proposed fee rule for Part 800 provides that where a covered transaction is part of a transaction valued at or greater than $5,000,000 that includes one or more non-U.S. businesses, but the value of the interests or rights acquired in the U.S. business is less than $5,000,000, the fee will be $750, regardless of the value of the overall transaction. If the value of the U.S. business equals or exceeds $5,000,000, then the fee will be determined based on the total value of the overall transaction.

D. Other Matters—Timing and Refunds

The proposed rule requires that parties pay any applicable fee at the time they file a notice with the Committee. The Staff Chairperson may decide not to accept a notice, and the Committee may not begin reviewing a notice, until the Treasury Department has received the applicable fee. Where the Staff Chairperson accepts a notice but later determines that the fee was underpaid, prior to rejecting the notice the Staff Chairperson will inform the parties in writing of the insufficiency of payment and provide the parties three business days to pay the remainder of the filing fee. In addition, no waiver will be implied, even where the Staff Chairperson does not reject a voluntary notice for failure to pay the full amount of the filing fee.

Furthermore, while the Treasury Department will not, as a general matter, provide refunds of filing fees, if it determines that a notified transaction is not a covered transaction or a covered real estate transaction, as relevant, it will refund the filing fee to the party that made the payment.

The proposed rule permits parties to petition the Staff Chairperson to seek a partial refund of fees, if the parties can demonstrate that a party or the parties to a transaction paid a filing fee in an amount greater than required at the time of filing. The Treasury Department anticipates that such partial refunds will be made infrequently due to the tiered fee structure. Additionally, the Staff Chairperson may waive the fee, in whole or in part, if the Staff Chairperson determines that extraordinary circumstances relating to national security warrant such a waiver.

Finally, the proposed rule does not require parties to pay an additional fee where the Committee allows the parties to withdraw and re-file a notice, unless the Staff Chairperson determines that a material change to the transaction has occurred, or a material inaccuracy or

omission was made by the parties in information provided to the Committee, that requires the Committee to consider new information, in which case the Staff Chairperson will inform the parties in writing.

III. Rulemaking Requirements

Executive Order 12866

These regulations are not subject to the general requirements of Executive Order 12866, which covers review of regulations by the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB), because they relate to a foreign affairs function of the United States, pursuant to section 3(d)(2) of that order. In addition, these regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to section 7(c) of the April 11, 2018 Memorandum of Agreement between the Treasury Department and OMB, which states that CFIUS regulations are not subject to OMB's standard centralized review process under Executive Order 12866.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1505–0121.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, or via email to *OIRA_Submission@omb.eop.gov,* with copies to Laura Black, Director of Investment Security Policy and International Relations, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Comments on the collection of information should be received by May 8, 2020.

In accordance with 5 CFR 1320.8(d)(1), the Treasury Department is soliciting comments from members of the public concerning this collection of information 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 estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology.

The information collection in this proposed rule is in § 800.502(c)(1)(viii) and § 802.502(b)(1)(ix). Specifically, the proposed rule would add a requirement that, along with the existing requirement for a good faith approximation of value of the interest acquired in the U.S. business or covered real estate by the foreign person, the parties provide the Committee with the value of the transaction and an explanation of the methodology used to determine such valuation and the applicable fee. This proposal has been submitted to OMB as a revision to the collection of information approved under 1505–0121 without a change in the total burden hours. The notice requirement was previously approved under the Paperwork Reduction Act with a per respondent burden of 130 hours. This burden should account for the modest increase in reporting under proposed § 800.502(c)(1)(viii) and § 802.502(b)(1)(ix); however, comments are invited from members of the public who believe the burden hours should be revised.

An agency may not conduct or sponsor and an individual is not required to respond to a collection of information unless it displays a valid OMB control number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) generally requires an agency to prepare an initial regulatory flexibility analysis unless the agency certifies that the rule will not, once implemented, have a significant economic impact on a substantial number of small entities. The RFA applies whenever an agency is required to publish a general notice of proposed rulemaking under section 553(b) of the Administrative Procedures Act (5 U.S.C. 553) (APA), or any other law. As set forth below, because regulations issued pursuant to the DPA, such as these regulations, are not subject to the APA or another law requiring the publication of a general notice of proposed rulemaking, the RFA does not apply.

The proposed rule implements section 721 of the DPA. Section 709(a) of the DPA provides that the regulations issued under it are not subject to the rulemaking requirements of the APA. Section 709(b)(1) instead provides that any regulation issued under the DPA be published in the **Federal Register** and opportunity for public comment be provided for not less than 30 days. Section 709(b)(3) of the DPA also provides that all comments received during the public comment period be considered and the publication of the final regulation contain written responses to such comments. Consistent with the plain text of the DPA, legislative history confirms that Congress intended that regulations under the DPA be exempt from the notice and comment provisions of the APA and instead provided that the agency include a statement that interested parties were consulted in the formulation of the final regulation. See H.R. Conf. Rep. No. 102–1028, at 42 (1992) and H.R. Rep. No. 102–208 pt. 1, at 28 (1991). The limited public participation procedures described in the DPA do not require a general notice of proposed rulemaking as set forth in the RFA. Further, the mechanisms for publication and public participation are sufficiently different to distinguish the DPA procedures from a rule that requires a general notice of proposed rulemaking. In providing the President with expanded authority to suspend or prohibit the acquisition, merger, or takeover of, or certain other investments in, a U.S. business by a foreign person, and certain real estate transactions by a foreign person, if such a transaction would threaten to impair the national security of the United States, Congress could not have contemplated that regulations implementing such authority would be subject to RFA analysis. For these reasons, the RFA does not apply to these regulations.

Regardless of whether the RFA applies to this rulemaking, the Secretary of the Treasury certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

The proposed rule would implement a fee for filing a notice of a covered transaction and a covered real estate transaction, as those terms are defined in Part 800 and Part 802 of CFIUS's regulations. The Treasury Department attempted to minimize the burden of this fee requirement on small entities. For example, a transaction valued at less than $500,000 will have no associated filing fee. Additionally, while the Treasury Department has proposed a $750 fee for transactions valued at or greater than $500,000 but less than $5,000,000, which may affect small entities as they are defined by the Small Business Administration (SBA), the fee is relatively small in real terms. At that level, the administrative fee represents only 0.15 percent of the value of the smallest dollar valuation for a

transaction that would incur a fee ($500,000).

Moreover, the fee rules will not impact a ''substantial number'' of small entities. There is no single source for information on the number of small U.S. businesses that receive foreign investment (direct or indirect), including those involved with critical technologies, critical infrastructure, or sensitive personal data, such that they would be directly impacted by the Part 800 rule. However, the Bureau of Economic Analysis (BEA) within the Department of Commerce collects, on an annual basis, data on new foreign direct investment in the United States through its Survey of New Foreign Direct Investment in the United States (Form BE-13). While these data are self-reported, and include only direct investments in U.S. businesses in which the foreign person acquires at least 10 percent of the voting shares (and consequently, do not capture investments below 10 percent, which may nevertheless be covered transactions), they nonetheless provide relevant information on a category of U.S. businesses that receive foreign investment, some of which may be covered by the proposed rule.

According to the BEA, in 2018, the most current year for which data is available, foreign persons obtained at least a 10 percent voting share in 832 U.S. businesses. See U.S. Bureau of Economic Analysis, ''Number of Investments Initiated in 2018, Distribution of Planned Total Expenditures, Size by Type of Investment,'' available at *https://apps.bea.gov/international/xls/Table15-14-15-16-17-18.xls* (last visited March 2, 2020). The BEA only reports the general size of the investment transaction, not the type of the U.S. business involved, nor whether the U.S. business is considered a ''small business'' by the SBA, which defines small businesses based on annual revenue or number of employees. The smallest foreign investment transactions that the BEA reports are those with a dollar value below $50,000,000. While not all U.S. businesses receiving a foreign investment of less than $50,000,000 are considered ''small'' for the purposes of the RFA, many might be, and the number of U.S. businesses receiving foreign investments of less than $50,000,000 can serve as a proxy for the number of transactions involving small U.S. businesses that might be subject to CFIUS's jurisdiction.

Of the above mentioned 832 U.S. businesses receiving foreign investment in 2018, 576 were involved in transactions valued at less than $50,000,000. Although this figure is under inclusive because it does not capture all transactions that could potentially fall under the rule, it also is over inclusive because it is not limited to any particular type of U.S. business. The Treasury Department believes the figure of 576 is the best estimate based on the available data of the number of small U.S. businesses that may be impacted by this rule, but for the reasons set forth below, the impact on those small U.S. businesses will not be significant.

According to the SBA, there were approximately 30,200,000 small businesses (defined as ''firms employing fewer than 500 employees'') in the United States as of 2018. See ''2018 Small Business Profile,'' available at *https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf* (last visited March 2, 2020). If approximately 600 small U.S. businesses will be potentially impacted by this rule, then the rule may potentially impact less than one percent of all small U.S. businesses.

There is no single source for information on the number of small U.S. businesses that would be involved in some way in the purchase or lease by, or concession to a foreign person of real estate that could be covered under the Part 802 rule. However, the Treasury Department anticipates only 350 real estate transactions, out of the thousands or more of the annual number of real estate transactions in the United States, will be the subject of a declaration or notice of a covered real estate transaction. Further background on this estimate was included in the estimate of burden hours submitted to OMB in accordance with the Paperwork Reduction Act under Document Control Number 1505–0121.

Additionally, as required by FIRRMA, the rule takes into account and attempts to minimize the impact it may have on small U.S. businesses. For example, the rule contains no fee for transactions valued at less than $500,000. In addition, the fee is only $750 where the value of the transaction is equal to or greater than $500,000 but less than $5,000,000, and the fee is $7,500 where the value of the transaction is equal to or greater than $5,000,000 but less than $50,000,000. Therefore, to the extent that small U.S. businesses will incur a fee for a notice, that fee will represent only a fraction of the value of the transaction to the parties. The Treasury Department does not expect this filing fee rule to change the estimate of burden hours for completing notices which was previously submitted to OMB in accordance with the Paperwork Reduction Act under Document Control Number 1505–0121.

Also, as discussed above, the fee is only incurred when parties file a notice of a transaction with the Committee. The Treasury Department has not proposed any fees to submit a declaration of a transaction, and under the Part 800 rule and Part 802 rule, parties may submit a declaration of any covered transaction or any covered real estate transaction. Declarations will take less time and incur less cost for parties to complete. Additional information about declarations, including the procedures to file them and their content requirements, is available in the final CFIUS rules at 85 FR 3112 (Jan. 17, 2020) and 85 FR 3158 (Jan. 17, 2020).

Accordingly, for the reasons stated above, the Secretary of the Treasury certifies that the proposed rule, if implemented, will not have a ''significant economic impact on a substantial number of small entities,'' 5 U.S.C. 605(b). Nevertheless, the Treasury Department is interested in any comments on how the proposed rule would affect small entities.

List of Subjects

31 CFR Part 800

Foreign investments in the United States, Investments, Investment companies, National defense, Fees.

31 CFR Part 802

Foreign investments in the United States, Federal buildings and facilities, Government property, Investigations, Investments, Investment companies, Land sales, National defense, Public lands, Real property acquisition, Reporting and Recordkeeping requirements, Fees.

For the reasons set forth in the preamble, the Treasury Department proposes to amend 31 CFR parts 800 and 802 as follows:

PART 800—REGULATIONS PERTAINING TO CERTAIN INVESTMENTS IN THE UNITED STATES BY FOREIGN PERSONS

■ 1. The authority citation for part 800 continues to read:

Authority: 50 U.S.C. 4565; E.O. 11858, as amended, 73 FR 4677.

Subpart E—Notices

§ 800.501 [Amended]

■ 2. Amend § 800.501:

■ a. In paragraph (a) by adding '', and paying the fee required under subpart K of this part'' after ''including the certification required under paragraph (l) of that section''; and

■ b. In paragraph (f) by adding ‘‘, and payment of the fee required under subpart K of this part,’’ after ‘‘including the certification required by § 800.502(l)’’.

■ 3. Amend § 800.502 by revising paragraph (c)(1)(viii) to read as follows:

§ 800.502 Contents of voluntary notices.

* * * * *

(c) * * *

(1) * * *

(viii)(A) The value of the transaction in U.S. dollars, as determined pursuant to § 800.1103, and the parties' assessment of the applicable fee due under § 800.1101, including an explanation of the methodology used to determine such valuation and applicable fee; and

(B) If different than the value of the transaction provided in paragraph (c)(1)(viii)(A) of this section, a good faith approximation of the net value of the interest acquired in the U.S. business in U.S. dollars, as of the date of the notice.

* * * * *

■ 4. Amend § 800.503:

■ a. In paragraph (a)(1), by removing the word ‘‘and’’;

■ b. By redesignating paragraph (a)(2) as paragraph (a)(3); and

■ c. By adding new paragraph (a)(2).

The addition reads as follows:

§ 800.503 Beginning of 45-day review period.

(a) * * *

(2) Confirmed that the applicable fee required under subpart K of this part has been paid, or waived; and

* * * * *

■ 6. Amend § 800.504 by redesignating paragraphs (a)(3) and (4) as paragraphs (a)(4) and (5), respectively, and adding new paragraph (a)(3) to read as follows:

§ 800.504 Deferral, rejection, or disposition of certain voluntary notices.

(a) * * *

(3) Reject any voluntary notice upon determining that the filing fee paid by the parties was insufficient under subpart K of this part, subject to § 800.1108.

* * * * *

■ 7. Add subpart K to read as follows:

Subpart K—Filing Fees

Sec.

Subpart K—Filing Fees

§ 800.1101 Amount of fee.

The parties filing a voluntary notice of a transaction with the Committee under § 800.501(a) shall pay a filing fee as follows:

(a) Where the value of the transaction is less than $500,000: No fee;

(b) Where the value of the transaction is equal to or greater than $500,000 but less than $5,000,000: $750;

(c) Where the value of the transaction is equal to or greater than $5,000,000 but less than $50,000,000: $7,500;

(d) Where the value of the transaction is equal to or greater than $50,000,000 but less than $250,000,000: $75,000;

(e) Where the value of the transaction is equal to or greater than $250,000,000 but less than $750,000,000: $150,000;

(f) Where the value of the transaction is equal to or greater than $750,000,000: $300,000.

§ 800.1102 Timing of payment.

Subject to §§ 800.1106 through 800.1108, the Staff Chairperson shall not accept a voluntary notice under § 800.503(a) until payment of any fee required under this section is received by the Department of the Treasury in the manner specified on the Committee's section of the Department of the Treasury website.

§ 800.1103 Valuation.

(a) Except as provided in paragraph (c) of this section, the value of the transaction for purposes of determining the required fee amount in this section means the total value of all consideration that has been or will be provided in the context of the transaction by or on behalf of the foreign person that is a party to the transaction, including cash, assets, shares or other ownership interests, debt forgiveness, or services or other in-kind consideration.

(b) Determining the value of consideration:

(1) Where the consideration includes securities traded on a national securities exchange, the value of the securities is the closing price on the national securities exchange on which the securities are primarily traded on the trading day immediately prior to the date the parties file the voluntary notice with the Committee pursuant to § 800.501(a), or if the securities were not traded on that day, the last published closing price.

(2) Where the consideration includes other non-cash assets, services, interests, or in-kind consideration, the value of the assets, services, interests, or in-kind consideration is their fair market value as of the date the parties file the notice.

(3) Where the transaction is a lending transaction, the value of the consideration is the cash value of the loan, or similar financing arrangement, made available or provided by or on behalf of the foreign person that is a party to the transaction.

(4) Where the transaction arises from the conversion of a contingent equity interest previously acquired by a foreign person that is a party to the transaction, the value of the transaction includes the consideration that was paid by or on behalf of the foreign person to initially acquire the contingent equity interest, in addition to any other consideration paid in connection with the conversion.

(c) Exceptions:

(1) Where the consideration to be paid by the foreign person has not been, or cannot reasonably be determined as of the date the parties file the notice, the value of the transaction is the fair market value of the assets being acquired in the transaction as of the date the parties file the notice.

Note to § 800.1103(c)(1): The consideration amount may be determined notwithstanding minor standard adjustments that are to be made at closing.

(2) Where the transaction involves a merger or the contribution of a U.S. business to a joint venture, the value of the transaction is the fair market value of the U.S. business being merged or contributed.

(3) Where the value of a transaction is $5,000,000 or more, but the transaction includes one or more non-U.S. businesses, and the value of the interests or rights acquired in the U.S. business is less than $5,000,000, the filing fee under § 800.1101(b) is applicable. The value of the U.S. business, for purposes of this paragraph, is the fair market value of the assets of the U.S. business.

(d) Fair market value means the price that would be received in exchange for selling an asset or interest, or paid to receive a service or to transfer liability, in an orderly transaction between market participants.

(1) In determining the fair market value of assets or interests, parties shall make a good faith estimate and generally may rely on the last valuation of the assets as presented in financial statements prepared in accordance with generally accepted accounting principles (GAAP) or other widely recognized accounting principles, such as the International Financial Reporting Standards (IFRS), or the valuation of an independent appraiser; provided, however, that if no valuation has

occurred within the prior two fiscal quarters, or if there have been significant changes to the fair market value since the last valuation, the parties shall make a good faith estimate as of the filing date, or, if the parties are filing after the completion of the transaction, the date that the transaction was completed.

(2) In determining the fair market value of services, the parties may rely upon the value of services determined by the parties as set forth in an executed written agreement, or make an estimate as of the date of filing based upon rates charged to third parties or upon recent industry reports or other sources of comparable commercial data; provided, however, if such sources are unavailable, the parties shall make a good faith estimate. If the parties are filing after completion of the transaction, the parties shall make an estimate of the fair market value as of the date the transaction was completed.

(3) The Staff Chairperson is not bound by the parties' characterization of the transaction and its value or the parties' good faith approximation provided to the Committee pursuant to § 800.502(c)(1)(viii).

(e) Examples:

(1) *Example 1.* Corporation A, a foreign person, proposes to acquire all of the issued and outstanding shares of Corporation B, a U.S. business, in exchange for $100,000,000 in cash. Assuming no other relevant facts, the value of the transaction is $100,000,000, and the filing fee is $75,000.

(2) *Example 2.* Corporation A, a foreign person, proposes to acquire all of the issued and outstanding shares of Corporation B, a U.S. business, in a two-for-one stock swap transaction whereby a holder of a share of Corporation B's stock is entitled to receive two shares of Corporation A's stock. Corporation A's stock is listed on the NASDAQ, a national securities exchange. In aggregate, the holders of Corporation B's stock will receive 10,000,000 shares of Corporation A's stock in the transaction. On the trading day immediately prior to the filing of the joint voluntary notice, the closing price of Corporation A's stock on NASDAQ was $20 per share. Assuming no other relevant facts, the value of the transaction is $200,000,000, and the filing fee is $75,000.

(3) *Example 3.* Corporation B, a U.S. business, is issuing new shares that will represent 50 percent of its issued and outstanding shares. Corporation A, a foreign person, proposes to acquire these shares. As consideration, Corporation A will contribute to Corporation X certain inventory, machines, and other non-cash assets. The parties to the transaction estimate in good faith, based on the most recent quarterly financial statements of Corporation A, which were prepared in accordance with GAAP, that the fair market value of the assets is $40,000,000. Assuming no other relevant facts, the value of the transaction is $40,000,000, and the filing fee is $7,500.

(4) *Example 4.* Corporation A and Corporation B are establishing a joint venture, JV Corp., which will be controlled by Corporation B, a foreign person. Corporation A contributes a U.S. business, the fair market value of which is $150,000,000, to JV Corp. Corporation B contributes $150,000,000 in cash to JV Corp. The value of the transaction is $150,000,000, which is equal to the value of the U.S. business being contributed. Assuming no other relevant facts, the filing fee is $75,000.

(5) *Example 5.* Corporation A, a foreign person, enters into a stock purchase agreement with Person Z to acquire 100 percent of the issued and outstanding shares of Corporation B, a U.S. business. The value of the consideration has not been determined because it will only be payable once Corporation B achieves certain development and sales milestones, and it will be 10 percent of Corporation B's revenue over a future five-year period. The parties estimate in good faith that the fair market value of Corporation B is $30,000,000 based on a number of factors, including application of well-known accounting standards such as Financial Accounting Standards Board Statement 157, a recent valuation conducted by a third-party auditor, and a proposal to acquire Corporation B made by another bidder for approximately $30,000,000 in cash. Assuming no other relevant facts, the value of the transaction is $30,000,000, and the filing fee is $7,500.

(6) *Example 6.* Corporation A, a foreign person, proposes to acquire 100 percent of the equity interest of Corporation B, a foreign person, for $100,000,000. Corporation B has subsidiaries in several countries, including Corporation C, a U.S. business. The fair market value of Corporation C's assets is $1,000,000. Assuming no other relevant facts, under paragraph (d)(3) of this section, a $750 filing fee is required.

(f) Timing rule for calculation of filing fee:

(1) Where a transaction will be effectuated in multiple phases or involves the acquisition of contingent equity interests, the value of the transaction is the total value of the transaction including the multiple phases or contingent equity interests, if such total value can be reasonably determined, the conditions that lead to completion will occur imminently, and the conditions are within the control of the acquiring party.

(2) Example: Corporation A, a foreign person, proposes to acquire Corporation B, a U.S. business. The transaction will be effectuated in two phases. First, Corporation A will acquire 50 percent of the voting interest of Corporation B in exchange for $30,000,000 (Phase 1). Two months later, Corporation A will have the option to acquire the remaining 50 percent of the voting interest of Corporation B in exchange for another $30,000,000 (Phase 2). The option to convert is imminent, the option to acquire the remaining voting interest is in the control of Corporation A, and the amount of voting interest acquired can be reasonably determined. The value of consideration of Phase 2 is part of the consideration of the transaction. Assuming no other relevant facts, the value of the consideration is $60,000,000 (the total consideration for both stages), and the filing fee is $75,000.

(g) The determination of the value of the transaction for purposes of calculating the filing fee in no way limits the Committee's jurisdiction or its authority to review, investigate, mitigate, or take any other action regarding any covered transaction.

§ 800.1104 Manner of payment.

Parties to a transaction must pay any filing fee by electronic payment. The filing fee must be paid in U.S. dollars. Instructions for paying filing fees are available on the Committee's section of the Department of the Treasury website.

§ 800.1105 Refunds.

(a) Except as provided in paragraphs (b) and (c) of this section, the Department of the Treasury shall not refund a filing fee in whole or in part.

(b) If the Committee determines that the transaction is not a covered transaction, the filing fee shall be refunded.

(c) In response to a petition by a party, if the Staff Chairperson determines, based on the information and representations contained in the voluntary notice, as well as any other information provided by the parties, that a party or the parties to a transaction paid a filing fee in an amount greater than required at the time of filing, the Department of the Treasury shall refund the amount of overpayment to the party or parties who paid the filing fee.

§ 800.1106 Waiver.

If the Staff Chairperson determines that extraordinary circumstances relating to national security warrant, the Staff Chairperson may waive the filing fee in whole or in part and will notify the parties in writing. No waiver shall be implied, even where the Staff Chairperson does not reject a voluntary notice under § 800.1108 for failure to pay the filing fee.

§ 800.1107 Resubmissions.

The parties to a transaction shall not be required to pay an additional filing fee in the event that the Staff Chairperson permits the parties to withdraw and resubmit a notice pursuant to § 800.509(c)(2), unless the Staff Chairperson determines that a material change to the transaction has occurred, or a material inaccuracy or omission was made by the parties in information provided to the Committee, that requires the Committee to consider new information, in which case the Staff Chairperson will inform the parties in writing.

§ 800.1108 Rejection of voluntary notice.

The Staff Chairperson may reject a voluntary notice pursuant to § 800.504(a) upon a determination that the amount of the filing fee paid by the parties was insufficient under this section. Prior to rejecting a notice under this paragraph, the Staff Chairperson shall inform the parties in writing of the insufficiency of payment and provide the parties three business days to pay the remainder of the filing fee. If the Staff Chairperson does not reject a voluntary notice pursuant to § 800.504(a) upon a determination that the amount of the filing fee payment paid by the parties was insufficient under this section, the balance of the fee remains payable unless the Staff Chairperson notifies the parties in writing that the payment has been waived in whole or in part.

PART 802—PROVISIONS PERTAINING TO CERTAIN TRANSACTIONS BY FOREIGN PERSONS INVOLVING REAL ESTATE IN THE UNITED STATES

■ 8. The authority citation for part 802 continues to read:

Authority: 50 U.S.C. 4565; E.O. 11858, as amended, 73 FR 4677.

Subpart E—Notices

§ 802.501 [Amended]

■ 9. Amend § 802.501:

■ a. In paragraph (a) by adding ‘‘, and paying the fee required under subpart K of this part’’ after ‘‘including the certification required under paragraph (h) of that section’’;

■ b. In paragraph (f) by adding ‘‘, and payment of the fee required under subpart K of this part,’’ after ‘‘including the certification required by § 800.502(h)’’; and

■ 10. Amend § 802.502 by revising paragraph (b)(1)(ix) to read as follows:

§ 802.502 Contents of voluntary notices.

* * * * *

(b) * * *

(1) * * *

(ix)(A) The value of the transaction in U.S. dollars, as determined pursuant to § 802.1103, and the parties' assessment of the applicable fee due under § 802.1101, including an explanation of the methodology used to determine such valuation and applicable fee; and

(B) If different than the value of the transaction provided in paragraph (b)(1)(ix)(A) of this section, a good faith approximation of the fair market value of the interest acquired in the covered real estate in U.S. dollars, as of the date of the notice.

* * * * *

■ 11. Amend § 802.503:

■ a. In paragraph (a)(1) by removing the word ‘‘and’’;

■ b. By redesignating paragraph (a)(2) as paragraph (a)(3); and

■ c. By adding new paragraph (a)(2).

The addition reads as follows:

§ 802.503 Beginning of 45-day review period.

(a) * * *

(2) Confirmed that the applicable fee required under subpart K of this part has been paid or waived; and

* * * * *

■ 12. Amend § 802.504 by redesignating paragraphs (a)(3) and (4) as paragraphs (a)(4) and (5), respectively, and adding paragraph (a)(3) to read as follows:

§ 802.504 Deferral, rejection, or disposition of certain voluntary notices.

(a) * * *

(3) Reject any voluntary notice upon determining that the filing fee paid by the parties was insufficient under subpart K of this part, subject to § 802.1108.

* * * * *

■ 13. Add subpart K to read as follows:

Subpart K—Filing Fees

Sec.

Subpart K—Filing Fees

§ 802.1101 Amount of fee.

The parties filing a voluntary notice of a transaction with the Committee under § 802.501(a) shall pay a filing fee as follows:

(a) Where the value of the transaction is less than $500,000: No fee;

(b) Where the value of the transaction is equal to or greater than $500,000 but less than $5,000,000: $750;

(c) Where the value of the transaction is equal to or greater than $5,000,000 but less than $50,000,000: $7,500;

(d) Where the value of the transaction is equal to or greater than $50,000,000 but less than $250,000,000: $75,000;

(e) Where the value of the transaction is equal to or greater than $250,000,000 but less than $750,000,000: $150,000;

(f) Where the value of the transaction is equal to or greater than $750,000,000: $300,000.

§ 802.1102 Timing of payment.

Subject to § 802.1106 through § 802.1108, the Staff Chairperson shall not accept a voluntary notice under § 802.503(a) until payment of any fee required under this section is received by the Department of the Treasury in the manner specified on the Committee's section of the Department of the Treasury website.

§ 802.1103 Valuation.

Except as provided in paragraph (e) of this section, the value of the transaction for purposes of determining the required fee amount in this section shall be determined as follows:

(a) For a transaction structured as a purchase, by the total value of all consideration that has been or will be provided in the context of the transaction by or on behalf of the foreign person that is a purchaser in the transaction, including cash, assets, shares or other ownership interests, debt forgiveness, or services or other in-kind consideration.

(b) For a transaction structured as a lease, by the value of the sum of, as applicable:

(1) Any fixed payments to be paid by the foreign person that is a lessee in the transaction to, or for the benefit of, the lessor over the term of the lease;

(2) Any variable payments that depend on an index or a rate (such as a market interest rate) to be paid by the foreign person that is a lessee in the transaction to, or for the benefit of, the lessor, over the term of the lease, measured for purposes of this section by

using the index or rate as of the date the parties file the notice; and

(3) Any non-cash or in-kind consideration to be provided by the foreign person that is a lessee in the transaction to, or for the benefit of, the lessor, over the term of the lease, as may be reasonably determined as of the date the parties file the notice.

(c) For a transaction structured as a concession, by the value of the sum of all rent, fees, and charges to be paid by the foreign person to the grantor and any non-cash or in-kind consideration to be provided by such foreign person to, or for the benefit of, the grantor, over the term of a concession agreement, as may be reasonably determined as of the date the parties file the notice.

(d) Determining the value of consideration:

(1) Where the consideration includes securities traded on a national securities exchange, the value of the securities is the closing price on the national securities exchange on which the securities are primarily traded on the trading day immediately prior to the date the parties file the voluntary notice with the Committee pursuant to § 802.501(a), or if the securities were not traded on that day, the last published closing price.

(2) Where the consideration includes other non-cash assets, services, or interests, including real property contributed by a foreign person that is party to a transaction involving the exchange of land or contribution to a joint venture, the value of the assets, service, or interests is their fair market value at the time of filing.

(3) Where the transaction is a lending transaction, the value of the consideration is the cash value of the mortgage, loan, or similar financing arrangement, made available or provided by or on behalf of the foreign person that is a party to the transaction.

(4) Where the transaction arises from the conversion of a contingent equity interest previously acquired by a foreign person that is a party to the transaction, the value of the transaction includes the consideration that was paid by or on behalf of the foreign person to initially acquire the contingent equity interest, in addition to any other consideration.

(e) Exceptions:

(1) In the case of a purchase, where the consideration to be provided by the foreign person has not been, or cannot reasonably be determined as of the date the parties file the notice, the value of the transaction is the fair market value of the assets being purchased in the transaction as of the date the parties file the notice.

Note 1 to § 802.1103(e)(1): The consideration amount may be determined notwithstanding minor standard adjustments that are to be made at closing.

(2) In the case of a lease or concession, where the consideration to be provided by the foreign person has not been, or cannot reasonably be determined at the time of filing, or, where the parties cannot reasonably determine the value of rent, fees, charges, or services pursuant to paragraph (c) of this section, the filing fee required shall be that required under § 802.1101(b).

(f) The Staff Chairperson is not bound by the parties' characterization of the transaction and its value or their good faith approximation provided to the Committee pursuant to § 802.502(b)(1)(ix).

(g) Fair market value means the price that would be received in exchange for sale of an asset or interest, or paid to convey a service or to transfer liability, in an orderly transaction between market participants.

(1) In determining the fair market value of assets or interests, parties shall make a good faith estimate and generally may rely on the last valuation as presented in financial statements prepared in accordance with generally accepted accounting principles (GAAP) or other widely recognized accounting principles, such as the International Financial Reporting Standards (IFRS), or the valuation of an independent appraiser; provided, however, that if no valuation has occurred within the prior two fiscal quarters, or if there have been significant changes to the fair market value since the last valuation, the parties shall make a good faith estimate at the time of filing, or, if the parties are filing after completion of the transaction, the date the transaction was completed.

(2) In determining the fair market value of services, the parties may rely upon the value of services determined by the parties as set forth in an executed written agreement, or make an estimate at the time of filing based upon rates charged to third parties or recent industry reports or other sources of comparable commercial data; provided, however, if such sources are unavailable, the parties shall make a good faith estimate. If the parties are filing after completion of the transaction, the parties shall make an estimate of the fair market value as of the date the transaction was completed.

(h) Examples:

(1) *Example 1.* Corporation A, a foreign person, enters into an agreement for the purchase of a parcel of covered real estate (Parcel X) from Corporation B. The purchase is a covered real estate transaction. The fair market value of Parcel X is $37,000,000. In exchange for ownership of Plot X, Corporation A forgives a debt owed to it by Corporation B that is valued at $5,000,000 and pays $35,000,000 to Corporation B. Assuming no other relevant facts, the value of the transaction is $40,000,000, and the filing fee is $7,500.

(2) *Example 2.* Corporation A, a foreign person, enters into an agreement to lease a parcel of covered real estate from Corporation B. The lease is a covered real estate transaction. Pursuant to a signed agreement, Corporation A will pay Corporation B a fixed annual payment of $300,000 for a term of three years, with an option to renew the lease at the end of the term. Assuming no other relevant facts, the value of the transaction is $900,000, and the filing fee is $750.

(3) *Example 3.* Corporation A, a foreign person, proposes to enter into a concession agreement with a U.S. public entity for the right to use certain covered real estate for the purpose of developing and operating terminal infrastructure at a covered port. The concession is a covered real estate transaction. The concession agreement is for a five-year term. Under the concession agreement, Corporation A will pay the U.S. public entity a use charge of $450,000 per year starting in the second year. The concession agreement also requires Corporation A to pay utility fees and common area maintenance charges of $5,000 per month for the full concession term. Terminal development is scheduled to be completed 12 months after signing of the concession agreement, and Corporation A intends to commence operations immediately. Assuming no other relevant facts, the value of the transaction is $2,100,000, based on the $1,800,000 use charge and $300,000 in utility fees. The filing fee is $750.

(4) *Example 4.* Corporation A, a foreign person, pays a lease bonus of $1,000 per acre as an inducement to execute an oil, gas and mineral lease with respect to a 10-acre parcel of covered real estate. The lease has a 10-year term. Corporation A must pay a royalty of 12.5% in amount or value of oil or gas production removed or sold from the leased land. Prior to such production, the foreign person is obligated to pay a delay rental fee of $1,000 per acre per year for the first five years and $2,000 per acre thereafter. A minimum royalty in lieu of the delay rental fee is due once oil or gas has been discovered on the leased land, equal to

the annual delay rental fee that would otherwise have been due. Assuming no other relevant facts, the value of the transaction is $160,000 and there is no filing fee.

(i) Timing rule for calculation of filing fee:

(1) Where a transaction will be effectuated in multiple phases or involves the acquisition of contingent equity interests, the value of the transaction is the total value of the transaction including the multiple phases or contingent equity interests, if such total value can be reasonably determined, the conditions that lead to completion will occur imminently, and the conditions are within the control of the acquiring party.

(2) Example: Corporation A, a foreign person, proposes to purchase Plot X and acquire an option to purchase Plot Y, both of which are covered real estate. The transaction will be completed in two phases. First, Corporation A will acquire Plot X and the option related to Plot Y in exchange for $30,000,000 (Phase 1). Corporation A informs its shareholders that within two months, Corporation A will exercise its option to purchase Plot Y in exchange for another $30,000,000 (Phase 2). The second purchase is imminent and in the control of Corporation A, and the value of acquisition can be reasonably determined. Assuming no other relevant facts, the value of the consideration is $60,000,000 (the total consideration for both phases), and the filing fee is $75,000.

(j) The determination of the value of the transaction for purposes of calculating the filing fee in no way limits the Committee's jurisdiction or its authority to review, investigate, mitigate, or take any other action regarding any covered real estate transaction.

§ 802.1104 Manner of payment.

Parties to a transaction must pay any filing fee by electronic payment. The filing fee must be paid in U.S. dollars. Instructions for paying filing fees are available on the Committee's section of the Department of the Treasury website.

§ 802.1105 Refunds.

(a) Except as provided in this paragraph, the Department of the Treasury shall not refund a filing fee in whole or in part.

(b) If the Committee determines that the transaction is not a covered real estate transaction, the filing fee shall be refunded.

(c) In response to a petition by a party, if the Staff Chairperson determines, based on the information and representations contained in the voluntary notice, as well as any other information provided by the parties, that a party or the parties to a transaction paid a filing fee in an amount greater than required at the time of filing, the Department of the Treasury shall refund the amount of overpayment to the party or parties who paid the filing fee.

§ 802.1106 Waiver.

If the Staff Chairperson determines that extraordinary circumstances relating to national security warrant, the Staff Chairperson may waive the filing fee in whole or in part and will notify the parties in writing. No waiver shall be implied by the parties, even where the Staff Chairperson does not reject a voluntary notice under § 802.1108 for failure to pay the filing fee.

§ 802.1107 Resubmissions.

The parties to a transaction shall not be required to pay an additional filing fee in the event that the Staff Chairperson permits the parties to withdraw and resubmit a notice pursuant to § 802.509(c)(2), unless the Staff Chairperson determines that a material change to the transaction has occurred, or a material inaccuracy or omission was made by the parties in information provided to the Committee, that requires the Committee to consider new information, in which case the Staff Chairperson will inform the parties in writing.

§ 802.1108 Rejection of voluntary notice.

The Staff Chairperson may reject a voluntary notice pursuant to § 802.504(a) upon a determination that the amount of the filing fee paid by the parties was insufficient under this section. Prior to rejecting a notice under this paragraph, the Staff Chairperson shall inform the parties in writing of the insufficiency of payment and provide the parties three business days to pay the remainder of the filing fee. If the Staff Chairperson does not reject a voluntary notice pursuant to § 802.504(a) upon a determination that the amount of the filing fee payment paid by the parties was insufficient under this section, the balance of the fee remains payable unless the Staff Chairperson notifies the parties in writing that the payment has been waived in whole or in part.

Dated: March 2, 2020.

Thomas Feddo,

Assistant Secretary for Investment Security.

[FR Doc. 2020–04641 Filed 3–4–20; 4:15 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2020–0035]

RIN 1625–AA08

Special Local Regulation; East Passage, Narragansett Bay, RI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend an existing special local regulation for certain waters of the East Passage, Narragansett Bay, RI. This action is necessary to provide for the safety of life on these navigable waters near East Passage, Narragansett Bay, RI, during a sail boat race. This proposed rulemaking would prohibit persons and vessels from entering the special local regulation unless authorized by the Captain of the Port Sector Southeastern New England or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 8, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0035 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Arthur Frooks, Waterways Management Division, U.S. Coast Guard; telephone 401–435–2355, email *D01-SMB-SectorSENE-Waterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On October 17, 2019, the Newport to Bermuda Race notified the Coast Guard that they would be conducting a sail boat race from 11 a.m. through 5 p.m.

on June 19, 2020, with the potential make up dates being June 20, 2020 and June 21, 2020. The sail boat race will be launched from East Passage in Narragansett Bay south of Rose Island. The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the sail boat race would be a safety concern for anyone attempting to transit within East Passage.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within East Passage before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231) and 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP proposes to amend a special local regulation from 11 a.m. through 5 p.m. on June 19, 2020, with makeup dates being June 20, 2020, or June 21, 2020. The regulation found in 33 CFR 100.119 includes a regulated area for all waters of Narragansett Bay, Newport, RI, within the following points (NAD 83):

Latitude	Longitude
41°27′51″ N	071°22′14″ W
41°27′24″ N	071°21′57″ W
41°27′09″ N	071°22′39″ W
41°27′36″ N	072°22′55″ W

In the event that weather conditions prohibit a safe race start within the approach to Newport Harbor, the race will begin offshore and the following regulated area applies (NAD 83):

Latitude	Longitude
41°26′04″ N	071°22′16″ W
41°25′36″ N	071°21′58″ W
41°25′45″ N	071°22′40″ W
41°25′49″ N	071°22′56″ W

The proposed amendment would be to expand the size of the first regulated area and to adjust the latitude and longitude of the second regulated area to encompass a new potential starting line for the race to accommodate for ideal weather parameters. The special local regulation would cover all navigable waters from an area just south of Rose Island expanding just past Castle Hill, RI, and also an area near Brenton Point. The proposed location of the special local regulation is as follows:

Latitude	Longitude
41°29′13″ N	071°20′07″ W
41°29′41″ N	071°20′87″ W
41°27′27″ N	071°22′00″ W
41°27′45″ N	072°22′83″ W

In the event that weather conditions prohibit a safe race start within the approach to Newport Harbor, the race will begin offshore and the following regulated area applies (NAD 83):

Latitude	Longitude
41°26′06″ N	071°22′27″ W
41°25′60″ N	071°21′97″ W
41°25′36″ N	071°22′65″ W
41°25′82″ N	071°22′93″ W

The starting line will take place within one of the proposed regulated areas and will be decided prior to the race pending current weather conditions. The starting line box will be the restricted part of the waterway within the regulated area and that exact location will be broadcasted prior to the race start. The duration of the special local regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled sail boat race. No vessel or person is permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by phone at 508–457–3211. Persons and vessels permitted to enter this special local regulation must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the special local regulation as well as any changes in the planned schedule. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration and time-of-day of the special local regulation. We expect the adverse economic impact to this area to be minimal. Although this regulation may have adverse impact on the impact, the potential impact will be minimized for the following reasons: The special local regulation will be in effect for a maximum of 6 hours during the day of the event; vessels will only be restricted from the area in the East Passage of the Narragansett Bay during those limited periods when the races are actually on going; there is an alternate route, the West Passage of Narragansett Bay, that does not add substantial transit time, is already routinely used by mariners, and will not be affected by this special local regulation. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners (BNMs) via VHF–FM marine channel 16 about the area, and the rule would allow vessels to seek permission to enter the area.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting approximately 6 hours that would prohibit entry within the regulated area. Such actions are categorically excluded from further review under paragraph L 61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Revise § 100.119 to read as follows:

§ 100.119 Special Local Regulation; East Passage, Narragansett Bay, RI.

(a) *Regulated area.* (1) The regulated area includes all waters of Narragansett Bay, Newport, RI, within the following points (NAD 83):

TABLE 1 TO § 100.119

Latitude	Longitude
41°29′13″ N	071°20′07″ W
41°29′41″ N	071°20′87″ W
41°27′27″ N	071°22′00″ W
41°27′45″ N	072°22′83″ W

(2) In the event that weather conditions prohibit a safe race start within the approach to Newport Harbor, the race will begin offshore and the following regulated area applies (NAD 83):

TABLE 2 TO § 100.119

Latitude	Longitude
41°26′06″ N	071°22′27″ W
41°25′60″ N	071°21′97″ W
41°25′36″ N	071°22′65″ W
41°25′82″ N	071°22′93″ W

(b) *Effective period.* This special local regulation is in effect biennially on a date and times published in the Local Notice to Mariners.

(c) *Special local regulations.* (1) Entry into this area is prohibited unless

authorized by the Captain of the Port Sector Southeastern New England (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Southeastern New England.

(2) Persons or vessels seeking to enter the regulated area must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 508–457–3211.

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

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through local notice to mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: March 3, 2020.

C.J. Glander,

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

[FR Doc. 2020–04760 Filed 3–6–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2018–0486]

RIN 1625–AA00, 1625–AA111625–AA08

Revisions to Notification Procedures for Limited Access Areas and Regulated Navigation Areas and Removal of Certain Marine Event and Limited Access Area Regulations for the Ninth, Thirteenth, and Seventeenth Coast Guard Districts

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to revise portions of our general regulation on the notification procedures for the establishment and disestablishment of limited access areas and regulated navigation areas, as well as to remove certain marine event and limited access area regulations for the Ninth, Thirteenth, and Seventeenth Coast Guard Districts. The proposed changes reflect current organizational procedures and post-promulgation changes in circumstances. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 8, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0486 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Courtney Mallon, Coast Guard; telephone 202–372–3758, email *courtney.mallon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

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

II. Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LNG Liquefied natural gas
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

III. Background, Purpose, and Legal Basis

The Coast Guard is proposing to remove certain marine event and limited access area regulations for the Ninth, Thirteenth, and Seventeenth Coast Guard Districts. The proposed changes would remove regulations for events that are no longer held or are no longer needed to ensure the safety of participants and the public. As part of this rulemaking, the Coast Guard is also proposing to revise our regulation on the notification procedures for the establishment and disestablishment of limited access areas and regulated navigation areas. These proposed amendments reflect changes in agency administrative process and would provide increased transparency and clarity. The Coast Guard identified these proposed changes as part of the agency's deregulation effort under Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13777 (Enforcing the Regulatory Reform Agenda Deregulatory Process), and associated guidance issued in 2017.

The Coast Guard is conducting this rulemaking under the authority of 46 U.S.C. 70041 in regard to changes to 33 CFR part 100; and 46 U.S.C. 70034 in regard to changes to 33 CFR part 165. The Secretary of the Department of Homeland Security (DHS) has delegated authority to exercise general powers for the purpose of executing duties and functions of the Coast Guard to the Commandant via Department of Homeland Security Delegation No. 0170.1(II)(23). The Secretary has

delegated ports and waterways authority, with certain reservations not applicable here, to the Commandant via DHS Delegation No. 0170.1(II)(70). The Commandant has further redelegated these authorities within the Coast Guard as described in 33 CFR 1.05–1.

IV. Discussion of Proposed Rule

A. 33 CFR Part 100—Safety of Life on Navigable Waters

Ninth District

The Coast Guard is proposing to remove a recurring Ninth Coast Guard District special local regulation in 33 CFR 100.905 for the ''Door County Triathlon; Door County, WI.'' The Door Country Triathlon event is located in a low traffic, no commercial traffic, safe harbor that has no public access outside of the event start and finish areas controlled by the event sponsor. The surrounding water access is private property; there is no public access for uncontrolled spectators. Removal of the regulation would not affect public safety. The local sheriff and Department of Natural Resources are normally on scene and boating traffic in the area is recreational only.

Thirteenth District

The Coast Guard is proposing to remove 33 CFR 100.1308, ''Special Local Regulation; Hydroplane Races within the Captain of the Port Puget Sound Area of Responsibility.'' The Lake Sammamish and Dyes Inlet areas, which are covered by 33 CFR 100.1308(a)(1) and (3), have not been in use for over 3 years. Although events still occur in the Lake Washington area, which are covered by 33 CFR 100.1308(a)(2), removing this regulation would not affect the safety of participants or spectators. The safety of participants and spectators for events occurring in Lake Washington is ensured through 33 CFR 100.1301, ''Seattle seafair unlimited hydroplane race.''

B. 33 CFR Part 165—Regulated Navigation Areas and Limited Access Areas

General Regulations

The Coast Guard is proposing to amend the general notice provisions for regulated navigation areas and limited access areas by removing paragraph (c) from 33 CFR 165.7. The removal of paragraph (c) would eliminate the statement that notification of termination of a safety zone, security zone, or regulated navigation area is usually made in the same form as notification of its establishment. This would not change how, in practice, the Coast Guard notifies the public of regulated navigation areas and limited access areas. The Coast Guard would continue to provide notification, as currently conducted, in accordance with 33 CFR 165.7(a)—generally by **Federal Register** publication and supplemental notification via marine broadcasts, local notice to mariners, and local media. The proposed elimination of paragraph (c) is to account for the fact that the language of the paragraph, specifically the use of the term ''termination,'' is ambiguous. It could mean either the end of the rule's effective period or the end of the rule's enforcement period. While the end of the effective period for the rule might be the same as the end of the enforcement period, this is not always the case. In the event a marine event terminates earlier than expected, the local COTP will often make the decision to terminate enforcement of the zone(s) before the close of the rule's effective date. While the potential for this course of action is discussed in the implementing rulemaking document, there is typically no follow-up in the **Federal Register** stating that such enforcement has ceased. Rather, in actual practice, this information is communicated solely through marine broadcasts, local notice to mariners, or other means known to be routinely referenced by the local marine community.

Seventeenth District

The Coast Guard is proposing to remove 33 CFR 165.1709, ''Security Zones; Liquefied Natural Gas Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, AK.'' The liquefied natural gas (LNG) terminal in Cook Inlet has ceased operations for the foreseeable future. No tankers have called on it since 2015. The proposed LNG pipeline scheme for the future would re-route LNG production to Valdez, assuming the price rises to profitable levels. In the event that LNG resumes flow to Cook Inlet, a new rule would be appropriate, as the facility name might be different.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this proposed rule a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this proposed rule is not a significant regulatory action, it is exempt from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017).

The Coast Guard proposes to revise its regulations to provide updates and clarifications to existing regulatory text in 33 CFR parts 100 and 165. The revisions include administrative changes such as clarifying edits to general regulations on notice of termination of areas regulated under 33 CFR part 165, and the removal of a special local regulation no longer needed for safety, a special local regulation for an event that is no longer held, and a security zone for a facility that has ceased operations. Normal navigation rules sufficiently cover the safety of participants and spectators at events that are no longer suitable for coverage under a special local regulation. This proposed rule would not impose any additional costs on the public, maritime industry, or the government. The qualitative benefit of these proposed changes would be an increase in the clarity of regulations created by editorial corrections, the removal of expired enforcement periods, and the removal of events that are no longer held.

B. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have

a significant economic impact on a substantial number of small entities. 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.

This proposed rule would not have any economic impact on vessel owners or operators, or any other maritime industry entity. The proposed changes include administrative changes relating to internal agency practices and procedures. Therefore, the proposed rule would not have a significant economic impact on any small entities. Thus, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. 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.

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).

D. Collection of Information

This proposed rule calls for no new or modified collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This proposed rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

This proposed rule would be categorically excluded under paragraphs

L54, L55, and L61 of Appendix A, Table 1 of DHS Instruction Manual 023–1–001–01, Rev. 1. Paragraph L54 pertains to promulgation of regulations that are editorial or procedural; paragraph L55 pertains to internal agency functions; and paragraph L61 pertains to special local regulations issued in conjunction with a regatta or marine parade. This proposed rule would revise general rulemaking regulations and also amend the field regulations for the Ninth, Thirteenth, and Seventeenth Coast Guard Districts by incorporating updates and clarifications to existing regulatory text in 33 CFR parts 100 and 165.

These proposed regulation changes were identified as part of the Coast Guard's deregulation identification process required by Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), and Executive Order 13777 (Enforcing the Regulatory Reform Agenda Deregulatory Process), and associated guidance issued in 2017. All of the proposed changes are consistent with the Coast Guard's maritime safety and stewardship missions. We seek any comments or information that may lead to the discovery of a significant environmental impact associated with this proposed rule.

List of Subjects

33 CFR Part 100

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

33 CFR Part 165

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

For the reasons stated in the preamble, the Coast Guard is proposing to amend 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

§ 100.905 [Removed]

■ 2. Remove § 100.905.

§ 100.1308 [Removed]

■ 3. Remove § 100.1308.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 4. 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.

§ 165.7 [Amended]

■ 5. Amend § 165.7 by removing paragraph (c).

§ 165.1709 [Removed]

■ 6. Remove § 165.1709.

Dated: March 3, 2020.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2020–04735 Filed 3–6–20; 8:45 a.m.]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2020–6; Order No. 5445]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal One). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 2, 2020.

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

On February 28, 2020, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal One.

II. Proposal One

Background. Proposal One would change the revenue, pieces, and weight (RPW) reporting methodology ''for measuring the national totals of non-contract mailpieces in domestic parcel mail categories bearing PC Postage indicia from postage evidencing systems.'' Petition, Proposal One at 1. The current RPW methodology for such mail activity uses several census sources combined with statistical elements from the Origin-Destination Information System—Revenue, Pieces, and Weight (ODIS–RPW) probability sampling system. *Id.* at 1, 3. Proposal One would replace the ODIS–RPW statistical sampling estimates with corresponding census transactional data. *Id.* at 1.

The Postal Service lists several requests the Commission has approved for replacing statistical estimates with census data. *Id.* at 1–2. Mailers may pay for and print postage using PC Postage, a third-party vendor software approved by the Postal Service. *Id.* at 2. The Postal Service explains that customers use postage evidencing systems, which consist of postage meters and PC Postage products, to print evidence that required postage has been paid. *Id.* To indicate postage payment, postage evidencing systems print information-based indicia (IBI), which mailers place on a mailpiece or a label affixed to a mailpiece. *Id.* The National Meter Account Tracking System (NMATS) records PC Postage payment transactions. *Id.*

The Postal Service runs an Automated Package Verification (APV) system using barcode data, in-line scales, and dimensional scanners on parcel sorters to compare PC Postage transaction information with packages run through the APV. *Id.* Based on this comparison, the Postal Service either charges customers' accounts for underpaid mailpieces or credits postage for overpaid mailpieces. *Id.*

Proposal. Proposal One ''would switch reporting of PC Postage domestic parcel mail categories from sample data provided by the ODIS–RPW sampling system to corresponding census data provided by PC Postage transactional data housed in NMATS.'' *Id.* at 4. Under

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal One), February 28, 2020 (Petition). The Postal Service filed a notice of filing of non-public materials relating to Proposal One. Notice of Filing of USPS–RM2020–6/NP1 and Application for Nonpublic Treatment, February 28, 2020.

the current RPW methodology, ''ODIS–RPW data collectors record a PC Postage mailpiece as IBI and indicate the specific PC Postage manufacturer.'' *Id.* at 3. The Postal Service describes several limitations with the current methodology. *Id.* at 4. ODIS–RPW is a statistical sampling system producing point estimates with sampling errors, and ODIS–RPW tests may cause unintended errors in mail sampling and in recording data elements observed. *Id.* ODIS–RPW is unable to report on or adjust for underpaid and overpaid mail. *Id.* By contrast, the proposed methodology uses census transaction data that are not subject to sampling error and would likely produce the same or better data quality. *Id.*

The Postal Service proposes to replace the ODIS–RPW sampling system (current methodology) with census transaction data (proposed methodology) no earlier than FY 2020, Quarter 3 to allow for full implementation of changes to the APV system that become effective on April 1, 2020. *Id.* at 4–5. It states that the proposed methodology ''provides a complete census source of transactional-level data for PC Postage domestic mailpieces and makes appropriate APV adjustments at the record level.'' *Id.* at 5.

Impact. To demonstrate the impact of the proposed methodology, the Postal Service submitted a report comparing FY 2019 RPW results using both the current methodology and proposed methodology.[2] This report shows differences by major mail category if the proposed methodology replaced the current methodology in FY 2019. *Id.* at 6. For First-Class Package Service as well as Media and Library Mail, both revenue and volume would have increased. *Id.* For USPS Retail Ground and Priority Mail, both revenue and volume would have decreased. *Id.* For FY 2019, total mail volume would have increased by 0.1 percent, total pounds would have increased by 0.3 percent, and total revenue would have remained unchanged because the RPW report is tied to the Accounting Trial Balance. *Id.*

The Postal Service explains that the differences in the report ''are mainly due to differences in manual data collection (current methodology) compared to postage payment data (proposed methodology).'' *Id.* It notes that the differences in the report would not have been as large if the APV system were fully implemented at the beginning of FY 2019. *Id.*

The Postal Service concludes that the proposed methodology change ''will result in the improved reporting of PC Postage non-contract revenue and volume both in terms of the level and measures of precision.'' *Id.* at 7. It adds that the proposed methodology change ''will also allow for more granularity in the underlying report data.'' *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2020–6 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal One no later than April 2, 2020. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2020–6 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal One), filed February 28, 2020.

2. Comments by interested persons in this proceeding are due no later than April 2, 2020.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Jennaca D. Upperman to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–04715 Filed 3–6–20; 8:45 am]

BILLING CODE 7710–FW–P

[2] *Id.* at 5; *see id.* Attachment A. The Postal Service separately filed under seal as Library Reference USPS–RM2020–6/NP1 a non-public version of Attachment A that disaggregates data pertaining to Competitive products. Petition, Proposal One at 5 n.1.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0615; FRL–10006–16–Region 3]

Supplemental Information and Data for the Indiana, Pennsylvania Nonattainment Area for the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard; Notice of Data Availability (NODA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability; request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of new modeling, meteorological and emissions information and data contained in a package submitted to EPA by the Commonwealth of Pennsylvania on February 5, 2020 in support of the Indiana, Pennsylvania state implementation plan (SIP, or Attainment Plan) for the 2010 sulfur dioxide (SO_2) primary National Ambient Air Quality Standard (NAAQS). EPA will be evaluating this information as well as any public comments received to take final action on the Attainment Plan. The modeling and large data files submitted are not provided in the docket but are available upon request by contacting the person named in the **FOR FURTHER INFORMATION CONTACT** section.

DATES: Written comments must be received on or before April 8, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0615 at *https://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission

methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Megan Goold, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2027. Ms. Goold can also be reached via electronic mail at *goold.megan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

EPA proposed approval of the Attainment Plan for the Indiana, Pennsylvania Nonattainment Area for the 2010 SO_2 NAAQS on July 13, 2018. 83 FR 32606. As part of approving the Attainment Plan, EPA also proposed to approve into the Pennsylvania SIP SO_2 emission limits and associated compliance parameters for Keystone, Conemaugh, Homer City and Seward Generating Stations. The public comment period for EPA's proposal closed on August 13, 2018. During the public comment period, EPA received from one commenter new information and analysis purporting to show that, using an alternative receptor grid, the critical emission values (CEVs) for Seward and Conemaugh Stations modeled a violation of the standard within the boundaries of the nonattainment area (NAA). In response, the Pennsylvania Department of Environmental Protection (PADEP) opted to provide EPA with supplemental information to provide further support for their submitted Attainment Plan. The supplemental information includes: (1) A supplemental air dispersion modeling report, (2) Supplemental air dispersion modeling data, (3) Supplemental air dispersion modeling protocol, (4) A meteorological monitoring plan, (5) Meteorological monitoring data, (6) Meteorological monitoring quality assurance, quality control, and audit reports, (7) Clean Air Markets Division (CAMD) emission data for 2010–2018, and (8) Continuous Emissions Monitoring (CEM) data for 2010–2019 (3rd Quarter).

PADEP's supplemental modeling report provides additional modeling using the newly provided site specific meteorological data to support the SO_2 emission limits established in the original attainment plan. The study supplements the modeling submitted in 2017 (see Docket EPA–R03–OAR–2017–0615–0018 which can be located via *https://www.regulations.gov*) to focus on the area in the NAA near Conemaugh and Seward stations. The meteorological data collection spanned the 13-month period of August 1, 2015 through August 31, 2016. Due to better SOnic Detection And Radar (SODAR) data capture percentages for the September 1, 2015 through August 31, 2016 period, this 12-month period was used for this supplemental modeling analysis. PADEP used AERMOD dispersion model 16 (Version 19191), current as of August 2019, to evaluate air quality impacts from the emission sources of interest. The South Fayette, Pennsylvania monitor, which is located about 62 kilometers to the west-southwest of the Indiana County NAA, was used to determine the uniform regional background component for the NAAQS SO_2 modeling. The most recent 3-year period (2016–2018) of emissions data were used in the modeling analysis and details on the emissions processing are provided in the submittal, which can be found in the docket for this notice.

The modeling was used to define CEVs for Seward and Conemaugh Generating Stations that show 99th percentile peak daily 1-hour maximum concentrations (''design concentrations'') complying with the 1-hour SO_2 NAAQS. For the Seward and Conemaugh Generating Stations, longer-term emission rates that are discounted from the 1-hour CEV rates were derived. Different averaging times were selected to best fit the emission source profiles at each plant. Conemaugh emission rates are based upon a 3-hour block emission average, and the Seward emission rate is based upon a rolling 30-day average. The current SO_2 emission limits for the modeled emission sources at the Conemaugh and Seward Stations are lower than the longer-term emission rates that demonstrate attainment with the NAAQS through modeling.

To demonstrate that Seward's rolling 30-day emission limit is protective of the NAAQS, PADEP submitted randomly reassigned emissions (RRE) modeling. One hundred AERMOD simulations were run using randomly reassigned 1-hour emission rates for Seward's emissions along with constant CEV 1-hour emission rates for the remaining three SO_2 sources in the NAA plus regional background (South Fayette monitor for 2016–2018 as discussed in Section 4.7 of the Modeling Report). For each of the 100 modeling runs with one year of on-site meteorology, the 99th percentile peak daily 1-hour maximum at each receptor resulted in design concentrations that comply with the NAAQS. The highest 99th percentile daily maximum SO_2 concentration of the 100 model simulations was 190.05 micrograms per meter cubed ($\mu g/m^3$) (this occurred in simulation run 44) and is less than the NAAQS (196.4 $\mu g/m^3$).

The supplemental modeling purports to demonstrate that a lower CEV for Seward Generating Station demonstrates attainment compared to the CEV provided in the original attainment plan. The rolling 30-day emission limit for Seward has remained unchanged. The newly submitted RRE modeling purportedly demonstrates that the rolling 30-day emission limit for Seward is protective of the NAAQS. The CEV for Conemaugh Generating Station has not changed from the original Attainment Plan as a result of the supplemental modeling analysis, and therefore no additional analysis was provided in support of the source's longer term 3-hour block limit.

EPA is seeking comment on the Pennsylvania supplemental information submitted on February 5, 2020 as supporting analysis that shows the previously-established longer term emission limits for Seward and Conemaugh Generating Stations demonstrate attainment of the 2010 SO_2 NAAQS in the Nonattainment Area. EPA is not seeking comment on any other aspect of the Attainment Plan, which has already gone through the public comment process from July 13, 2018 through August 13, 2018.

Dated: February 24, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–04774 Filed 3–6–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200225–0064]

RIN 0648–BJ16

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement measures included in Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, as submitted by the Mid-Atlantic Fishery Management Council. This action would integrate Atlantic chub mackerel as a stock in the fishery under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. This amendment would identify goals and objectives for managing Atlantic chub mackerel; specify status determination criteria; designate essential fish habitat; establish a specifications process; set annual catch limits for 2020–2022; and implement accountability measures, possession limits, permitting and reporting requirements, and other administrative measures for Atlantic chub mackerel caught from Maine through North Carolina.

DATES: Public comments must be received by April 8, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0109, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0109,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Chub Mackerel Proposed Rule.''

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

The Mid-Atlantic Council prepared an environmental assessment (EA) for Amendment 21 that describes the proposed action and provides a thorough analysis of the impacts of the proposed measures and other alternatives considered. Copies of Amendment 21, including the EA, the Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA and associated analysis is accessible via the internet *http://www.mafmc.org/supporting-documents.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater Atlantic Regional Fisheries Office and by email to *OIRA_Submission@omb.eop.gov or fax to (202) 395–5806.*

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281–9141.

SUPPLEMENTARY INFORMATION:

Background

In August 2016, the Mid-Atlantic Fishery Management Council adopted final measures to protect previously unmanaged forage species as part of Amendment 18 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). During the development of that action, the Council initially considered Atlantic chub mackerel as an ecosystem component forage species due to their schooling behavior, relatively small size, and role as prey for a variety of predators. However, because a directed commercial fishery for Atlantic chub mackerel recently developed in Federal waters and other considerations, the Council concluded that this species is in need of specific conservation and management measures of its own. The Council developed temporary measures to regulate Atlantic chub mackerel catch as part of Amendment 18 (August 28, 2017; 82 FR 40721) until the Council could formally integrate this species as a stock in the Atlantic Mackerel, Squid, and Butterfish FMP. These temporary measures, including a 1,297-mt annual landing limit, a 40,000-lb (18-mt) possession limit once the annual landing limit is reached, and permitting and reporting requirements, became effective on September 27, 2017, and expire on December 31, 2020.

On December 15, 2016, the Council initiated an action to develop measures required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to formally manage Atlantic chub mackerel as a stock in the fishery under the Atlantic Mackerel, Squid, and Butterfish FMP. The Council held scoping meetings from Rhode Island through Virginia in May 2017. These meetings sought public input on the most appropriate measures to manage the Atlantic chub mackerel fishery, including both required and discretionary measures outlined in the Magnuson-Stevens Act. After further developing proposed measures, the Council conducted public hearings in December 2018 and January 2019 to solicit additional input on the range of alternatives under consideration by the Council, with public comments accepted through January 18, 2019. At its March 2019 meeting, the Council adopted final measures under Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish FMP. The Council submitted the final Amendment 21 document on October 8, 2019. The Council reviewed the proposed regulations to implement these measures, as drafted by NMFS, and deemed them to be necessary and appropriate, as specified in section 303(c) of the Magnuson-Stevens Act on December 20, 2019.

Proposed Measures

Under the Magnuson-Stevens Act, we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures that the Council proposes based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comments on the Council's proposed measures in Amendment 21 described below and whether they are consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law.

This proposed rule includes changes to existing FMP measures adopted by the Council under Amendment 21, but also several revisions to regulations that are not specifically identified in Amendment 21. These revisions are necessary to effectively implement the provisions in Amendment 21, or to correct errors in, or clarify, existing provisions. NMFS is proposing these latter changes under the authority of

section 305(d) of the Magnuson-Stevens Act.

1. Goals and Objectives

The FMP's current goals and objectives have been in place since 1981 and apply to all species managed by the FMP (Atlantic mackerel, *Illex* squid, longfin squid, and butterfish). During the development of this action, the Council identified additional goals and objectives that are specific to managing Atlantic chub mackerel. If approved, we would use the following goals and objectives to evaluate if changes to Atlantic chub mackerel management measures are consistent with the FMP when deciding whether to approve a future management action.

- *Goal 1:* Maintain a sustainable Atlantic chub mackerel stock.
  - *Objective 1.1:* Prevent overfishing and achieve and maintain sustainable biomass levels that achieve optimum yield in the fisheries and meet the needs of Atlantic chub mackerel predators.
  - *Objective 1.2:* Consider and account for, to the extent practicable, the role of Atlantic chub mackerel in the ecosystem, including its role as prey, as a predator, and as food for humans.
- *Goal 2:* Optimize economic and social benefits from utilization of chub mackerel, balancing the needs and priorities of different user groups.
  - *Objective 2.1:* Allow opportunities for commercial and recreational Atlantic chub mackerel fishing, considering the opportunistic nature of the fisheries, changes in availability that may result from changes in climate and other factors, and the need for operational flexibility.
  - *Objective 2.2:* To the extent practicable, minimize additional limiting restrictions on the *Illex* squid fishery.
  - *Objective. 2.3:* Balance social and economic needs of various sectors of the Atlantic chub mackerel fisheries (*e.g.,* commercial, recreational, regional) and other fisheries, including recreational fisheries for highly migratory species.
- *Goal 3:* Support science, monitoring, and data collection to enhance effective management of Atlantic chub mackerel fisheries.
  - *Objective 3.1:* Improve data collection to better understand the status of the Atlantic chub mackerel stock, the role of Atlantic chub mackerel in the ecosystem, and the biological, ecological, and socioeconomic impacts of management measures, including impacts to other fisheries.
  - *Objective 3.2:* Promote opportunities for industry collaboration on research.

2. Designation of Essential Fish Habitat (EFH)

The Magnuson-Stevens Act requires the designation of EFH for all managed stocks. Based on a combination of fishery and survey data, literature sources, and expert judgment, Amendment 21 would designate Atlantic chub mackerel EFH as follows:

- *Eggs:* Pelagic waters throughout the exclusive economic zone (EEZ) from North Carolina to Texas, including intertidal and subtidal areas, at temperatures of 15–25° C;
- *Larvae:* Pelagic waters throughout the EEZ from North Carolina to Texas, including intertidal and subtidal areas, at temperatures of 15–30 °C; and
- *Juveniles and adults:* Pelagic waters throughout the EEZ from Maine to Texas, including intertidal and subtidal areas, at temperatures of 15–30 °C.

3. Management Unit

National Standard 3 of the Magnuson-Stevens Act requires an individual stock of fish be managed as a unit throughout its range, while National Standard 3 Guidelines at 50 CFR 600.320 indicate that a FMP should implement conservation and management measures for the part of the management unit that lies within U.S. waters. In practice, the management unit defines the geographic area over which the management measures in an FMP apply.

Atlantic chub mackerel are found throughout the Atlantic coast from Maine through Florida, and in both the Gulf of Mexico and the Caribbean Sea. This species is caught infrequently and in low numbers in fishery independent surveys, and both commercial and recreational catch varies substantially on an annual basis. While there has been some commercial and recreational catch in the Gulf of Mexico and Florida, most Atlantic chub mackerel landings come from waters managed by the Mid-Atlantic Council from New York through North Carolina. From 1998–2018, no Atlantic chub mackerel landings were reported in South Carolina and Georgia, and landings in Florida do not come from a directed fishery and represent a very small portion of total coastwide landings.

This action would designate Federal waters from Maine to North Carolina as the Atlantic Chub Mackerel Management Unit. Management measures, including the proposed permitting and reporting requirements, possession limits, annual catch limit (ACL), and accountability measures (AMs) discussed further below would only apply to vessels operating within the Atlantic Chub Mackerel Management Unit. Atlantic chub mackerel catch from South Carolina through the east coast of Florida would not be directly managed, but annual estimates of expected catch from this area would be deducted from the overall Atlantic chub mackerel acceptable biological catch (ABC), as discussed further below under Item 6 of this preamble (the specifications process).

4. Status Determination Criteria

The Magnuson-Stevens Act requires FMPs to specify objective and measurable criteria for identifying when a stock is overfished or experiencing overfishing. In 2018, the Council adopted an omnibus action that automatically updates status determination criteria for each managed species based on the latest reviewed and accepted stock assessment (April 11, 2018; 83 FR 1551). Due to the limited fishery dependent and independent data available for Atlantic chub mackerel, a stock assessment could not be conducted for this species and used to specify status determination criteria. At its July 2018 meeting, the SSC could not identify an overfishing limit (OFL) or determine stock size and productivity based on available information. The SSC concluded that there is no information to determine reference points for biomass levels, and little information exists to determine reference points for fishing mortality rates. Despite these limitations, the SSC recommended a 2,300-mt (5.07-million lb) ABC based on historic commercial and recreational catch, productivity of species with similar life history, and expert judgement. The Council's Fishery Management Action Team (FMAT) used this ABC, in conjunction with the Council's ABC control rule, to calculate an OFL to inform proxy status determination criteria.

To calculate an OFL using existing ABC control rules, the Council's FMAT had to make two key assumptions about the implied status of the stock and level of precision in estimating stock status. In recommending a 2,300-mt (5.07 million-lb) ABC, the SSC indicated that similar catch levels in recent years are unlikely to result in overfishing based on the productivity of this species in other parts of the world and the low fishing capacity of the domestic fishery. However, the SSC suggested that it had some reservations due to the uncertainty with available data. Consistent with SSC deliberations, the FMAT assumed that Atlantic chub mackerel biomass is at or above maximum sustainable yield, but that assumption is subject to a high degree of uncertainty. Under the Council's ABC control rule, the ABC for

a stock with a typical life history, biomass at or above maximum sustainable yield, and a 150-percent coefficient of variation (level of confidence in the OFL estimate) should be equal to 76 percent of the OFL. Therefore, dividing the SSC's recommended 2,300-mt (5.07 million-lb) ABC by 0.76 results in a proxy OFL of 3,026 mt (6,671,188 lb). This estimate would be used as a proxy Atlantic chub mackerel status determination criteria for both overfishing and overfished status.

Under this action, if more than 3,026 mt (6,671,188 lb) of Atlantic chub mackerel are caught from Maine through the east coast of Florida in a given year, overfishing is assumed to have occurred. If catch exceeds that amount in three consecutive years, then the stock would be presumed to be overfished and the Council would need to develop a rebuilding plan. These status determination criteria would remain in effect until updated criteria based on an accepted stock assessment are available.

5. Optimum Yield and Maximum Sustainable Yield

National Standard 1 requires conservation and management measures to prevent overfishing while achieving optimum yield (OY) on a continuing basis. OY is the amount of fish that will provide the greatest overall benefit to the Nation and is based on maximum sustainable yield (MSY) that has been reduced by any relevant economic, social, or ecological factors. In determining OY, the Council considered a literature review related to the role of Atlantic chub mackerel in the diets of predators to evaluate its importance as forage and on ecosystem functions. The Council also considered if reducing OY would help address localized depletion concerns identified during scoping. Ultimately, the Council determined there is no quantitative basis for setting OY less than ABC to account for ecosystem concerns, and that OY is not the most appropriate mechanism to address localized depletion concerns. Therefore, the proposed regulations would allow OY to be set equal to or less than the ABC, but this action would set Atlantic chub mackerel OY and MSY equal to the ABC (2,300 mt, or 5.07 million lb) until otherwise revised by the Council. The Council is sponsoring research into the role of Atlantic chub mackerel as a prey species, which is expected to be presented to the Council in 2020 and could inform future revisions to the OY or MSY proposed in this action.

6. Specifications Process

Under this action, the annual specifications process used for other species managed under the FMP, as described at § 648.22, would also apply to Atlantic chub mackerel. Specifications could be set for up to 3 years at a time, subject to annual review. As part of this process, the Council's SSC would recommend a stock-wide ABC that must be equal to or less than the OFL after consideration of scientific uncertainty. Each year, the Monitoring Committee would review fishery catch, survey data, and other available information to provide the Council with the following recommendations:

- An ACL that is calculated by deducting an estimate of expected catch from South Carolina through the east coast of Florida from the ABC;
- An annual catch target (ACT) that is equal to or less than the ACL to account for management uncertainty related to the ability of management measures to constrain catch and prevent the ACL from being exceeded; and
- A total allowable landing (TAL) limit derived by subtracting an estimate of expected dead discards from the ACT.

Under this action, there would be no separation of catch limits into commercial and recreational components; all catch would count towards one ACL and ACT. Historically, recreational Atlantic chub mackerel landings have represented less than 1 percent of total landings over the past 5, 10, and 15 years. An allocation of catch to the recreational fishery would be very small, based on uncertain data, and difficult to monitor, particularly since discards are not well documented and species identification has been a concern raised during the development of this action.

The current regulations outline which measures could be revised through annual specifications. These same provisions would apply for Atlantic chub mackerel. As proposed, the ABC, management uncertainty, discard estimate, and expected Atlantic chub mackerel catch from South Carolina through Florida could be adjusted through the specifications process.

7. Proposed 2020 and Projected 2021–2022 Specifications

Table 1 summarizes the Atlantic chub mackerel specifications proposed for 2020 and projected for 2021 and 2022 based on a fishing year that runs from January 1 through December 31 of each year. The proposed 2,261.7-mt (4,986,132-lb) ACL results from deducting an estimate of South Carolina—Florida catch (38.3 mt or 84,500 lb) from the ABC. This catch estimate is based on the highest annual commercial landings and recreational catch data from the area over the past 20 years (1999–2018) plus an additional 10 percent to account for recreational discards. Deducting a 4-percent management uncertainty buffer from the ACL results in a 2,171.2-mt (4,786,687-lb) ACT for catch from Maine through North Carolina. Deducting a 6-percent discard estimate from the ACT results in a 2,040.9-mt (4,499,486-lb) TAL, which is 57 percent higher than the current temporary 1,297-mt annual landings limit. The proposed 4-percent management uncertainty buffer accounts for the potential that Atlantic chub mackerel may be mis-identified or mis-reported and uncertainty in how the historically pulse fishery may respond to these new measures, including the AMs discussed in the next section. The 6-percent discard estimate represents the highest estimate of Atlantic chub mackerel discarded based on observed commercial trips from 2003–2017 (15 years). Although this discard rate was based on commercial trips, recreational discards were generally low compared to commercial discards. As noted above, these specifications would be evaluated annually, and the Monitoring Committee could recommend adjustments to South Atlantic catch, management uncertainty, and discard rates based on updated data.

TABLE 1—PROPOSED 2020 AND PROJECTED 2021–2022 ATLANTIC CHUB MACKEREL SPECIFICATIONS

Specification	mt	lb
ABC	2,300	5,070,632
ACL	2,261.7	4,986,132
ACT	2,171.2	4,786,687
TAL	2,040.9	4,499,486

8. Possession Limits

Initially, all commercial vessels and recreational anglers would not be subject to a possession limit for Atlantic chub mackerel. As Atlantic chub mackerel landings approach the TAL, NMFS would implement more restrictive commercial vessel possession limits through the AMs detailed in the next section of this preamble.

9. Accountability Measures (AMs)

The Magnuson-Stevens Act requires AMs to prevent the ACL from being exceeded and to mitigate an overage if the ACL is exceeded. This action proposes in-season AMs to prevent the ACT from being exceeded, including an 18.1-mt (40,000-lb) commercial vessel

possession limit once 90 percent of the TAL is landed and a 4.5-mt (10,000-lb) possession limit once 100 percent of the TAL is landed. These measures would slow fishery catch to incidental levels as landings approach the TAL. The proposed AM triggers are similar to those used as AMs in the Atlantic mackerel fishery. The proposed 18.1-mt (40,000-lb) possession limit is consistent with the current possession limit for Atlantic chub mackerel once the TAL is caught to deter further targeting of the species, while the 4.5-mt (10,000-lb) possession limit represents historic incidental catch of this species and is consistent with the incidental possession limit in the *Illex* squid fishery. These AMs would likely prevent the proposed ACL from being exceeded based on an analysis of historic fishery operations. If the ACL is exceeded based on total catch by both the commercial and recreational fisheries within the Management Unit, the ACT would be reduced by the amount of the overage as soon as possible in a subsequent fishing year. Because recreational catch data and a full accounting of total fishery catch are not available until well into the next fishing year, it is not possible to effectively reduce the ACT in the year immediately following an overage of the ACL.

10. Permit and Reporting Requirements

Permit and reporting requirements are discretionary measures under the Magnuson-Stevens Act, but provide valuable information to assess and manage fisheries. Under the current regulations, to fish for, possess, land, or sell Atlantic chub mackerel from the EEZ between New York and North Carolina, a vessel must be issued a commercial vessel permit by the Greater Atlantic Regional Fisheries Office (GARFO) for any managed species. This action would require vessels fishing for, possessing, landing, or selling Atlantic chub mackerel from the Atlantic Chub Mackerel Management Unit described in Item 3 of the preamble to be issued either a valid Federal commercial or party/charter permit for any species managed by the FMP (Atlantic mackerel, *Illex* squid, longfin squid, or butterfish). Similarly, a dealer purchasing and selling Atlantic chub mackerel would be required to obtain a valid seafood dealer permit issued by GARFO for these same species. Any commercial vessel operator fishing for or possessing Atlantic chub mackerel in or from the Management Unit would be required to obtain and retain on board a valid operator permit issued by GARFO. Finally, vessel operators would also be required to report the catch of Atlantic chub mackerel on vessel trip reports (VTR, or logbooks) and comply with any applicable vessel monitoring system (VMS) declaration and reporting requirements for commercial vessels issued a permit under the FMP. Dealers purchasing Atlantic chub mackerel would be required to report such purchases via existing weekly dealer reports.

11. Transit Provision

A vessel issued a Federal commercial fishing permit from GARFO that possesses Atlantic chub mackerel in excess of the proposed possession limits would be allowed to transit the Management Unit in certain circumstances. Transit through the Management Unit would be allowed provided Atlantic chub mackerel was harvested outside of the Atlantic Chub Mackerel Management Unit and all gear is stowed and not available for immediate use. Some Atlantic chub mackerel are caught outside of mid-Atlantic Federal waters, including those areas under the jurisdiction of other Councils. This provision would allow vessels that catch Atlantic chub mackerel outside of the Management Unit to land this species in mid-Atlantic or New England ports.

This transiting provision was originally adopted by the Council as part of the Amendment 18 and would be continued through this action. Although the Council did not specifically adopt this measure as part of Amendment 21, because the reasons for adopting this provision still exist, we retained it in the draft proposed regulations sent to the Council for review, as required by section 303(c) of the Magnuson-Stevens Act. In deeming the proposed regulations consistent with Amendment 21, the Council Executive Director deemed the transiting provision to be consistent with this action as well. Therefore, we propose to implement this measure through this action, but specifically seek public comment whether it should be included in this action.

12. Administrative Measures

Certain administrative measures are necessary to effectively manage the Atlantic chub mackerel fishery. The Council's current ABC control rule and risk policy are documented in the regulations at §§ 648.20 and 21, respectively, and would both apply to Atlantic chub mackerel under this action. These measures help the Council set the ABC. The Magnuson-Stevens Act also requires FMPs to establish a standardized bycatch reporting methodology (SBRM). In 2015, the Council developed a SBRM applicable to all its FMPs (June 30, 2015; 80 FR 37182). This action would clarify that the SBRM regulations specified at § 648.18 also apply to Atlantic chub mackerel. Finally, this action would clarify that any changes to Atlantic chub mackerel measures must be made through an FMP amendment and cannot be made through the framework adjustment process outlined in § 648.25.

13. Exemption From Northeast Multispecies Mesh Requirements

The Northeast Multispecies FMP regulations at § 648.80 dictate the minimum mesh size and gear requirements that can be used in Federal waters of the Northeastern United States. Unless otherwise exempted, bottom trawl vessels fishing for any species outside of the Mid-Atlantic Regulated Mesh Area must use 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh in the body and extension of the net and a 6.5-inch (16.5-cm) diamond mesh or square mesh codend. Over time, vessels fishing for certain species or in certain fisheries operating at specific times, in specific areas, or with specific gear were granted exemptions from such mesh/gear requirements because such operations had a minimal bycatch of regulated groundfish species. The regulations at § 648.80(a)(8) allow the Regional Administrator, after consulting with the New England Fishery Management Council, to add an exemption to these gear requirements for an existing fishery if the bycatch of regulated species is less than five percent of the total catch by weight, and that the exemption does not jeopardize fishing mortality objectives of the Northeast Multispecies FMP.

In recent years, over 90 percent of Atlantic chub mackerel landings were caught in Federal waters between New York and North Carolina, nearly all of which was caught using small-mesh bottom trawl gear. From 1998–2018, observers did not record any bycatch of regulated groundfish species (*e.g.,* cod, haddock, pollock, yellowtail flounder, etc., as defined at § 648.2) on 19 observed trips that landed Atlantic chub mackerel. Bycatch of small-mesh multispecies (silver hake, red hake, and offshore hake) was less than one percent of total catch per trip. Therefore, available data indicate that bycatch of regulated groundfish species is less than five percent of total catch for trips landing Atlantic chub mackerel. Further, the absence of regulated species bycatch suggests that the Atlantic chub mackerel fishery would not jeopardize

the fishing mortality objectives of any groundfish stock.

Concurrent with a consultation with the New England Council, this action proposes to add Atlantic chub mackerel to the species exemption specified at § 648.80(b)(3)(i) and create a new Atlantic chub mackerel fishery exemption at § 648.80(c)(5)(iii). The revision to the species exemption would exempt vessels from the Georges Bank and Southern New England (SNE) Regulated Mesh Area gear restrictions and allow vessels to fish for, harvest, possess, and land Atlantic chub mackerel when using small-mesh gear within both the SNE and Mid-Atlantic Exemption Areas defined at §§ 648.80(b)(10) and 648.80(c)(5)(i), respectively. Both measures would require vessels to comply with the Mackerel, Squid, and Butterfish FMP gear restrictions and possession limits specified at §§ 648.23 and 26, respectively, along with the possession restrictions for other species outlined in § 648.80(b)(3)(ii). Without these exemptions, vessels would not be allowed to retain Atlantic chub mackerel in areas in which they have been historically harvested using small-mesh bottom trawl gear. Therefore, these exemptions are necessary to allow the fishery to operate consistent with Mid-Atlantic Council intent as part of integrating this species into the Mackerel, Squid, and Butterfish FMP through this action.

14. Corrections

Corrections to existing regulations are necessary to differentiate between species managed by the FMP and ensure consistency with Council intent for previous actions. To differentiate between Atlantic mackerel and Atlantic chub mackerel, references to ''mackerel'' would be revised to reference Atlantic mackerel throughout part 648 when appropriate; references to ''squid'' would be revised to ''*Illex* squid'' and ''longfin squid'' when appropriate; and references to the ''Atlantic Mackerel, Squid, and Butterfish'' FMP or associated entities such as the Monitoring Committee would be revised to the more general ''Mackerel, Squid, and Butterfish'' reference that is inclusive of both Atlantic mackerel and Atlantic chub mackerel.

Existing regulations at §§ 648.4(a)(5)(v) and 648.14(g)(4) would be revised to make such text consistent with similar text for other fisheries and to incorporate Atlantic chub mackerel.

In § 648.4(a)(15), revisions to existing text would ensure that a commercial fishing vessel must be issued a Federal permit for any commercial fishery of the Northeastern United States under part 648 instead of a specific forage species permit under § 648.4(a)(15), which does not actually exist. This change more effectively reflects Council intent under Amendment 18.

In §§ 648.5 and 6, revisions to existing text would ensure that the vessel operator and dealer permit requirements adopted by the Council under Amendment 18 are reflected in these sections. While we included these changes in the final rule to implement that action (August 28, 2017; 82 FR 40721), the **Federal Register** text was not updated accordingly. In § 648.22, paragraph (a)(2) would be revised to spell out the first use of the term ''annual catch limit'' and ''annual catch target.''

In §§ 648.22(a)(2), 648.22(b)(3)(v), 648.23(a)(2)(ii), and 648.24(c)(3), references to the butterfish ''mortality'' cap would be revised to the butterfish ''discard'' cap upon the request of Council staff to more accurately reflect how such measures are implemented. Similarly, references to the Atlantic mackerel Tier 3 ''allocation'' in §§ 648.22(a)(3), 648.22(b)(2)(iv)(A), 648.22(c)(6), 648.24(b)(1)(i)(B), and §§ 648.26(a)(1)(iii) and (a)(2)(i)(B) would be revised to reference ''catch cap'' instead.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making a final determination, NMFS will take into account the data, views, and comments received during the comment period.

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

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

This proposed rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Council prepared a draft EA for this action that analyzes the impact of measures contained in this proposed rule. The EA includes an initial Regulatory Flexibility Act analysis (IRFA), as required by section 603 of the RFA, which is supplemented by information contained in the preamble of this proposed rule. The IRFA, as summarized below, describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the RFA analysis is available from the Mid-Atlantic Council (see **ADDRESSES**).

Description of the Reasons Why Action by the Agency Is Being Considered

The purpose of this action is to implement both required and discretionary measures necessary to integrate Atlantic chub mackerel as a stock under the Atlantic Mackerel, Squid, and Butterfish FMP. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. Section 4.0 of the EA prepared for this action (see **ADDRESSES**) contains a more thorough description of the purpose and need for this action.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

The legal basis and objectives for this action are contained in the preamble to this proposed rule, and are not repeated here. Sections 4.0 and 5.0 of the EA prepared for this action (see **ADDRESSES**) contains a more thorough description of the purpose and need for this action and the rational for each measure considered.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with Federal Atlantic mackerel, longfin squid, *Illex* squid, or butterfish permits may be considered to be part of the same firm because they may have the same owners. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. For purposes of the RFA, a business primarily engaged in commercial fishing activity is classified as a small business if it has combined annual gross receipts not in excess of $11 million (NAICS 11411) for all its affiliated operations worldwide. A business primarily engaged in for-hire (charter/party) operations is characterized as annual gross receipts not in excess of $7.5 million. To identify

these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. The current ownership data set used to determine the size of the business entity in this analysis is based on calendar years 2015–2017 (the most recent complete data available).

The proposed action would affect any commercial or party/charter vessel that catches Atlantic chub mackerel from Maine through North Carolina. Although there is the possibility that a vessel historically caught Atlantic chub mackerel without being issued a Federal permit, the number of such vessels is likely less than 10 based on dealer data. Therefore, for the purposes of this analysis, any vessel that reported any amount of Atlantic chub mackerel landings on VTRs submitted to GARFO during 2008–2017 would be potentially affected by this action. Based on this approach, 86 commercial fishing entities would be affected by this action, 85 of which (99 percent) were categorized as small business entities using the definition specified above. From 2015–2017, these entities averaged $1,343,855 in annual revenue from commercial fishing. Fewer than three entities depended upon Atlantic chub mackerel from more than one percent of total fishing revenues during 2015–2017. Seventy-seven party/charter entities would be affected by this action, all of which were classified as small businesses. These entities averaged $316,860 in annual fishing revenues during 2015–2017, with dependence on Atlantic chub mackerel assumed to be low based on available information and public input. Therefore, due to potential overlap between vessels conducting both party/charter and commercial operations, a maximum of 163 entities would be affected by this action, nearly all of which are small entities.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Proposed Rule

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for these collections of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, are estimated to average, as follows:

1. Initial Federal vessel permit application, OMB# 0648–0202, (45 minutes/response);

2. Initial Federal dealer permit application, OMB# 0648–0202, (15 minutes/response);

3. Initial Federal operator permit application, OMB# 0648–0202, (60 minutes/response).

4. Vessel logbook report of catch by species, OMB# 0648–0212, (5 minutes/response);

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Greater Atlantic Regional Fisheries Office at the **ADDRESSES** above, and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

This proposed rule does not duplicate, overlap, or conflict with any other Federal rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize any Significant Economic Impact on Small Entities

Section 7.2 of the EA estimates the number of vessel permits that would qualify under each alternative and the associated economic impacts to affected entities based on recent landings, with additional analysis provided in Section 8.10 of the EA. The text below summarizes the economic impacts for significant non-selected alternatives. Although the no-action alternative (*i.e.,* not managing Atlantic chub mackerel under the FMP) would minimize adverse economic impact, it is not a significant alternative because it does not meet the objectives for this action and would not be consistent with the Magnuson-Stevens Act. Similarly, the no-action alternative for other measures, including expected catch from South Carolina through Florida, discards, and management uncertainty, would result in a higher TAL and, therefore, potential fishery revenues. However, it is unrealistic and contrary to existing data to suggest that there is no catch from South Carolina through Florida or discards. Also, due to difficulties with species identification and precisely monitoring new high-volume fisheries, it is unrealistic to suggest that proposed measures would perfectly control catch. Therefore, these alternatives are not significant non-selected alternatives for the purpose of the IRFA.

1. Expected Catch From South Carolina Through Florida

Under this action, the Council considered three alternatives related to expected Atlantic chub mackerel catch from South Carolina through Florida. The only significant alternative would deduct an estimated catch of 12,600 lb (5.72 mt) from the ABC. Under that non-preferred alternative, the ACL would be 71,900 lb (32.61 mt) higher than the preferred alternative. Using the average price paid during 2009–2018 and assuming the full ACL would be landed (*i.e.,* no discards occur and management uncertainty is not deducted to derive a TAL), that alternative could result in maximum of $32,355 in potential additional fishing revenue. The Council did not select that alternative because available data indicates that Atlantic chub mackerel catch does occur from South Carolina through Florida, with landings reaching nearly 77,000 lb (34.93 mt) in the past. Further, discards in any fishery are to be expected, and an estimate of discards from this area should also be considered. Therefore, the Council adopted the preferred alternative to fully account for catch from these states and the uncertainty and variability in catch data to reduce the potential for overfishing this stock.

2. Expected Discards

The Council considered four alternative estimates of expected discards, including no action (no discards), 3 percent, 6 percent (preferred), and 10 percent. Only the 3-percent discard alternative is significant because it would result in a higher TAL than the proposed action. This discard estimate represents observed discard rate during 2013 when landings were the highest recorded. A 3-percent discard rate could result in an TAL that is 143,601 lb (65 mt) higher than the proposed TAL. Using the average price paid during 2009–2018, this could amount to an additional $64,620 in potential fishing revenue compared to the preferred alternative. The Council adopted the more conservative estimate of discards (six percent) based on a longer time series of observer data (15 years) instead of just one year with the

highest landings. In conjunction with the proposed management uncertainty buffer (four percent), this would provide additional assurance that the ACL would not be exceeded and overfishing would not occur.

3. Accountability Measures

The Council considered several alternative AMs, including triggers for in-season closures of the commercial fishery and ACL overage paybacks. For in-season closure triggers, the Council considered no action (no in-season closure) and a closure when 90 percent, 95 percent, and 100 percent of the TAL is landed. Only the no action alternative for both in-season closures and ACL overage payback are significant alternatives because the 95 percent closure trigger would not be substantively different from the two other preferred alternatives combined.

The no action alternatives could result in higher short-term economic benefits compared to the preferred alternative because the fishery would not close or result in a lower ACT in a year following an ACL overage. For example, the fishery was unconstrained in 2013, resulting in 5,250,807 lb (2,382 mt) in landings and $945,145 in ex-vessel revenue. This is approximately 18 percent higher ($153,145) than the ex-vessel revenue would have been generated if the preferred alternative in-season closure AMs and associated possession restrictions would have been in effect in 2013. Despite the potential short-term economic benefits of the no action alternative AMs, the Council did not select them because they would be inconsistent with the Magnuson-Stevens Act and would not prevent an ACL overage or mitigate for the negative impacts of an ACL overage.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 26, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.1, revise paragraph (a) to read as follows:

§ 648.1 Purpose and scope.

* * * * *

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, Atlantic chub mackerel, longfin squid, *Illex* squid, and butterfish fisheries (Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surfclam and ocean quahog fisheries (Atlantic Surfclam and Ocean Quahog FMP); the NE multispecies and monkfish fisheries ((NE Multispecies FMP) and (Monkfish FMP)); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the Atlantic herring fishery (Atlantic Herring FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic deep-sea red crab fishery (Deep-Sea Red Crab FMP); the golden and blueline tilefish fisheries (Tilefish FMP); and the NE skate complex fisheries (Skate FMP). These FMPs and the regulations in this part govern the conservation and management of the above named fisheries of the Northeastern United States.

* * * * *

■ 3. Amend § 648.2 by revising the definitions of ''Atlantic mackerel'' and ''Council,'' removing the definition of ''Atlantic Mackerel, Squid, and Butterfish Monitoring Committee,'' and adding definitions for ''Atlantic Chub Mackerel Management Unit,'' and ''Mackerel, Squid, and Butterfish Monitoring Committee'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Atlantic Chub Mackerel Management Unit means an area of the Atlantic Ocean in which the United States exercises exclusive jurisdiction over all Atlantic chub mackerel fished for, possessed, caught, or retained in or from that is bounded on the west and north by the coastline of the United States; bounded on the east by the outer limit of the U.S. EEZ; and bounded on the south by a line following the lateral seaward boundary between North Carolina and South Carolina from the coast to the Submerged Lands Act line, approximately 33°48′46.37″ N lat., 78°29′46.46″ W long., and then heading due east along 33°48′46.37″ N lat. to the outer limit of the US Exclusive Economic Zone.

* * * * *

Atlantic mackerel means Scomber scombrus.

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, NE multispecies, monkfish, and NE skate fisheries; or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, Atlantic chub mackerel, *Illex* squid, longfin squid, and butterfish; Atlantic surfclam and ocean quahog; summer flounder, scup, and black sea bass; spiny dogfish; Atlantic bluefish; and tilefish fisheries.

* * * * *

Mackerel, Squid, and Butterfish Monitoring Committee means the committee made up of staff representatives of the MAFMC and the NEFMC, and the Greater Atlantic Regional Fisheries Office and NEFSC of NMFS. The MAFMC Executive Director or a designee chairs the Committee.

* * * * *

■ 4. Amend § 648.4, by revising the introductory text for paragraph (a)(5), paragraphs (a)(5)(iii)(B), (iii)(C), (iii)(H), (iii)(I), (v), (15), and (c)(2)(vii) to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(5) *Mackerel, squid, and butterfish vessels.* Any vessel of the United States, including party and charter vessels, that fishes for, possesses, or lands Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit must have been issued and carry on board a valid Federal mackerel, squid, or butterfish vessel permit pursuant to this paragraph (a)(5).

* * * * *

(iii) * * *

(B) *Limited access mackerel permits.* A vessel of the United States that fishes for, possesses, or lands more than 20,000 lb (7.46 mt) of Atlantic mackerel per trip, except vessels that fish exclusively in state waters for Atlantic mackerel, must have been issued and carry on board one of the limited access Atlantic mackerel permits described in paragraphs (a)(5)(iii)(B)(*1*) through (*3*) of this section, including both vessels engaged in pair trawl operations.

(*1*) *Tier 1 Limited Access Atlantic Mackerel Permit.* A vessel may fish for, possess, and land Atlantic mackerel not subject to a trip limit, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(*2*) *Tier 2 Limited Access Atlantic Mackerel Permit.* A vessel may fish for,

possess, and land up to 135,000 lb (50 mt) of Atlantic mackerel per trip, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(*3*) *Tier 3 Limited Access Atlantic Mackerel Permit.* A vessel may fish for, possess, and land up to 100,000 lb (37.3 mt) of Atlantic mackerel per trip, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(C) *Eligibility criteria for Atlantic mackerel permits.* To be eligible to apply for a Tier 1, Tier 2, or Tier 3 limited access Atlantic mackerel permit to fish for and retain Atlantic mackerel in excess of the incidental catch allowance in paragraph (a)(5)(vi) of this section in the EEZ, a vessel must have been issued a Tier 1, Tier 2, or Tier 3 limited access Atlantic mackerel permit, as applicable, for the preceding year, be replacing a vessel that was issued a limited access permit for the preceding year, or be replacing a vessel that was issued a confirmation of permit history.

* * * * *

(H) *Vessel baseline specification.* (*1*) In addition to the baseline specifications specified in paragraph (a)(1)(i)(H) of this section, the volumetric fish hold capacity of a vessel at the time it was initially issued a Tier 1 or Tier 2 limited access Atlantic mackerel permit will be considered a baseline specification. The fish hold capacity measurement must be certified by one of the following qualified individuals or entities: An individual credentialed as a Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors (NAMS); an individual credentialed as an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors (SAMS); employees or agents of a classification society approved by the Coast Guard pursuant to 46 U.S.C. 3316(c); the Maine State Sealer of Weights and Measures; a professionally-licensed and/or registered Marine Engineer; or a Naval Architect with a professional engineer license. The fish hold capacity measurement submitted to NMFS as required in this paragraph (a)(5)(iii)(H)(*1*) must include a signed certification by the individual or entity that completed the measurement, specifying how they meet the definition of a qualified individual or entity.

(*2*) If an Atlantic mackerel CPH is initially issued, the vessel that provided the CPH eligibility establishes the size baseline against which future vessel size limitations shall be evaluated, unless the applicant has a vessel under contract prior to the submission of the Atlantic mackerel limited access application. If the vessel that established the CPH is less than 20 ft (6.09 m) in length overall, then the baseline specifications associated with other limited access permits in the CPH suite will be used to establish the Atlantic mackerel baseline specifications. If the vessel that established the CPH is less than 20 ft (6.09 m) in length overall, the limited access Atlantic mackerel eligibility was established on another vessel, and there are no other limited access permits in the CPH suite, then the applicant must submit valid documentation of the baseline specifications of the vessel that established the eligibility. The hold capacity baseline for such vessels will be the hold capacity of the first replacement vessel after the permits are removed from CPH. Hold capacity for the replacement vessel must be measured pursuant to paragraph (a)(5)(iii)(H)(*1*) of this section.

(I) *Upgraded vessel.* See paragraph (a)(1)(i)(F) of this section. In addition, for Tier 1 and Tier 2 limited access Atlantic mackerel permits, the replacement vessel's volumetric fish hold capacity may not exceed by more than 10 percent the volumetric fish hold capacity of the vessel's baseline specifications. The modified fish hold, or the fish hold of the replacement vessel, must be resurveyed by a surveyor (accredited as in paragraph (a)(5)(iii)(H) of this section) unless the replacement vessel already had an appropriate certification.

* * * * *

(v) *Party and charter boat permits.* The owner of any party or charter boat that fishes for, possesses, or retains Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit, while carrying passengers for hire must have been issued and carry on board a valid Federal vessel permit pursuant to this paragraph (a)(5).

* * * * *

(15) *Mid-Atlantic forage species.* Any commercial fishing vessel of the United States must have been issued and have on board a valid Federal commercial vessel permit issued by GARFO pursuant to this section to fish for, possess, transport, sell, or land Mid-Atlantic forage species in or from the EEZ portion of the Mid-Atlantic Forage Species Management Unit, as defined at § 648.351(b). A vessel that fishes for such species exclusively in state waters is not required to be issued a Federal permit.

* * * * *

(c) * * *

(2) * * *

(vii) The owner of a vessel that has been issued a Tier 1 or Tier 2 limited access Atlantic mackerel must submit a volumetric fish hold certification measurement, as described in paragraph (a)(5)(iii)(H) of this section, with the permit renewal application for the 2013 fishing year.

* * * * *

■ 5. In § 648.5, revise paragraph (a) to read as follows:

§ 648.5 Operator permits.

* * * * *

(a) *General.* Any operator of a vessel fishing for or possessing: Atlantic sea scallops, NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surfclam, ocean quahog, Atlantic mackerel, *Illex* squid, longfin squid, butterfish, scup, black sea bass, or Atlantic bluefish, harvested in or from the EEZ; golden tilefish or blueline tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit; Mid-Atlantic forage species harvested in the Mid-Atlantic Forage Species Management Unit; or Atlantic chub mackerel harvested in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit that is issued a permit, including carrier and processing permits, for these species under this part must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 622 or part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

* * * * *

■ 6. In § 648.6, revise paragraph (a)(1) to read as follows:

§ 648.6 Dealer/processor permits.

* * * * *

(a) * * *

(1) All dealers of NE multispecies, monkfish, skates, Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, spiny dogfish, summer flounder, Atlantic surfclam, ocean quahog, Atlantic mackerel, *Illex* squid, longfin squid, butterfish, scup, bluefish, golden tilefish, blueline tilefish, and black sea bass; Atlantic surfclam and ocean quahog processors; Atlantic

hagfish dealers and/or processors, and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A dealer of Atlantic chub mackerel must have been issued and have in their possession, a valid dealer permit for Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in accordance with this paragraph. A dealer of Mid-Atlantic forage species must have been issued and have in their possession, a valid dealer permit for any species issued in accordance with this paragraph.

* * * * *

■ 7. In § 648.7, revise the introductory text of paragraph (a)(1) and (b)(3)(ii) to read as follows.

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(a) * * *

(1) Federally permitted dealers, and any individual acting in the capacity of a dealer, must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for a commercial purpose, other than solely for transport on land, within the time period specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

* * * * *

(b) * * *

(3) * * *

(ii) *Atlantic mackerel owners or operators.* The owner or operator of a vessel issued a limited access Atlantic mackerel permit must report catch (retained and discarded) of Atlantic mackerel daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month, day, and year Atlantic mackerel was caught; total pounds of Atlantic mackerel retained and total pounds of all fish retained. Daily Atlantic mackerel VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if Atlantic mackerel caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

■ 8. In § 648.10, revise paragraph (n) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(n) *Limited access Atlantic mackerel VMS notification requirements.*

(1) A vessel issued a limited access Atlantic mackerel permit intending to declare into the Atlantic mackerel fishery must notify NMFS by declaring an Atlantic mackerel trip prior to leaving port at the start of each trip in order to harvest, possess, or land Atlantic mackerel on that trip.

(2) A vessel issued a limited access Atlantic mackerel permit intending to land more than 20,000 lb (9.07 mt) of Atlantic mackerel must notify NMFS of the time and place of offloading at least 6 hr prior prior to arrival, or, if fishing ends less than 6 hours before arrival, immediately upon leaving the fishing grounds. The Regional Administrator may adjust the prior notification minimum time through publication in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

■ 9. In § 648.11, revise paragraphs (n)(1)(ii) through (iv) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) * * *

(1) * * *

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on an Atlantic mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific Atlantic mackerel trip, within 24 hr of the vessel representative's notification of the prospective Atlantic mackerel trip, as specified in paragraph (n)(1)(i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the Atlantic mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing Atlantic mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits:* A vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of Atlantic mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

* * * * *

■ 10. In § 648.12, revise the introductory text to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General provisions), B (mackerel, squid, and butterfish), D (Atlantic sea scallop), E (Atlantic surfclam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (Atlantic bluefish), K (Atlantic herring), L (spiny dogfish), M (Atlantic deep-sea red crab), N (tilefish), O (skates), and P (Mid-Atlantic forage species) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC before approving any exemptions for the Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries, including exemptions for experimental fishing contributing to the development

of new or expansion of existing fisheries for Mid-Atlantic forage species.

* * * * *

■ 11. Amend § 648.14 by revising the introductory text paragraphs (g)(2), (v), and (g)(3); and paragraphs (g)(1)(i), (ii)(A), (g)(2)(ii)(C), (ii)(D), (ii)(F), (ii)(G),)(v)(A), (g)(3)(ii) through (iii), (g)(4), and (w) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(1) * * *

(i) *Possession and landing.* Take and retain, possess, or land more Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish than specified under, or after the effective date of, a notification issued under §§ 648.22 or 648.24(d).

(ii) * * *

(A) Purchase or otherwise receive for a commercial purpose; other than solely for transport on land; Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish caught by a vessel that has not been issued a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish vessel permit, unless the vessel fishes exclusively in state waters.

* * * * *

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.22(g), it is unlawful for any person owning or operating a vessel issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit, or issued an operator's permit, to do any of the following:

* * * * *

(ii) * * *

(C) Possess more than the incidental catch allowance of Atlantic mackerel, unless issued a limited access Atlantic mackerel permit.

(D) Take and retain, possess, or land Atlantic chub mackerel, Atlantic mackerel, squid, or butterfish in excess of a possession limit specified in § 648.26.

* * * * *

(F) Take and retain, possess, or land more than 5,000 lb (2.27 mt) of Atlantic mackerel after a closure of the entire commercial fishery, as specified under § 648.24(b)(1).

(G) Fish for, possess, transfer, receive, or sell; or attempt to fish for, possess, transfer, receive, or sell; more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip; or land, or attempt to land more than 20,000 lb (9.08 mt) of Atlantic mackerel per day after 95 percent of the river herring and shad cap has been harvested, if the vessel holds a valid Atlantic mackerel permit.

* * * * *

(v) *VMS reporting requirements in the directed Atlantic mackerel, longfin squid, and Illex squid fisheries.*

(A) Fail to declare via VMS into the directed Atlantic mackerel, longfin squid, or *Illex* squid fisheries by entering the fishery code prior to leaving port at the start of each trip if the vessel will harvest, possess, or land more than an incidental catch of Atlantic mackerel, longfin squid, or *Illex* squid and is issued a limited access Atlantic mackerel permit, Tier 1 or Tier 2 longfin squid moratorium permit, or *Illex* squid moratorium permit.

* * * * *

(3) *Charter/party restrictions.* Unless participating in a research activity as described in § 648.22(g), it is unlawful for the owner and operator of a party or charter boat issued an Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit (including a moratorium permit), when the boat is carrying passengers for hire, to do any of the following:

* * * * *

(ii) Sell or transfer Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish to another person for a commercial purpose.

(iii) Carry passengers for hire while fishing commercially under an Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit.

(4) *Presumption.* For purposes of this part, the following presumption applies: All Atlantic chub mackerel, Atlantic mackerel and butterfish possessed on board a party or charter boat issued a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit are deemed to have been harvested from the EEZ, unless the preponderance of evidence demonstrates that such species were harvested by a vessel without a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit and fishing exclusively in state waters or, for Atlantic chub mackerel, outside of the Atlantic Chub Mackerel Management Unit.

* * * * *

(w) *Mid-Atlantic forage species.* It is unlawful for any person owning or operating a vessel issued a valid commercial permit under this part to fish for, possess, transfer, receive, or land; or attempt to fish for, possess, transfer, receive, or land; more than 1,700 lb (771.11 kg) of all Mid-Atlantic forage species combined per trip in or from the Mid-Atlantic Forage Species Management Unit, as defined at § 648.351(b). A vessel not issued a commercial permit in accordance with § 648.4 that fished exclusively in state waters or a vessel that fished Federal waters outside of the Mid-Atlantic Forage Species Management Unit that is transiting the area with gear that is stowed and not available for immediate use is exempt from this prohibition.

* * * * *

■ 12. Revise § 648.18 to read as follows:

§ 648.18 Standardized bycatch reporting methodology.

NMFS shall comply with the Standardized Bycatch Reporting Methodology (SBRM) provisions established in the following fishery management plans by the Standardized Bycatch Reporting Methodology: An Omnibus Amendment to the Fishery Management Plans of the Mid-Atlantic and New England Regional Fishery Management Councils, completed March 2015, also known as the SBRM Omnibus Amendment, by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, National Marine Fisheries Service Greater Atlantic Regional Fisheries Office, and National Marine Fisheries Service Northeast Fisheries Science Center: Atlantic Bluefish; Mackerel, Squid, and Butterfish; Atlantic Sea Scallop; Atlantic Surfclam and Ocean Quahog; Atlantic Herring; Atlantic Salmon; Deep-Sea Red Crab; Monkfish; Northeast Multispecies; Northeast Skate Complex; Spiny Dogfish; Summer Flounder, Scup, and Black Sea Bass; and Tilefish. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the SBRM Omnibus Amendment from the Greater Atlantic Regional Fisheries Office (*www.greateratlantic.fisheries.noaa.gov,* 978–281–9300). You may inspect a copy at the Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

■ 13. Under part 648, revise the title of subpart B to read as follows:

Subpart B—Management Measures for the Mackerel, Squid, and Butterfish Fisheries

■ 14. Amend § 648.22 by:

■ a. Revising the section heading, introductory text for paragraphs (a), (b)(2), (iv)(A), (v), (c); and paragraphs (a)(2), (3), (b)(2)(i) through (ii), (b)(2)(iv)(A)(*1*) and (*2*), (v)(A), (b)(3)(v), (vii), (c)(1)(ii), (c)(2), (3), (6), (9), and (d)(1); and

■ b. Adding paragraphs (a)(5) and (b)(5).

The additions and revisions read as follows:

§ 648.22 Mackerel, squid, and butterfish specifications.

(a) *Initial recommended annual specifications.* The Mackerel, Squid, and Butterfish Monitoring Committee (Monitoring Committee) shall meet annually to develop and recommend the following specifications for consideration by the Mackerel, Squid, and Butterfish Committee of the MAFMC:

* * * * *

(2) *Butterfish*—Annual catch limit (ACL); Annual catch target (ACT) including RSA, DAH, DAP; bycatch level of the total allowable level of foreign fishing (TALFF), if any; and butterfish discard cap for the longfin squid fishery for butterfish; which, subject to annual review, may be specified for a period of up to 3 years;

(3) *Atlantic mackerel*—ACL; commercial ACT, including RSA, DAH, Atlantic mackerel Tier 3 landings cap (up to 7 percent of the DAH), DAP; joint venture processing (JVP) if any; TALFF, if any; and recreational ACT, including RSA for Atlantic mackerel; which, subject to annual review, may be specified for a period of up to 3 years. The Monitoring Committee may also recommend that certain ratios of TALFF, if any, for Atlantic mackerel to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

* * * * *

(5) Atlantic chub mackerel—ACL, ACT, and total allowable landings (TAL), which, subject to annual review, may be specified for a period of up to 3 years.

(b) * * *

(2) *Atlantic Mackerel*—(i) *ABC.* The MAFMC's SSC shall recommend a stock-wide ABC to the MAFMC, as described in § 648.20. The stock-wide Atlantic mackerel ABC is reduced from the OFL based on an adjustment for scientific uncertainty; the stock-wide ABC must be less than or equal to the OFL.

(ii) *ACL.* The ACL or Domestic ABC is calculated using the formula ACL/Domestic ABC = stock-wide ABC − C, where C is the estimated catch of Atlantic mackerel in Canadian waters for the upcoming fishing year.

* * * * *

(iv) * * *

(A) *Commercial sector ACT.* Commercial ACT is composed of RSA, DAH, Tier 3 landings cap (up to 7 percent of DAH), dead discards, and TALFF, if any. RSA will be based on requests for research quota as described in paragraph (g) of this section. DAH, Tier 3 landings cap (up to 7 of the DAH), DAP, and JVP will be set after deduction for RSA, if applicable, and must be projected by reviewing data from sources specified in paragraph (b) of this section and other relevant data, including past domestic landings, projected amounts of Atlantic mackerel necessary for domestic processing and for joint ventures during the fishing year, projected recreational landings, and other data pertinent for such a projection. The JVP component of DAH is the portion of DAH that domestic processors either cannot or will not use. Economic considerations for the establishment of JVP and TALFF include:

(*1*) Total world export potential of Atlantic mackerel producing countries.

(*2*) Total world import demand of Atlantic mackerel consuming countries.

* * * * *

(v) *Performance review.* The Mackerel, Squid, and Butterfish Committee shall conduct a detailed review of fishery performance relative to the Atlantic mackerel ACL at least every 5 years.

(A) If the Atlantic mackerel ACL is exceeded with a frequency greater than 25 percent (*i.e.,* more than once in 4 years or any two consecutive years), the Mackerel, Squid, and Butterfish Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are not exceeded as frequently.

* * * * *

(3) * * *

(v) The butterfish discard cap will be based on a portion of the ACT (set annually during specifications) and the specified cap amount will be allocated to the longfin squid fishery as follows: Trimester I—43 percent; Trimester II—17 percent; and Trimester III—40 percent.

* * * * *

(vii) *Performance review.* The Mackerel, Squid, and Butterfish Committee shall conduct a detailed review of fishery performance relative to the butterfish ACL in conjunction with review for the Atlantic mackerel fishery, as outlined in this section.

* * * * *

(5) *Atlantic chub mackerel*—(i) *ABC.* The MAFMC's SSC shall recommend a stock-wide ABC to the MAFMC, as described in § 648.20. The stock-wide Atlantic chub mackerel ABC is reduced from the OFL based on an adjustment for scientific uncertainty; the stock-wide ABC must be less than or equal to the OFL.

(ii) *Maximum sustainable yield (MSY).* The Atlantic chub mackerel MSY shall be set equal to the Atlantic chub mackerel ABC.

(iii) *OY.* The Atlantic chub mackerel OY shall be set equal to or less than the Atlantic chub mackerel ABC.

(iv) *ACL.* The ACL for the Atlantic Chub Mackerel Management Unit is calculated by subtracting an estimate of Atlantic chub mackerel catch from South Carolina through Florida from the Atlantic chub mackerel ABC or OY, whichever is less. The Monitoring Committee shall recommend an appropriate estimate of such catch on an annual basis through the specifications process. The ACL shall apply to both commercial and recreational catch of Atlantic chub mackerel; there will not be separate ACLs for the commercial and recreational Atlantic chub mackerel fisheries.

(v) *ACT.* The Atlantic chub mackerel ACT shall be equal to or less than the Atlantic chub mackerel ACL after deducting an estimate of management uncertainty. The Monitoring Committee shall identify and review relevant sources of management uncertainty to recommend an overall ACT to the MAFMC for both the commercial and recreational fishing sectors as part of the specifications process.

(vi) *TAL.* The Atlantic chub mackerel TAL shall be equal to or less than the Atlantic chub mackerel ACT after deducting an estimate of dead discards in both the commercial and recreational fisheries. The Monitoring Committee shall evaluate available data to recommend an estimate of total discards used to calculate the TAL in its recommendation to the MAFMC as part of the specifications process.

(c) *Recommended measures.* Based on the review of the data described in paragraph (b) of this section and requests for research quota as described in paragraph (g) of this section, the Monitoring Committee will recommend to the Mackerel, Squid, and Butterfish Committee the measures from the following list that it determines are necessary to ensure that the specifications are not exceeded:

(1) * * *

(ii) The commercial and/or recreational ACT for Atlantic mackerel.

* * * * *

(2) Commercial quotas or total allowable landing limits, set after reductions for research quotas, management uncertainty, discards, an estimate of Atlantic chub mackerel catch from South Carolina through Florida, or any other applicable deduction specified in this section.

(3) The amount of longfin squid, *Illex* squid, and butterfish that may be retained and landed by vessels issued the incidental catch permit specified in § 648.4(a)(5)(vi), and the amount of Atlantic mackerel that may be retained, possessed and landed by any of the limited access Atlantic mackerel permits described at § 648.4(a)(5)(iii) and the incidental Atlantic mackerel permit at § 648.4(a)(5)(iv).

* * * * *

(6) Commercial seasonal quotas/closures for longfin squid, *Illex* squid, and Atlantic chub mackerel; and landings cap for the Tier 3 Limited Access Atlantic mackerel permit.

* * * * *

(9) Recreational allocation for Atlantic mackerel.

* * * * *

(d) * * *

(1) The Mackerel, Squid, and Butterfish Committee will review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Mackerel, Squid, and Butterfish Committee must recommend to the MAFMC appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC will review these recommendations and, based on the recommendations and any public comment received thereon, must recommend to the Regional Administrator appropriate specifications and any measures necessary to assure that the ACL will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator will review the recommendations and will publish a proposed rule in the **Federal Register** proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30-day public comment period. If the proposed specifications differ from those recommended by the MAFMC, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations will be available for inspection at the office of the Regional Administrator during the public comment period. If the annual specifications for *Illex* squid, longfin squid, Atlantic mackerel, Atlantic chub mackerel, or butterfish are not published in the **Federal Register** prior to the start of the fishing year, the previous year's annual specifications, excluding specifications of TALFF, will remain in effect. The previous year's specifications will be superseded as of the effective date of the final rule implementing the current year's annual specifications.

* * * * *

■ 15. In § 648.23, revise paragraph (a)(2)(ii) to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

* * * * *

(a) * * *

(2) * * *

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish discard cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 16. Amend § 648.24 by:

■ a. Revising the introductory text to paragraphs (b) and (4); paragraphs (b)(1)(i)(B), (2), (3), (5), (6), (c)(3), and (5); and

■ b. Adding paragraph (e).

The revisions and additions read as follows:

§ 648.24 Fishery closures and accountability measures.

* * * * *

(b) *Atlantic Mackerel AMs*

(1) * * *

(i) * * *

(B) Unless previously closed pursuant to paragraph (b)(1)(i)(A) of this section, NMFS will close the Tier 3 commercial Atlantic mackerel fishery in the EEZ when the Regional Administrator projects that 90 percent of the Tier 3 Atlantic mackerel landings cap will be harvested. Unless otherwise restricted, the closure of the Tier 3 commercial Atlantic mackerel fishery will be in effect for the remainder of that fishing period, with incidental catches allowed as specified in § 648.26.

* * * * *

(2) *Atlantic mackerel commercial landings overage repayment.* If the Atlantic mackerel ACL is exceeded and commercial fishery landings are responsible for the overage, then landings in excess of the DAH will be deducted from the DAH the following year, as a single-year adjustment to the DAH.

(3) *Non-landing AMs.* In the event that the Atlantic mackerel ACL is exceeded, and that the overage has not been accommodated through the landing-based AM described in paragraph (b)(2) of this section, but is attributable to the commercial sector, then the exact amount, in pounds, by which the commercial Atlantic mackerel ACT was exceeded will be deducted from the following year's commercial Atlantic mackerel ACT, as a single-year adjustment.

(4) *Atlantic mackerel recreational AMs.* If the Atlantic mackerel ACL is exceeded and the recreational fishery landings are responsible for the overage, then the following procedure will be followed:

* * * * *

(5) *Atlantic mackerel ACL overage evaluation.* The Atlantic mackerel ACL will be evaluated based on a single-year examination of total catch (landings and discards). Both landings and dead discards will be evaluated in determining if the Atlantic mackerel ACL has been exceeded. NMFS shall make determinations about overages and implement any changes to the Atlantic mackerel ACL, in accordance with the Administrative Procedure Act, through notification in the **Federal Register**, by May 15 of the fishing year in which the deductions will be made.

(6) *River herring and shad catch cap.* The river herring and shad cap on the Atlantic mackerel fishery applies to all trips that land more than 20,000 lb (9.08 mt) of Atlantic mackerel. NMFS shall close the limited access Atlantic mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the river herring/shad catch cap has been harvested. Following closures of the limited access Atlantic mackerel fishery, vessels must adhere to the possession restrictions specified in § 648.26.

* * * * *

(c) * * *

(3) *Butterfish discard cap on the longfin squid fishery.* NMFS shall close the directed fishery in the EEZ for longfin squid when the Regional Administrator projects that 95 percent of each Trimester's butterfish discard cap allocation has been harvested.

* * * * *

(5) *Butterfish allocation transfer.* NMFS may transfer up to 50 percent of any unused butterfish allocation from the butterfish DAH to the butterfish discard cap on the longfin squid fishery if the butterfish catch in the longfin squid fishery is likely to result in a closure of the longfin squid fishery, and provided the transfer does not increase the likelihood of closing the directed butterfish fishery. NMFS may instead transfer up to 50 percent of the unused butterfish catch from the butterfish discard cap allocation to the butterfish DAH if harvest of butterfish in the directed butterfish fishery is likely to exceed the butterfish DAH, and provided the transfer of butterfish allocation from the butterfish discard cap allocation does not increase the likelihood of closing the longfin squid fishery due to harvest of the butterfish discard cap. NMFS would make this transfer on or about November 15 each fishing year, in accordance with the Administrative Procedure Act.

(d) *Notification.* Upon determining that a closure or trip limit reduction is necessary, the Regional Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure or trip limit reduction to all holders of Atlantic mackerel, *Illex* squid, longfin squid, and butterfish fishery permits at least 72 hr before the effective date of the closure; provide adequate notice of the closure or trip limit reduction to recreational participants in the fishery; and publish notification of the closure or trip limit reduction in the **Federal Register**.

(e) *Atlantic Chub Mackerel AMs.*

(1) *Commercial fishery closures.*

(i) When the Regional Administrator projects that 90 percent of the Atlantic chub mackerel TAL will be landed, the Regional Administrator will reduce the Atlantic chub mackerel possession limit as specified in § 648.26(e)(2)(i) through notification in the **Federal Register**.

(ii) When the Regional Administrator projects that 100 percent of the Atlantic chub mackerel TAL will be landed, the Regional Administrator will reduce the Atlantic chub mackerel possession limit as specified in § 648.26(e)(2)(ii) for the remainder of the fishing year (December 31) through notification in the **Federal Register**.

(2) *Overage repayment.* The Regional Administrator will evaluate both landings and dead discards in a single year to determine if the Atlantic chub mackerel ACL specified in § 648.22(b)(5) has been exceeded. If the Atlantic chub mackerel ACL has been exceeded, then catch in excess of the Atlantic chub mackerel ACT will be deducted from the Atlantic chub mackerel ACT as soon as possible in a following year as a single-year adjustment to the ACT. The Regional Administrator shall implement any changes to the Atlantic chub mackerel ACT through notification in the **Federal Register** in accordance with the Administrative Procedure Act.

(3) *Transiting.* Any vessel issued a valid commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with § 648.4 may transit the Atlantic Chub Mackerel Management Unit with an amount of Atlantic chub mackerel on board that exceeds the possession limits specified in this section to land in a port that is within the Atlantic Chub Mackerel Management Unit, provided that all Atlantic chub mackerel was harvested outside of the Atlantic Chub Mackerel Management Unit and that all gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 17. Amend § 648.25 by revising the section heading and introductory text paragraph (a) to read as follows:

§ 648.25 Mackerel, squid, and butterfish framework adjustments to management measures.

(a) *Within season management action.* The MAFMC may, at any time, initiate action to add or adjust management measures within the Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the FMP. However, any changes to Atlantic chub mackerel measures contained in this part 648 must be made through an amendment to the FMP and cannot be conducted through a framework adjustment.

* * * * *

■ 18. Amend § 648.26 by revising paragraphs (a)(1) and (2)(i)(B), and adding paragraph (e) to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(a) * * *

(1) *Initial possession limits.* A vessel must be issued a valid limited access Atlantic mackerel permit to fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel from or in the EEZ per trip, provided that the fishery has not been closed, as specified in § 648.24(b)(1).

(i) A vessel issued a Tier 1 limited access Atlantic mackerel permit is authorized to fish for, possess, or land Atlantic mackerel with no possession restriction in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i)(A).

(ii) A vessel issued a Tier 2 limited access Atlantic mackerel permit is authorized to fish for, possess, or land up to 135,000 lb (61.23 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i)(A).

(iii) A vessel issued a Tier 3 limited access Atlantic mackerel permit is authorized to fish for, possess, or land up to 100,000 lb (45.36 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, or 90 percent of the Tier 3 landings cap has been harvested, as specified in § 648.24(b)(1)(i)(A) and (B), respectively.

(iv) A vessel issued an open access Atlantic mackerel permit may fish for, possess, or land up to 20,000 lb (9.08 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(v) Both vessels involved in a pair trawl operation must be issued a valid Atlantic mackerel permits to fish for, possess, or land Atlantic mackerel in the EEZ. Both vessels must be issued the Atlantic mackerel permit appropriate for the amount of Atlantic mackerel jointly possessed by both of the vessels participating in the pair trawl operation.

* * * * *

(2) * * *

(i) * * *

(B) During a closure of the Tier 3 commercial Atlantic mackerel fishery pursuant to § 648.24(b)(1)(i)(B), when 90 percent of the Tier 3 landings cap is harvested, vessels issued a Tier 3 limited access Atlantic mackerel permit may not take and retain, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is

defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

* * * * *

(e) *Atlantic chub mackerel.* A vessel must be issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit to fish for, possess, or land any Atlantic chub mackerel from or in the Atlantic Chub Mackerel Management Unit within the EEZ per trip. A vessel not issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with § 648.4 that is fishing exclusively in state waters or in the EEZ outside of the Atlantic Chub Mackerel Management Unit is exempt from the possession limits specified in this section.

(1) *Initial commercial possession limits.* A vessel issued a valid commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit is authorized to fish for, possess, and land an unlimited amount of Atlantic chub mackerel per trip from the EEZ portion of the Atlantic Chub Mackerel Management Unit, provided that the fishery has not been closed, as specified in § 648.24(e)(1).

(2) *Commercial fishery closure possession limits.* Once the commercial fishery is closed in accordance with § 648.24(e)(1), the possession limits specified in this paragraph (e)(2) will apply. A vessel not issued a Federal commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with § 648.4 that fished exclusively in state waters or a vessel that fished in Federal waters outside of the Atlantic Chub Mackerel Management Unit that is transiting the area with gear that is stowed and not available for immediate use is exempt from the possession limits specified in this paragraph (e)(2).

(i) When the Regional Administrator projects that 90 percent of the commercial Atlantic chub mackerel TAL has been landed, a vessel issued a commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit may not fish for, possess, or land more than 40,000 lb (18.14 mt) of Atlantic chub mackerel at any time per trip in the EEZ portion of the Atlantic Chub Mackerel Management Unit.

(ii) When the Regional Administrator projects that 100 percent of the commercial Atlantic chub mackerel TAL has been landed, a vessel issued a commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit fish for, possess, or land more than 10,000 lb (4.54 mt) of Atlantic chub mackerel at any time per trip in the EEZ portion of the Atlantic Chub Mackerel Management Unit.

* * * * *

■ 19. Amend § 648.80 by revising paragraph (b)(3)(i) and adding paragraph (c)(5)(iii) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(b) * * *

(3) * * *

(i) *Species exemption.* Unless otherwise restricted in § 648.86, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(4) and (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (caught by trawl only), herring, Atlantic chub mackerel, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the GB and SNE Regulated Mesh Areas when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

* * * * *

(c) * * *

(5) * * *

(iii) *Atlantic chub mackerel fishery exemption.* Owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (b)(2) and (c)(2) of this section may fish for, harvest, possess, or land Atlantic chub mackerel with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area when fishing in the MA Exemption Area defined in paragraph (c)(5)(i) of this section, provided such vessels comply with the following requirements:

(A) *Gear restrictions.* A vessel fishing for Atlantic chub mackerel within the MA Exemption Area must comply with the gear restrictions specified in § 648.23.

(B) *Possession limits.* A vessel fishing for Atlantic chub mackerel within the MA Exemption Area may fish for, possess on board, or land Atlantic chub mackerel, Atlantic mackerel, butterfish, *Illex* squid, and longfin squid up to the amount specified in § 648.26, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.

* * * * *

■ 20. In part 648, revise the heading of subpart P to read as follows:

Subpart P—Mid-Atlantic Forage Species

■ 21. In § 648.350:

■ a. Revise the section heading; and

■ b. Reserve paragraph (b).

The revision reads as follows:

§ 648.350 Mid-Atlantic forage species landing limits.

* * * * *

■ 22. Amend § 648.351 by revising the sectionheading and paragraphs (a) through (c) to read as follows:

§ 648.351 Mid-Atlantic forage species possession limits.

(a) *Mid-Atlantic forage species.* Unless otherwise prohibited in § 648.80, a vessel issued a valid commercial permit in accordance with § 648.4 may fish for, possess, and land up to 1,700 lb (771.11 kg) of all Mid-Atlantic forage species combined per trip in or from the EEZ portion of the Mid-Atlantic Forage Species Management Unit, as defined in paragraph (b) of this section. A vessel not issued a permit in accordance with § 648.4 that is fishing exclusively in state waters is exempt from the possession limits specified in this section.

(b) *Mid-Atlantic Forage Species Management Unit.* The Mid-Atlantic Forage Species Management Unit is the area of the Atlantic Ocean that is bounded on the southeast by the outer limit of the U.S. EEZ; bounded on the south by 35°15.3′ N. lat. (the approximate latitude of Cape Hatteras, NC); bounded on the west and north by the coastline of the United States; and bounded on the northeast by the following points, connected in the order listed by straight lines:

Point	Latitude	Longitude
1	40°59.32′ N	73°39.62′ W
2	40°59.02′ N	73°39.41′ W
3	40°57.05′ N	73°36.78′ W
4	40°57.87′ N	73°32.85′ W
5	40°59.78′ N	73°23.70′ W
6	41°1.57′ N	73°15.00′ W
7	41°3.40′ N	73°6.10′ W
8	41°4.65′ N	73°0.00′ W
9	41°6.67′ N	72°50.00′ W
10	41°8.69′ N	72°40.00′ W
11	41°10.79′ N	72°29.45′ W
12	41°12.22′ N	72°22.25′ W
13	41°13.57′ N	72°15.38′ W
14	41°14.94′ N	72°8.35′ W
15	41°15.52′ N	72°5.41′ W
16	41°17.43′ N	72°1.18′ W
17	41°18.62′ N	71°55.80′ W
18	41°18.27′ N	71°54.47′ W
19	41°10.31′ N	71°46.44′ W
20	41°2.35′ N	71°38.43′ W
21	40°54.37′ N	71°30.45′ W

Point	Latitude	Longitude
22	40°46.39′ N	71°22.51′ W
23	40°38.39′ N	71°14.60′ W
24	40°30.39′ N	71°6.72′ W
25	40°22.38′ N	70°58.87′ W
26	40°14.36′ N	70°51.05′ W
27	40°6.33′ N	70°43.27′ W
28	39°58.29′ N	70°35.51′ W
29	39°50.24′ N	70°27.78′ W
30	39°42.18′ N	70°20.09′ W
31	39°34.11′ N	70°12.42′ W
32	39°26.04′ N	70°4.78′ W
33	39°17.96′ N	69°57.18′ W
34	39°9.86′ N	69°49.6′ W
35	39°1.77′ N	69°42.05′ W
36	38°53.66′ N	69°34.53′ W
37	38°45.54′ N	69°27.03′ W
38	38°37.42′ N	69°19.57′ W
39	38°29.29′ N	69°12.13′ W
40	38°21.15′ N	69°4.73′ W
41	38°13.00′ N	68°57.35′ W
42	38°4.84′ N	68°49.99′ W
43*	38°2.21′ N	68°47.62′ W

* Point 43 falls on the U.S. EEZ.

(c) *Transiting.* Any vessel issued a valid permit in accordance with § 648.4 may transit the Mid-Atlantic Forage Species Management Unit, as defined in paragraph (b) of this section, with an amount of Mid-Atlantic forage species on board that exceeds the possession limits specified in paragraph (a) of this section to land in a port in a state that is outside of the Mid-Atlantic Forage Species Management Unit, provided that those species were harvested outside of the Mid-Atlantic Forage Species Management Unit and that all gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

■ 23. In § 648.352, revise the section heading to read as follows:

§ 648.352 Mid-Atlantic forage species framework measures.

* * * * *

[FR Doc. 2020–04301 Filed 3–6–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.: 200303–0070]

RIN 0648–BJ40

Fisheries of the Exclusive Economic Zone Off Alaska; Adjust the North Pacific Observer Program Fee

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to adjust the North Pacific Observer Program fee. This proposed rule is intended to increase funds available to support observer and EM deployment in the partial coverage category of the Observer Program and increase the likelihood of meeting desired monitoring objectives. This proposed rule is intended to promote the goals and objectives of the IFQ Program, the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, and other applicable law.

DATES: Submit comments on or before April 8, 2020.

ADDRESSES: You may submit comments, identified by docket number NOAA–NMFS–2019–0136, either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0136,* 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: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Environmental Assessment/Regulatory Impact Review (referred to as the ''Analysis'') prepared for this proposed rule are available from *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alicia M Miller, 907–586–7228 or *alicia.m.miller@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and under the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). The North Pacific Fishery Management Council (Council) prepared the FMPs 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 FMPs appear at 50 CFR parts 600 and 679.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary. The Halibut Act, at sections 773c (a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. The Halibut Act, at section 773c(c), also provides the Council with authority to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. Throughout this preamble the term halibut is used for Pacific halibut.

Background

NMFS proposes regulations to adjust the North Pacific Observer Program (Observer Program) fee percentage. This proposed rule is intended to increase funds available to support observer and EM deployment in the partial coverage category of the Observer Program and increase the likelihood of meeting monitoring objectives. The following sections describe the Observer Program, the landings subject to the observer fee, and the need for this action.

Observer Program

Fishery managers use information collected by observers or electronic monitoring (EM) systems to monitor fishing quotas, manage catch and bycatch, and document fishery

interactions with protected resources, such as marine mammals and seabirds. Scientists use this information for fish stock assessments and marine ecosystem research. Over the past several decades, NMFS has required the deployment of observers onboard vessels and at shoreside and other fish processors to ensure high-quality fishery data necessary for the conservation and management of fisheries. Section 3.2 of the Analysis detail the use of data gathered through observer and EM systems.

In 2012, the Observer Program was extensively restructured to add a funding and deployment system for observer coverage and amend existing observer coverage requirements for vessels and processing plants (77 FR 70061, November 21, 2012). This funding and deployment system allows NMFS to determine when and where to deploy observers according to management and conservation needs, with funds provided through a system of fees. In 2017, NMFS implemented regulations to integrate electronic monitoring (EM) into the Observer Program (82 FR 36991, August 8, 2017). Regulations at 50 CFR 679 subpart E implementing the Observer Program, require the deployment of NMFS-certified observers or EM.

The Observer Program includes two observer coverage categories—the partial coverage category and the full coverage category (defined in regulation at § 679.51). All groundfish and halibut vessels and fish processors subject to observer coverage are included in one of these two categories. Throughout this proposed rule, the term ''processor'' refers to shoreside processors, stationary floating processors, and catcher/processors.

The partial coverage category includes vessels and processors that are not required to have an observer or EM at all times and the full coverage category includes vessels and processors required to have all of their fishing and processing activity observed. Vessels and processors in the full coverage category arrange and pay for observer services directly from a permitted observer provider, in what is commonly known as a ''pay-as-you-go'' deployment method. Observer coverage and EM for the partial coverage category are funded through a system of fees based on the ex-vessel value of groundfish and Pacific halibut. This fee is authorized under section 313 of the Magnuson-Stevens Act.

Section 313 of the Magnuson-Stevens Act (16 U.S.C. 1862) authorizes the Council, in consultation with NMFS, to prepare a fishery research plan that includes stationing observers to collect data necessary for the conservation, management, and scientific understanding of the fisheries under the Council's jurisdiction, including the halibut fishery. Section 313(d) of the Magnuson-Stevens Act authorized creation of the North Pacific Fishery Observer Fund within the U.S. Treasury. NMFS uses its authority under section 313 of the Magnuson-Steven Act to fund deploying observers and EM on vessels and processors in the partial coverage category. Section 313 of the Magnuson-Stevens Act authorizes NMFS to assess a fee up to 2 percent of the unprocessed ex-vessel value of the fisheries under the jurisdiction of the Council, including the halibut fishery.

Each year since the Observer Program was restructured, NMFS develops an Annual Deployment Plan (ADP) to describe how observers and EM will be deployed in the partial coverage category for the upcoming calendar year and prepares an annual report. The annual report evaluates the performance of observer deployment in the full coverage category according to the regulatory coverage requirements and performance in partial coverage category according to the prior year's ADP implementation. NMFS and the Council created the ADP process to provide flexibility in the deployment of observers, specifically in the partial coverage category, and EM to gather reliable data for estimation of catch in the groundfish and halibut fisheries off Alaska. The ADP process ensures that the best available information is used to evaluate deployment, including scientific review and Council input, and to annually determine deployment methods. During the development of the ADP, NMFS consults with the Council to determine how to apportion fee revenues between observer and EM deployment and to specify selection rates for each. Observer and EM selection rates for a given year are dependent on the available budget generated from the observer fee and supplemental funds and the decisions about how to apportion the fees to different selection pools and the anticipated fishing effort in each selection pool. Additional information about the Observer Program is available in Section 3 of the Analysis.

Landings Subject to the Fee

Since January 1, 2013, an observer fee equal to 1.25 percent of the fishery ex-vessel value has been assessed on all landings accruing against a Federal total allowable catch (TAC) for groundfish or a commercial halibut quota made by vessels that are subject to Federal regulations and not included in the full coverage category. A fee is only assessed on landings of groundfish from vessels designated on a Federal Fisheries Permit or from vessels landing individual fishing quota (IFQ) or Western Alaska community development quota (CDQ) halibut or IFQ sablefish. Within the subset of vessels subject to the observer fee, only landings accruing against an IFQ allocation or a Federal TAC for groundfish are included in the fee assessment. Regulations at § 679.55(c) describe which landings are subject to the observer fee assessment.

The intent of the Council and NMFS is for vessel owners to split the fee liability 50–50 with the processor or registered buyer. While the intent is that vessels and processors are each responsible for their portion of the ex-vessel value fee, the owner of a processor is responsible for collecting the fee, including the vessel's portion of the fee, at the time of landing and remitting the full fee amount to NMFS.

Annually, NMFS publishes in the **Federal Register**, a notice of the standard ex-vessel prices for groundfish and halibut for the calculation of the observer fee under the Observer Program (84 FR 68409, December 16, 2019). Each year the notice provides information to vessel owners, processors, registered buyers, and other participants about the standard ex-vessel prices that will be used to calculate the observer fee assessed against landings of groundfish and halibut. NMFS sends invoices to processors and registered buyers subject to the fee by January 15 of each year for the previous year's fee liabilities. Fees are due to NMFS on or before February 15.

Need for This Action

The annual process of establishing observer coverage and EM selection rates in the partial coverage category using the Observer Program Annual Report and Draft ADP is a well-designed and flexible process. This annual process produces a statistically reliable sampling plan for the collection of scientifically robust data at any level of observer coverage and allows for annual consideration of policy-driven monitoring objectives identified through the Council process (Section 3.3 of the Analysis). Due to higher than expected observer deployment costs since 2013, and diminishing availability of supplemental Federal funding and declining fee revenues, additional funding is necessary to deploy observers and EM at coverage rates adequate to meet the Council's and NMFS' monitoring objectives in future years. In

October 2019, the Council unanimously recommended to increase the observer fee to 1.65 percent. Additional information about funding and coverage rates afforded since 2013 is included in Section 3.4 of the Analysis for this action.

Proposed Action

This action would increase the observer fee specified at § 679.55(f) from 1.25 percent to 1.65 percent of the ex-vessel value of landings subject to the fee. A 1.65 percent fee would increase fee revenues to support observer and EM deployment at rates that would be more likely to meet the Council's and NMFS' monitoring objectives than the revenues from the current 1.25 percent fee. As described in Section 3.2 of this Analysis, Observer and EM data are an integral component of management for all fisheries in the partial coverage category. Data collected by observers is fundamental to fisheries management off Alaska and the Observer Program is critical to collecting important information for NMFS, the Council, and stakeholders.

In recommending this adjustment to the observer fee, the Council recognized the diminishing availability of supplemental Federal funding and fee revenues as well as higher than expected costs for observer and EM deployment since implementation of the Observer Program on January 1, 2013. As described in Section 4.5 of the Analysis, NMFS can manage the fisheries at low levels of observer coverage, but in an uncertain climate with substantive changes in fishery catch limits in recent years, the Council and NMFS recognize the importance of fisheries monitoring and maintaining the Observer Program.

The monitoring objectives for the Observer Program include maintaining and improving data quality and utility for scientific and management purposes while fairly distributing the burden of monitoring and minimizing the impacts to vessel operations (see Section 3.3 of the Analysis for additional detail). According to Section 4.2 of the Analysis, a 1.65 percent fee would have resulted in $4.4 to $5.8 million in fee revenues annually (2013 through 2018) compared to the estimated $3.3 to $4.4 million in fee revenues generated by the 1.25 percent fee. Section 4.2 of the Analysis notes that it is difficult to reliably project the amount of revenue that will be provided from a fee on an annual basis due to uncertainty about future TAC or halibut quota limits, ex-vessel prices, or fishing effort. However, Section 5.6 of the Analysis describes that increasing the fee increases the likelihood that monitoring objectives can continue to be met. Sections 4.2.1 and Appendix D provide additional detail on the range of potential revenues, and possible gaps in the types of data that may occur at various levels of fees.

The Council considered two alternatives that would increase the observer fee from the current 1.25 percent up to 2 percent (the maximum fee authorized by section 313 of the Magnuson-Stevens Act). The two alternatives differed in how the fee would be distributed across the fisheries (*i.e.,* trawl, hook-and-line, pot, and jig gear). Alternative 2 would have increased the fee equally on all fisheries. Alternative 3 would have allowed different fee percentages to be established for the different fisheries subject to the observer fee. The Council recommended and NMFS proposes increasing the fee equally on all fisheries (Alternative 2) to maintain consistency with the current method for assessing costs on fishery participants, because it was not clear what specific data collection need would be better met by having differential fees among fisheries, and the lack of a clear rationale to establish a greater fee on one fishery than another.

The Council recommended and NMFS proposes an observer fee of 1.65 percent to balance the concerns raised by the affected industry about the costs of operation if the fee were to increase to the maximum of 2 percent, or an amount close to 2 percent, with the need to increase fee revenues to meet monitoring objectives. Public testimony at the Council noted that increasing fees up to the maximum amount would be likely to impose substantial additional costs during a period of decreasing revenues in various fisheries (*e.g.,* halibut). Section 5.6 of the Analysis notes that fees lower than 1.65 percent would be unlikely to provide the revenue to meet the Council's monitoring objectives. The Council's recommendation and NMFS' proposal for a 1.65 percent fee would balance concerns about increased costs with the need to increase revenue in order to meet monitoring objectives.

The proposed fee adjustment would not modify other aspects of the fee collection process, the responsibility to pay the fee, the ADP process, or other aspects of the Observer Program regulations and management. Adjusting the observer fee to 1.65 percent would improve the fiscal stability of an industry-funded monitoring program and balances the need to increase funding for observer and EM deployment with the economic burden imposed on affected fishery participants. Along with adjusting the observer fee, the Council supports continuing efforts to further explore efficiencies that may provide for more cost effective or efficient deployment of observers with existing funding, while still meeting the needs for reliable and unbiased data.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI), other provisions of the Magnuson-Stevens Fishery and Conservation Act, and other applicable law, subject to further consideration after public comment.

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

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

Regulatory Impact Review (RIR)

An RIR was prepared to examine the costs and benefits of the alternatives analyzed. The RIR considers quantitative and qualitative measures. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS proposes these regulations based on those measures that maximize net benefits to the Nation. Specific aspects of the RIR are discussed below in the initial regulatory flexibility analysis (IRFA) section.

Initial Regulatory Flexibility Analysis (IRFA)

This IRFA was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA). This IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble.

Number and Description of Small Entities Regulated by This Proposed Rule

This proposed rule directly regulates the owners (permit holders) of fish processors required to pay the observer

fee. A shoreside processor or stationary floating processor primarily involved in seafood processing 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 employment, counting all individuals employed on a full-time, part-time, or other basis, not in excess of 750 employees for all its affiliated operations worldwide. Reliable information is not available on ownership affiliations between individual processing operations or employment for the fish processors directly regulated by this proposed rule. Therefore, NMFS assumes that all of the processors directly regulated by this action could be small. Section 5.7 of the Analysis identifies 50 shorebased processors and 14 floating processors that received partial coverage deliveries subject to the observer fee in 2018 (the most recent year of available ownership and permit data).

The proposed rule also directly regulates the owners (permit holders) of catcher/processors required to pay the observer fee, and directly affects the owners (permit holders) of catcher vessels that harvest fish subject to the observer fee. Under the RFA, businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts (revenues) not in excess of $11.0 million for all affiliated operations worldwide, regardless of the type of fishing operation—*i.e.,* finfish or shellfish (81 FR 4469; January 26, 2016). If a vessel has a known affiliation with other vessels—through a business ownership or through a cooperative—the vessel's gross receipts are measured against the small entity threshold based on the total gross revenues of all affiliated vessels. Because public information on business ownership is incomplete, this analysis only considers affiliation in the form of membership in a fishing cooperative. Gross revenues for catcher vessels that participated in fishing cooperatives under the Central Gulf of Alaska Rockfish Program, the Bering Sea American Fisheries Act pollock fishery, or the Crab Rationalization Program were combined for purposes of identifying small entities directly affected by this proposed rule.

In 2018, 997 vessels participated in fisheries in the partial coverage category. Section 4.5.3.2 in the EA notes that the number of catcher/processors eligible for partial coverage when fishing off Alaska is currently estimated to be between six and 10. Of the total of 997 vessels in partial coverage in 2018, 982 are classified as small entities (four were catcher/processors and the rest catcher vessels). Of those 982 vessels, by gear type, 827 vessels fished hook-and-line gear, 87 fished pot gear, 30 fished trawl gear, and 22 fished jig gear.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

The Council and NMFS considered three alternatives. Alternative 1, the no action Alternative, would maintain the current level of the fee at 1.25 percent of the ex-vessel value of the fish landings subject to the fee. Alternative 2 would raise the fee up to 2 percent, equally across all fisheries included in the program (*i.e.,* gear types). Alternative 3 would raise the fee up to 2 percent, but be implemented differentially across the fisheries included in the program (*i.e.,* gear types). This proposed rule would increase the observer fee to 1.65 percent of ex-vessel value for all landings subject to the observer fee. The status quo and some of the fee levels considered under Alternatives 2 and 3 would have implemented a fee percentage lower than the proposed rule for some or all directed regulated or directly affected small entities. However, the Council recommendation to increase the observer fee is necessary to increase fee revenues to deploy observers and electronic monitoring at coverage rates adequate to meet the Council's and NMFS' monitoring objectives in future years. In addition, the Council recommended and NMFS agrees that a single observer fee percentage should continue to be applied equally to the ex-vessel value of all of the landed catch subject to the observer fee.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Recordkeeping, Reporting, and Other Compliance Requirements

This proposed rule does not contain recordkeeping, reporting, or other compliance requirements.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 3, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.55, revise paragraph (f) to read as follows:

§ 679.55 Observer fees.

* * * * *

(f) *Observer fee percentage.* The observer fee percentage is 1.25 percent through December 31, 2020. Beginning January 1, 2021, the observer fee percentage is 1.65 percent.

* * * * *

[FR Doc. 2020–04686 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 46
Monday, March 9, 2020

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 3, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 8, 2020 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

30-Day Federal Register Notice

Farm Service Agency

Title: Organic Certification Cost Share Program (OCCSP).

OMB Control Number: 0560–0289.

Summary of Collection: Organic Certification Cost Share Program (OCCSP) provides cost share assistance to producers and handlers of agricultural product who are obtaining or renewing their certification under the National Organic Program (NOP). The National Organic Certification Cost-Share Program (NOCCSP) is authorized under section 10606(d)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 note), as amended by section 10004 © of the Agricultural Act of 2014 (2014 Farm Bill; Pub. L. 113–79).

Need and Use of the Information: The Farm Service Agency (FSA) provides cost-share assistance, through FSA county offices and participating state agencies, to organic producers or handlers who are obtaining or renewing their certification under the National Organic Program. The information collected is needed to ensure that organic producers or handlers and State agencies are eligible for funding and comply with applicable program regulations. Without this collection of information, FSA would not be able to provide cost-share assistance to eligible producer or handler and state agencies.

Description of Respondents: Individuals or Households; State, Local and Tribal Government.

Number of Respondents: 15,659.

Frequency of Responses: Reporting: Semi-annually; Annually.

Total Burden Hours: 78,650.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–04665 Filed 3–6–20; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Residues of Veterinary Drugs in Foods

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S Codex Office is sponsoring a public meeting on April 30, 2020. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 25th Session of the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) of the Codex Alimentarius Commission (CAC), in San Diego, California, May 25–29, 2020. The U.S. Manager for Codex Alimentarius and the Under Secretary, Office of Trade and Foreign Agricultural Affairs, recognize the importance of providing interested parties the opportunity to obtain background information on the 25th Session of the CCRVDF and to address items on the agenda.

DATES: The public meeting is scheduled for April 30, 2020, from 1:00 p.m. to 3:00 p.m. EST.

ADDRESSES: The public meeting will take place in the United States Department of Agriculture (USDA), Whitten Building, Room 107–A, 1400 Independence Avenue SW, Washington, DC 20250. Documents related to the 25th Session of the CCRVDF will be accessible via the internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en.* Ms. Brandi Robinson, U.S. Delegate to the 25th Session of the CCRVDF, invites U.S. interested parties to submit their comments electronically to the following email address: *Brandi.Robinson@fda.hhs.gov.*

Call in number: If you wish to participate in the public meeting for the 25th Session of the CCRVDF by conference call, please register in advance by emailing *ken.lowery@usda.gov.* Please use the call-in-number: 1–888–844–9904 and participant code: 512 6092.

Registration: Attendees may register to attend the public meeting by emailing *ken.lowery@usda.gov* by April 24, 2020. Early registration is encouraged because

it will expedite entry into the building. The meeting will take place in a Federal building. Attendees should bring photo identification and plan for adequate time to pass through the security screening systems. Attendees who are not able to attend the meeting in person, but who wish to participate, may do so by phone, as discussed above.

For further information about the 25th session of CCRVDF, contact Brandi Robinson, International Program Manager, Center for Veterinary Medicine (CVM), Office of New Animal Drug Evaluation, Food and Drug Administration, 7500 Standish Place HFV–100, Rockville, MD 20855. Phone: (240) 402–0645, Email: *Brandi.Robinson@fda.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Ken Lowery, U.S. Codex Office, 1400 Independence Avenue SW, Room 4861, South Building, Washington, DC 20250. Phone: (202) 690–4042, Fax: (202) 720–3157, Email: *ken.lowery@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. The Committee also develops codes of practice, as may be required, and considers methods of sampling and analysis for the determination of veterinary drug residues in food. A veterinary drug is defined as any substance applied or administered to any food producing animal, such as meat or milk producing animals, poultry, fish, or bees, whether used for therapeutic, prophylactic or diagnostic purposes, or for modification of physiological functions or behavior.

A Codex Maximum Residue Limit (MRL) for residues of veterinary drugs is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food. Residues of a veterinary drug include the parent compounds or their metabolites in any edible portion of the animal product and include residues of associated impurities of the veterinary drug concerned. An MRL is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI) or on the basis of a temporary ADI that utilizes an additional safety factor. When establishing an MRL, consideration is also given to residues that occur in food of plant origin or the environment. Furthermore, the MRL may be reduced to be consistent with official recommended or authorized usage, approved by national authorities, of the veterinary drugs under practical conditions.

An ADI is an estimate made by the Joint Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, which can be ingested daily in food over a lifetime without appreciable health risk.

The CCRVDF is hosted by the United States of America, and the meeting is attended by the United States as a member country of the Codex Alimentarius.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 25th Session of the CCRVDF will be discussed during the public meeting:

- Adoption of the Agenda
- Matters referred by CAC and other subsidiary bodies
- Matters of interest arising from FAO/WHO including JECFA88
- Report of the Joint FAO/WHO Expert Meeting on Carry-over in feed and transfer from feed to food of unavoidable and unintended residues of approved veterinary drugs
- Matters of interest arising from the Joint FAO/International Atomic Energy Agency Division of Nuclear Techniques in Food relevant to CCRVDF work
- Report of World Organization for Animal Health (OIE) activities, including the harmonization of technical requirements for registration of veterinary medicinal products
- Draft MRL for flumethrin (honey) at Step 7
- Proposed draft MRLs for diflubenzuron (salmon—muscle plus skin in natural proportion); halquinol (in swine—muscle, skin plus fat, liver and kidney); ivermectin (sheep, pigs and goats—fat, kidney, liver and muscle) at Step 4
- Proposed draft MRLs for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle) (JECFA81 and JECFA85) retained Step 4
- Discussion paper on extrapolation of MRLs to one or more species (including a pilot on extrapolation on MRLs identified in Part D of the Priority List)
- Discussion paper on the development of a harmonized definition for edible tissues of animal origin (including edible offal) (coordination between the Codex Committee on Pesticide Residues and CCRVDF)
- Discussion paper on advantages and disadvantages of a parallel approach to compound evaluation
- Database on countries' needs for MRLs
- Priority list of veterinary drugs requiring evaluation or re-evaluation by JECFA
- Other business and future work

Each issue listed will be fully described in documents distributed, or to be distributed by the Secretariat before the Committee meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the April 30, 2020, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Brandi Robinson, U.S. Delegate for the 25th Session of the CCRVDF (see **ADDRESSES**). Written comments should state that they relate to activities of the 25th Session of the CCRVDF.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: *http://www.usda.gov/codex,* a link that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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

deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

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

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

Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

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

Done at Washington, DC, on March 4, 2020.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2020–04749 Filed 3–6–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a meeting on Monday March 30, 2020 at 12:00pm Central time. The Committee will discuss on civil rights concerns in Nebraska.

DATES: The meeting will take place on Monday March 30, 2020 at 12pm Central.

Public Call Information: Dial: 800–377–9510, Conference ID: 9174725.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Nebraska Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call

Civil Rights in Nebraska

Future Plans and Actions

Public Comment

Adjournment

Dated: March 3, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–04719 Filed 3–6–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Virginia Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Virginia Advisory Committee (Committee) will hold a meeting on Wednesday March 25, 2020 at 12:00 p.m. Eastern time. The Committee will discuss civil rights concerns in the state.

DATES: The meeting will take place on Wednesday March 25, 2020 at 12:00 p.m. Eastern time.

Public Call Information: Dial: 800–353–6461, Conference ID: 1803061.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. Committee meetings are available to the public through the above call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or

emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Virginia
Future Plans and Actions
Public Comment
Adjournment

Dated: March 3, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–04723 Filed 3–6–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–932]

Certain Steel Threaded Rod 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 determination by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty order on certain steel threaded rod (steel threaded rod) from the People's Republic of China (China) would likely lead to 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 March 9, 2020.

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 July 1, 2019, Commerce published the notice of initiation of the second sunset review of the antidumping duty order [1] on steel threaded rod from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] Commerce conducted this sunset review on an expedited basis, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), because it received a complete, timely, and adequate response from domestic interested parties,[3] but no substantive response from respondent interested parties. As a result of its review, Commerce determined that revocation of the *Order* would likely lead to continuation or recurrence of dumping. Commerce also notified the ITC of the magnitude of the dumping margins likely to prevail should the *Order* be revoked.[4]

On February 26, 2020, the ITC published its determination, pursuant to section 751(c) of the Act, 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.[5]

Scope of the Order

The merchandise covered by the *Order* is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold–drawn, cold–rolled, machine straightened, or otherwise cold–finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the order are: (a) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials (ASTM) A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

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 sections 751(c) and 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Order* on steel threaded rod 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

[1] *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 31304 (July 1, 2019).

[3] The domestic interested party is Vulcan Threaded Products, Inc. (Vulcan). *See* Vulcan's Letter, ''Certain Steel Threaded Rod from the People's Republic of China, Second Sunset Review: Substantive Response to Notice of Initiation,'' dated July 31, 2019.

[4] *See Certain Steel Threaded Rod from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 84 FR 65780 (November 29, 2019).

[5] *See Steel Threaded Rod from China,* 85 FR 11101 (February 26, 2020); *see also Steel Threaded Rod from China,* Inv. No. 731–TA–1145 (Second Review), USITC Pub. 5019, dated February 2020.

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.

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: March 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–04745 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB); Solicitation for Members of the NOAA Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board.

SUMMARY: NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans, Atmosphere, and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of approximately fifteen members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions.

DATES: Nominations should be sent to the web address specified below and must be received by April 23, 2020.

ADDRESSES: Applications should be submitted electronically to *noaa.scienceadvisoryboard@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB website at *http://www.sab.noaa.gov*.

SUPPLEMENTARY INFORMATION: At this time, individuals are sought with expertise in tsunami science; extreme weather prediction (including tornadoes); social sciences (including geography, sociology, behavioral science); Great Lakes research; cloud computing, artificial intelligence and data management; unmanned, autonomous system technology; 'omics science and eDNA; weather modeling and data assimilation; and ocean ecosystem science. Individuals with expertise in other NOAA mission areas are also welcome to apply.

Composition and Points of View: The Board will consist of approximately fifteen members, including a Chair, designated by the Under Secretary in accordance with FACA requirements.

Members will be appointed for three-year terms, renewable once, and serve at the discretion of the Under Secretary.

Members will be appointed as special government employees (SGEs) and will be subject to the ethical standards applicable to SGEs. Members are reimbursed for actual and reasonable travel and per diem expenses incurred in performing such duties but will not be reimbursed for their time. As a Federal Advisory Committee, the Board's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as the interests of geographic regions of the country and the diverse sectors of U.S. society.

The SAB meets in person three times each year, exclusive of teleconferences or subcommittee, task force, and working group meetings. Board members must be willing to serve as liaisons to SAB working groups and/or participate in periodic reviews of the NOAA Cooperative Institutes and overarching reviews of NOAA's research enterprise.

Nominations: Interested persons may nominate themselves or third parties.

Applications: An application is required to be considered for Board membership, regardless of whether a person is nominated by a third party or self-nominated. The application package must include: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; (3) a short description of his/her qualifications relative to the kinds of advice being solicited by NOAA in this Notice; and (4) a current resume (maximum length four [4] pages).

Dated: February 26, 2020.

David Holst,

Director Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–04750 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG619]

Implementation of Fish and Fish Product Import Provisions of the Marine Mammal Protection Act—Notification of Revocation of Comparability Findings and Implementation of Import Restrictions; Certification of Admissibility for Certain Fish Products From Mexico

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

ACTION: Notice; revocation of comparability findings and implementation of import restrictions for certain fish and fish products from Mexico.

SUMMARY: Under the authority of the Marine Mammal Protection Act (MMPA), the NMFS Assistant Administrator for Fisheries (Assistant Administrator) is revoking the comparability findings for the following fisheries authorized by the Government of Mexico: Upper Gulf of California shrimp trawl fishery for both small and large vessels; Upper Gulf of California shrimp suripera fishery; Upper Gulf of California sierra purse seine fishery; Upper Gulf of California sierra hook and line fishery; Upper Gulf of California chano trawl fishery, for small vessels; Upper Gulf of California curvina purse seine fishery; and Upper Gulf of California sardine/curvina purse seine fishery for both small and large vessels. The Assistant Administrator continues the determination to deny a comparability finding for the El Golfo de Santa Clara curvina rodeo-style gillnet fishery.

DATES: Compliance with the import restrictions and Certification of Admissibility described in this document is required beginning April 3, 2020, and will remain in effect until notice is published in the **Federal Register** indicating otherwise.

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SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1371 *et seq.,* states that the Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. For purposes of applying this import restriction, the Secretary of Commerce shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.

NMFS bases its determination to revoke comparability findings for the specified Mexican fisheries on the lack of a regulatory program comparable in effectiveness to the U.S. regulatory program for mitigating fishery bycatch of marine mammals. Therefore, under the authority of the MMPA, the Secretary of Commerce, in cooperation with the Secretaries of Treasury and Homeland Security, is giving notice of import restrictions on fish and fish products from Mexican fisheries operating in the upper Gulf of California. The restrictions apply to fish either caught with gillnets deployed in the range of the vaquita, an endangered porpoise, or harvested in the fisheries listed above. Harmonized Tariff Schedule (HTS) codes associated with the prohibited fish and fish products are identified below. NMFS is also requiring that all other fish and fish products not within the scope of the import restrictions but imported under the same published HTS codes be accompanied by a Certification of Admissibility.

Background

On August 15, 2016, NMFS published a final rule (81 FR 54389) amending the fish and fish product import provisions to implement Section 101(a)(2) of the MMPA (see implementing regulations at 50 CFR 216.24(h)). This final rule established conditions for evaluating a harvesting nation's regulatory programs to address incidental and intentional mortality and serious injury of marine mammals in its commercial fisheries producing fish and fish products exported to the United States.

Under the final rule, fish or fish products cannot be imported into the United States from commercial fishing operations that result in the incidental mortality or serious injury of marine mammals in excess of U.S. standards (16 U.S.C. 1371(a)(2)). NMFS published a List of Foreign Fisheries (LOFF) on March 16, 2018 (83 FR 11703) to classify fisheries subject to the import requirements. Effective January 1, 2022, fish and fish products from fisheries identified by the Assistant Administrator in the LOFF can only be imported into the United States if the harvesting nation has applied for and received a comparability finding from NMFS for those fisheries. The rule established the procedures that a harvesting nation must follow, and the conditions it must meet, to receive a comparability finding for a fishery on the LOFF. The final rule established a five-year exemption period, ending January 1, 2022, before imports would be subject to any trade restrictions (see 50 CFR 216.24(h)(2)(ii)).

Vaquita are listed as an endangered species under the U.S. Endangered Species Act, 16 U.S.C. 1531 *et seq.,* and are endemic to northern Gulf of California waters in Mexico. In 2018, the International Committee for the Recovery of the Vaquita (CIRVA)—a group of international scientists supported by Mexico and led by Mexican scientists—estimated that fewer than 22 individuals remain. Gillnets used to illegally fish for totoaba (an endangered fish also endemic to the Gulf of California) are the direct primary source of current vaquita mortality and continue to be deployed to supply China's black-market demand for totoaba swim bladders.

On May 18, 2017, Natural Resources Defense Council (NRDC), Center for Biological Diversity (CBD), and the Animal Welfare Institute (AWI) petitioned the Secretaries of Homeland Security, the Treasury, and Commerce to ''ban the importation of commercial fish or products from fish'' sourced using fishing activities that ''result in the incidental mortality or incidental serious injury'' of vaquita ''in excess of United States standards.'' The petitioners requested that the Secretaries immediately ban imports of all fish and fish products from Mexico that do not satisfy the MMPA import provision requirements, claiming that emergency action banning such imports is necessary to avoid immediate, ongoing, and ''unacceptable risks'' to vaquita. NMFS published a notice of the petition's receipt on August 22, 2017 (82 FR 39732), in the **Federal Register** for a 60-day comment period.

On December 21, 2017, the petitioners filed suit in the United States District Court for the District of Columbia, which among other things challenged the failure of NMFS, the U.S. Department of Commerce, the U.S. Department of the Treasury, and the U.S. Department of Homeland Security (''Defendants'') to respond to the petition pursuant to the Administrative Procedure Act (''APA'') (5 U.S.C. 551–559; 701–706). On March 21, 2018, the petitioners filed suit before the Court of International Trade seeking an injunction requiring the U.S. Government to ban the import of fish or fish products from any Mexican commercial fishery that uses gillnets within the vaquita's range. On April 16, 2018, Petitioners filed a motion for a preliminary injunction on which oral argument was held on July 10, 2018. The Court of International Trade granted the motion for preliminary injunction and denied the U.S. Government's motion to dismiss the lawsuit. On July 26, 2018, and August 14, 2018, the Court of International Trade (CIT) (Slip-Op 18–92) required the U.S. Government to ban all fish and fish products from Mexican commercial fisheries that use gillnets within the vaquita's range, pending final adjudication of the merits. This ban includes the importation from Mexico of all shrimp, curvina, sierra, and chano fish and their products caught with gillnets inside the vaquita's range. To effect this court order, NMFS published a **Federal Register** notice on August 28, 2018 (83 FR 43792), giving notice of import restrictions on fish and fish products from Mexico caught with gillnets deployed in the range of the vaquita. In that notice, NMFS also stipulated requirements that all other fish and fish products not within the scope of the import restrictions but imported under the Harmonized Tariff Schedule (HTS) codes associated with the prohibited fish and fish products be accompanied by a Certification of Admissibility in accordance with the provisions of 50 CFR 216.24(h)(9).

On November 9, 2018, the Government of Mexico requested that the Assistant Administrator make comparability findings based upon documentary evidence provided by the Government of Mexico for the Upper Gulf of California shrimp trawl fishery for both small and large vessels; Upper Gulf of California shrimp suripera [1] fishery; Upper Gulf of California sierra purse seine fishery; Upper Gulf of California sierra hook and line fishery; Upper Gulf of California chano trawl fishery, for small vessels; Upper Gulf of California curvina purse seine fishery; Upper Gulf of California sardine/curvina purse seine fishery for both

[1] Suripera nets rely on utilizing the movement of the wind and water currents to draw shrimp into a small-mesh modified cast net.

small and large vessels; and El Golfo de Santa Clara curvina rodeo-style gillnet fishery. As stated in the final rule (81 FR 54397, August 15, 2016), nothing within the procedures set forth in 50 CFR 216.24(h) prevents a nation from implementing a bycatch reduction regulatory program and seeking a comparability finding during the five-year exemption period (see 50 CFR 216.24(h)(2)(ii)).

On December 6, 2018, NMFS, under the authority of the MMPA, issued comparability findings for the following Government of Mexico's authorized fisheries in the Upper Gulf of California: Shrimp trawl fishery for both small and large vessels; shrimp suripera fishery; sierra purse seine fishery; sierra hook and line fishery; chano trawl fishery, for small vessels; curvina purse seine fishery; and sardine/curvina purse seine fishery for both small and large vessels. On that same date, NMFS denied a comparability finding for the El Golfo de Santa Clara curvina rodeo-style gillnet fishery in accordance with 50 CFR 216.24(h)(9).

Revocation of the Comparability Finding

On April 8, 2019, NMFS notified the Government of Mexico that it had failed to put in place and implement a regulatory program to effectuate the regulatory improvements identified in the Plan for Improvement to the Program on the Comprehensive Care of the Upper Gulf and the Comprehensive Program for the Protection and Recovery of the Vaquita. NMFS stated that absent such a regulatory program there can be no comparability finding for the fisheries for which a comparability finding was granted. Therefore, under section 50 CFR 216.24 (h)(8)(vii), NMFS notified the Government of Mexico that it was reconsidering the comparability finding issued to the fisheries operating in the Upper Gulf of California on the basis that the Government of Mexico has failed to put in place a regulatory program comparable in effectiveness to the U.S. regulatory program for those fisheries.

The Government of Mexico has failed to implement the regulatory plan that formed the basis for the comparability findings. Furthermore, the Government of Mexico has failed to authorize (*e.g.,* provide fishing permits) shrimp trawls for small vessels (*e.g.,* pangas), the only legally mandated gear type for harvesting shrimp and for which a comparability finding has been made. Without this authorization, this fishery cannot legally operate, forcing fishermen to resort to illegal fishing either with gillnets (which have been banned in the shrimp fishery) or unauthorized trawl gear. Furthermore, the Government of Mexico has failed to fully implement and enforce its existing laws and regulatory regime including the existing gillnet ban, the provisions which prohibit fishing in the vaquita refuge, and inspection of fishing vessels leaving and arriving to port. In accordance with the MMPA import provisions, on September 9, 2019, NMFS notified the Government of Mexico, in writing, that it has made a preliminary finding to revoke the Government of Mexico's comparability finding for the fisheries operating in the Upper Gulf of California. The Government of Mexico again failed to take corrective action to come into compliance by implementing the regulatory programs that had formed the basis for the original comparability findings.

In accordance with 50 CFR 216.24(h)(8)(vii), a comparability finding will be terminated or revoked if the Assistant Administrator determines that the requirements of 50 CFR 216.24(h)(6) are no longer being met. Pursuant to 50 CFR 216.24(h)(8)(vii) the Assistant Administrator has determined that Mexico's fisheries operating in the Upper Gulf of California which currently possess a comparability finding are no longer meeting the requirements of 50 CFR 216.24(h)(6). Therefore, the Assistant Administrator is revoking these comparability findings. In accordance with 50 CFR 216.24(h)(9)(ii), the Government of Mexico can reapply for a comparability finding for the affected fisheries at any time. All other exempt and export fisheries operating under the control of the Government of Mexico are still subject to the five-year exemption period under 50 CFR 216.24(h)(2)(ii). By March 1, 2021, per the requirements of 50 CFR 216.24(h)(6), the Government of Mexico, like all harvesting nations, must apply a comparability finding for all fisheries on the List of Foreign Fisheries, including those in this **Federal Register** Notice. By January 1, 2022 all fisheries must have a comparability finding in order to export fish and fish products from those fisheries to the United States. Also, the Government of Mexico is still required to provide a progress report in accordance with 50 CFR 216.24(h)(10) for these fisheries and all other fisheries on its List of Foreign Fisheries.

Pursuant to 50 CFR 216.24(h)(9) the U.S. government will immediately ban the importation from Mexico of all shrimp, curvina, sierra, chano, anchovy, herrings, sardines, mackerels croaker, and pilchard fish and fish products, imported under the HTS codes in Table 1, caught with gillnets inside the vaquita's range under section 101(a)(2) of the MMPA(16 U.S.C. 1371(a)(2)) or associated with the fisheries for which a comparability finding has been revoked.

Curvina, sierra, chano, and pilchard are not imported into the United States under HTS codes that are specific to the type of fish. Instead, these fish are imported under non-specific fish and marine fish codes. Consequently, the list in Table 1 includes those non-specific HTS codes necessary to encompass the range of probable codes used for products subject to the trade restriction. To allow imports of seafood outside the scope of these import restrictions, and to minimize disruptions to trade, fish and fish products of the same or similar fish or fish products imported to the United States under the HTS codes listed in Table 1 from Mexico that are not subject to these import prohibitions must be accompanied by a Certification of Admissibility. The Certification of Admissibility and accompanying instructions are available at *https://www.fisheries.noaa.gov/topic/international-affairs*.

As of the compliance date, imports of the fish and fish products from Mexico filed under the HTS codes listed in Table 1 are required to be accompanied by a Certification of Admissibility in order to obtain release of the inbound shipment. See **DATES** section for the compliance date of the requirement for Certification of Admissibility. The Certification of Admissibility is an information collection subject to the requirements of the Paperwork Reduction Act and has been approved by the Office of Management and Budget under control number 0648–0651.

TABLE 1—HTS CODES REQUIRING A CERTIFICATION OF ADMISSIBILITY

Harmonized Tariff Schedule 2020 Codes	Product description
0302.44.0000	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus) Fresh chilled whole Atlantic and Blue/Japanese Mackerel.
0302.45.1100	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Jack and horse mackerel (Trachurus spp): Scaled (whether or not heads, viscera and/or fins have been removed, but not otherwise processed), in immediate containers weighing with their contents 6.8 kg or less.
0302.45.5000	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Jack and horse mackerel (Trachurus spp): Other.
0302.49.0000	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Herrings (Clupea harengus, Clupea pallasii), anchovies (Engraulis spp.), sardines (Sardina pilchardus, Sardinops spp.), sardinella (Sardinella spp.), brisling or sprats (Sprattus sprattus), mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus), Indian mackerels (Rastrelliger spp.), seerfishes (Scomberomorus spp.), jack and horse mackerel (Trachurus spp.), jacks, crevalles (Caranx spp.), cobia (Rachycentron canadum), silver pomfrets (Pampus spp.), Pacific saury (Cololabis saira), scads (Decapterus spp.), capelin (Mallotus villosus), swordfish (Xiphias gladius), Kawakawa (Euthynnus affinis), bonitos (Sarda spp.), marlins, sailfishes, spearfish (Istiophoridae), excluding edible fish offal of subheadings 0302.91 to 0302.99: Other Fish.
0302.59.1100	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Fish of the families Bregmacerotidae, Euclichthyidae Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fish offal of subheadings 0302.91 to 0302.99: Other Fish: Scaled (whether or not heads, viscera and/or fins have been removed, but not otherwise processed), in immediate containers weighing with their contents 6.8 kg or less.
0302.59.5090	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Fish of the families Bregmacerotidae, Euclichthyidae Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae, excluding edible fish offal of subheadings 0302.91 to 0302.99: Other Fish: Other: Other fish.
0302. 89.1140	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Other fish, excluding edible fish offal of subheadings 0302.91 to 0302.99: Other: Scaled (whether or not heads, viscera and/or fins have been processed), in immediate containers weighing with their contents 6.8 kg or less: Other Fish.
0303.54.0000	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus).
0303.55.0000	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Jack and horse mackerel (Trachurus spp.).
0303.59.0000	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Other Fish.
0304.49.0190	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen: Fresh or chilled fillets of other fish: Other: Other Fish.
0304.59.0091	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen: Fresh or chilled fillets of other fish: Other Fish Chilled: Other.
0304.89.1090	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Frozen fillets of other fish: Other: Skinned, whether or not divided into pieces, and frozen into blocks each weighing over 4.5 kg, imported to be minced, ground or cut into pieces of uniform weights and dimensions: Other Fish.
0304.89.5091	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen: Frozen fillets of other fish: Other: Other Fish.
0304.99.1104	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Other, frozen: Other: In bulk or in immediate containers weighing with their contents over 6.8 kg each: Minced: Surimi.
0304.99.1109	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Other, frozen: Other: In bulk or in immediate containers weighing with their contents over 6.8 kg each: Minced: Other.
0304.99.1194	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Other, frozen: Other: In bulk or in immediate containers weighing with their contents over 6.8 kg each: Other: Other Fish.
0304.99.9190	Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Other, frozen: Other: Other: Ocean Fish.
0305.10.2000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Flours, meals and pellets of fish, fit for human consumption: In bulk or in immediate containers weighing with their contents over 6.8 kg each.
0305.10.4000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Flours, meals and pellets of fish, fit for human consumption: Other.
0305.39.4000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish fillets, dried, salted or in brine, but not smoked: Mackerel, in immediate containers weighing with their contents 6.8 kg or less each.
0305.39.6180	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish fillets, dried, salted or in brine, but not smoked: Other: Other Fish.
0305.49.2000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Smoked fish, including fillets, other than edible fish offal: Other: Mackerel.
0305.49.4045	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Smoked fish, including fillets, other than edible fish offal: Other: Other Fish.

TABLE 1—HTS CODES REQUIRING A CERTIFICATION OF ADMISSIBILITY—Continued

Harmonized Tariff Schedule 2020 Codes	Product description
0305.54.0000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Dried fish, other than edible fish offal, whether or not salted but not smoked: Herrings (Clupea harengus, Clupea pallasii), anchovies (Engraulis spp.), sardines (Sardina pilchardus, Sardinops spp.), sardinella (Sardinella spp.), brisling or sprats (Sprattus sprattus), mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus), Indian mackerels (Rastrelliger spp.), seerfishes (Scomberomorus spp.), jack and horse mackerel (Trachurus spp.), jacks, crevalles (Caranx spp.), cobia (Rachycentron canadum), silver pomfrets (Pampus spp.), Pacific saury (Cololabis saira), scads (Decapterus spp.), capelin (Mallotus villosus), swordfish (Xiphias gladius), Kawakawa (Euthynnus affinis), bonitos (Sarda spp.), marlins, sailfishes, spearfish (Istiophoridae).
0305.59.0001	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Dried fish, other than edible fish offal, whether or not salted but not smoked: Other Fish.
0305.69.2000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish, salted but not dried or smoked and fish in brine, other than edible fish offal: Mackerel: In immediate containers weighing with their contents 6.8 kg or less each.
0305.69.3000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish, salted but not dried or smoked and fish in brine, other than edible fish offal: Mackerel: Other.
0305.69.5001	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish, salted but not dried or smoked and fish in brine, other than edible fish offal: Other Fish: In immediate containers weighing with their contents 6.8 kg or less each.
0305.69.6001	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish, salted but not dried or smoked and fish in brine, other than edible fish offal: Other Fish: Other.
0305.79.0000	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption: Fish fins, heads, tails, maws and other edible fish offal: Other Fish.
0306.17.0003	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) less than 33 per kg (15s).
0306.17.0006	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 33–45 per kg (15–20s).
0306.17.0009	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 46–55 per kg (21–25s).
0306.17.0012	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 56–66 per kg (26–30s).
0306.17.0015	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 67–88 per kg (31–40s).
0306.17.0018	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 89–110 per kg (41–50s).
0306.17.0021	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 111–132 per kg (51–60s).
0306.17.0024	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) 133–154 per kg (61–70s).
0306.17.0027	Other shrimps and prawns: Shell-on, imported in accordance with Statistical Note 1 to this chapter: Count size (headless weight) more than 154 per kg (70s).
0306.17.0040	Other shrimps and prawns: Peeled, imported in accordance with statistical note 1 to this chapter.
0306.36.0020	Other shrimps and prawns: Shell-on.
0306.36.0040	Other shrimps and prawns: Peeled.
0306.95.0020	Other: Shrimps and prawns: Shell-on.
0306.95.0040	Other: Shrimps and prawns: Peeled.
0511.99.3060	Products chiefly used as food for animals or as ingredients in such food: Other.
1604.15.0000	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Mackerel.
1604.19.4100	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Other (including yellowtail): Other: Fish sticks and similar products of any size or shape, fillets or other portions of fish, if breaded, coated with batter or similarly prepared: Neither cooked nor in oil.
1604.19.5100	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Other (including yellowtail): Other: Fish sticks and similar products of any size or shape, fillets or other portions of fish, if breaded, coated with batter or similarly prepared: Other.
1604.19.6100	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Other (including yellowtail): Other: In oil and in bulk or in immediate containers weighing with their contents over 7 kg each.
1604.19.8200	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Other (including yellowtail): Other: Other.
1604.20.0510	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Other prepared or preserved fish: Products containing meat of crustaceans, molluscs or other aquatic invertebrates; prepared meals: Prepared meals.

TABLE 1—HTS CODES REQUIRING A CERTIFICATION OF ADMISSIBILITY—Continued

Harmonized Tariff Schedule 2020 Codes	Product description
1604.20.0590	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Other prepared or preserved fish: Products containing meat of crustaceans, molluscs or other aquatic invertebrates; prepared meals: Other.
1604.20.1000	Prepared or preserved fish; Other prepared or preserved fish: Other: Pastes.
1604.20.1500	Prepared or preserved fish; Other prepared or preserved fish: Other: Balls, cakes and puddings: In oil.
1604.20.2000	Prepared or preserved fish; Other prepared or preserved fish: Other: Balls, cakes and puddings: Not in oil: In immediate containers weighing with their contents not over 6.8 kg each: In airtight containers.
1604.20.2500	Prepared or preserved fish; Other prepared or preserved fish: Other: Balls, cakes and puddings: Not in oil: In immediate containers weighing with their contents not over 6.8 kg each: Other.
1604.20.3000	Prepared or preserved fish; Other prepared or preserved fish: Other: Balls, cakes and puddings: Not in oil: Other.
1604.20.4000	Prepared or preserved fish; Other prepared or preserved fish: Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared: Neither cooked nor in oil.
1604.20.5000	Prepared or preserved fish; Other prepared or preserved fish: Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared: Other.
1604.20.5010	Prepared or preserved fish; Other prepared or preserved fish: Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared: Other: Pre-cooked and frozen.
1604.20.5090	Prepared or preserved fish; Other prepared or preserved fish: Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared: Other: Other.
1604.20.6010	Prepared or preserved fish; Other prepared or preserved fish: Pre-cooked and frozen.
1604.20.6090	Prepared or preserved fish; Other prepared or preserved fish: Other.
1605.21.0500	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Not in airtight containers: Products containing fish meat; prepared meals.
1605.21.1020	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Not in airtight containers: Other: Frozen, imported in accordance with Statistical Note 1 to this chapter: Breaded.
1605.21.1030	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Not in airtight containers: Other: Frozen, imported in accordance with Statistical Note 1 to this chapter: Other.
1605.21.1050	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Not in airtight containers: Other: Other, imported in accordance with Statistical Note 1 to this chapter.
1605.29.0500	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Other: Products containing fish meat; prepared meals.
1605.29.1010	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Other: Frozen, imported in accordance with Statistical Note 1 to this chapter.
1605.29.1040	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Shrimps and prawns: Other: Other: Other, imported in accordance with Statistical Note 1 to this chapter.
2309.10.0010	Preparations of a kind used in animal feeding: Dog or cat food, put up for retail sale: In airtight containers.
2309.10.0090	Preparations of a kind used in animal feeding: Dog or cat food, put up for retail sale: Other.
2309.90.1015	Preparations of a kind used in animal feeding: Other: Mixed feeds or mixed feed ingredients: Other pet food, put up for retail sale.
2309.90.1050	Preparations of a kind used in animal feeding: Other: Mixed feeds or mixed feed ingredients: Other.

The HTS codes applicable to the products subject to the requirements of this import restriction may be revised from time to time due to updates to the HTS by the International Trade Commission. Any such changes will be notified to the trade community in accordance with CBP's notification procedures. In addition, NMFS and CBP will actively monitor the border operations of the trade restriction and the certification requirement in the initial weeks of implementation to determine if the list of affected HTS codes can be adjusted to further minimize disruption to trade while maintaining compliance with the court order and this action.

Importers are advised to determine if other NMFS program requirements (*e.g.,* Tuna Tracking and Verification Program, Seafood Import Monitoring Program) or other agency requirements (*e.g.,* Fish and Wildlife Service, State Department, Food and Drug Administration) have Automated Commercial Environment (ACE) data reporting requirements applicable to the HTS codes identified in Table 1 as subject to certification under the MMPA import provisions. In such cases, the other reporting requirements still pertain in addition to the Certification of Admissibility requirements imposed to effectuate the court order and this action.

Until such time as the import restrictions imposed by this action are lifted or revised, trade restrictions on these products harvested by gillnets in the UGC of Mexico within the vaquita's range or associated with the fisheries for which a comparability finding has been revoked will continue and Certification of Admissibility will be required for the HTS codes listed in this notice.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: March 3, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–04692 Filed 3–4–20; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA069]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, March 26, 2020 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel will receive an update on Framework Adjustment 32 submission and rulemaking. The panel will also work to finalize the range of alternatives in Amendment 21. The Council has identified three specific issues to address in this action: (1) Measures related to the Northern Gulf of Maine (NGOM) Management Area, (2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits, and (3) ability of Limited Access vessels with LAGC IFQ to transfer quota to LAGC IFQ only vessels. Review the Plan Development Team progress on Committee tasking from the February 27, 2020 meeting. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: March 4, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–04765 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA066]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability; of a proposed evaluation and pending determination (PEPD) for public comment.

SUMMARY: Notice is hereby given that a PEPD is available for public comment on three hatchery and genetic management plans (HGMPs) for Dungeness River hatchery programs submitted for review and determination under Endangered Species Act (ESA) Section 4(d), Limit 6 for Puget Sound Chinook salmon, Puget Sound steelhead, and Hood Canal summer chum salmon.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) no later than 5 p.m. Pacific time on April 8, 2020. Comments received after this date may not be considered.

ADDRESSES: Written comments should be addressed to Morgan Robinson, NMFS Sustainable Fisheries Division, 510 Desmond Dr. Lacey, WA 98503. Comments may be submitted by email. The mailbox address for providing email comments is: *hatcheries.public.comment@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on Dungeness River PEPD.

FOR FURTHER INFORMATION CONTACT: Morgan Robinson at (360) 534–9338 or by email at *morgan.robinson@noaa.gov*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

- Puget Sound Chinook Salmon (*Oncorhynchus tshawytscha*): Threatened, naturally and artificially propagated
- Puget Sound Steelhead (*Oncorhynchus mykiss*): Threatened, naturally and artificially propagated
- Hood Canal Summer Chum (*Oncorhynchus keta*): Threatened, naturally and artificially propagated

Background

NMFS has received three HGMPs for hatchery programs rearing and releasing Chinook salmon, coho salmon, and chum salmon in the Dungeness River basin, Washington. The three HGMPs were submitted pursuant to limit 6 of the Section 4(d) rule for salmon and steelhead. The hatchery programs are operated by Washington State Department of Fish and Wildlife in cooperation with the Jamestown S'Klallam Tribe.

The purpose of the hatchery programs is to contribute to the survival and recovery of Puget Sound Chinook Salmon, assist in developing information on exploitation rates, and support returns of coho salmon and chum salmon to the Dungeness River basin as well as contribute to the diet of Southern Resident Killer Whale (SRKW).

(Authority: 16 U.S.C. 1531 *et seq.;* 16 U.S.C. 742a *et seq.*)

Dated: March 3, 2020.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–04694 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Approval of the Final Management Plan for the Hudson River National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce approves the revised Management Plan for the Hudson River National Estuarine Research Reserve, which is comprised of four component sites along the Hudson River in New York. In accordance with applicable Federal regulations, the New York State

Department of Environmental Conservation revised its management plan. The revised Management Plan will replace the plan previously approved in 2009. View the approved Hudson River, NY, National Estuarine Research Reserve Management Plan at *https://coast.noaa.gov/data/docs/nerrs/Reserves_HUD_MgmtPlan.pdf* .

FOR FURTHER INFORMATION CONTACT: Nina Garfield of NOAA's Office for Coastal Management, by email at *nina.garfield@noaa.gov,* phone at 240–533–0817, or mail at: 1305 NOAA, NOS, OCM, East West Highway, SSMC4, Silver Spring, MD 20919.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33, a state must periodically revise its Reserve management plan, changes to the final management plan may be made only after written approval by NOAA, and NOAA will approve amendments to management plans by notice in the **Federal Register**. On March 6, 2019, NOAA issued a notice in the **Federal Register** announcing a thirty-day public comment period for the Hudson River National Estuarine Research Reserve revised management plan (84 FR 8087). Responses to the written and oral comments received, and an explanation of how comments were incorporated into the final revised plan, are available in Appendix 10 of the revised plan.

The Hudson River National Estuarine Research Reserve has outlined in the revised Management Plan how it will manage administration and its core program providing detailed actions that will enable it to accomplish specific goals and objectives. Since 2009, the Hudson River National Estuarine Research Reserve has provided technical expertise to coastal communities to reduce risks to natural hazards; expanded monitoring programs; installed a sentinel site for monitoring marsh ecosystem responses to sea level rise; conducted training workshops; implemented K–12 and public education programs; installed a water level observation station that is compliant with NOAA's National Water Level Observation Network; restored hydrologic flows at Gays Point in the Stockport Flats component; and established itself as a regional leader in the design and implementation of living shorelines.

The revised Management Plan updates the former plan with accomplishments since 2009, and identifies new priorities that will guide the Hudson River National Estuarine Research Reserve's operations through 2024. Facility priorities include improvements to exhibits and access to the visitor center; the provision of lodging options for interns, students, and visiting professionals; enhancements to trails; upgraded access for researchers and recreational users at component sites; the assessment of existing and potentially new living shoreline structures at component sites; and the evaluation of facility resilience to climate change. Education priorities include the continuation of teacher training and public outreach offerings; the implementation of distance learning strategies to reach expanded audiences; the inclusion of new topics to the education curriculum including marine debris and microplastics, climate change, estuarine monitoring, and restoration; and the expansion of educational programs to component sites. The Coastal Training Program (CTP) priorities are to continue to address nature-based shoreline conservation efforts and lead a statewide collaboration on living shorelines. The research and monitoring priorities are to conduct research relevant to the Hudson River and broader mid-Atlantic region; continue implementation and analysis of the National Estuarine Research Reserve System Sentinel Site monitoring protocols; and maintain the Hudson River Environmental Conditions Observing System water quality stations and the Turkey Point Tide Station. The stewardship priorities will support restoration efforts identified in the Hudson River Restoration Plan; provide technical assistance to restoration practitioners; control invasive species in the Hudson River National Estuarine Research Reserve habitats; promote fish passage; and acquire remaining holdings in the Hudson River National Estuarine Research Reserve.

NOAA has reviewed the impacts of the revised Management Plan and determined that the revision of the Management Plan will not have a significant effect on the human environment and therefore qualifies for a categorical exclusion under NOAA Administrative Order 216–6.

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–04732 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Approval: Final Management Plan for the Wells National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval of the final management plan for the Wells National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, approves the revised management plan for the Wells National Estuarine Research Reserve in Wells, Maine. In accordance with applicable federal regulations, the revised management plan will replace the plan previously approved in 2013. View the approved management plan at *https://www.wellsreserve.org/writable/files/WellsNERR_ManagementPlan_2019-2024.pdf.*

FOR FURTHER INFORMATION CONTACT: Adrianne Harrison of NOAA's Office for Coastal Management, by email at *Adrianne.Harrison@noaa.gov,* phone at 603–862–4272, or mail at: University of New Hampshire Gregg Hall Suite 148, 35 Colovos Rd, Durham NH 03824.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33, a state must periodically revise its research reserve's management plan. Changes may be made only after written approval by NOAA; NOAA will approve amendments to management plans by notice in the **Federal Register**.

On July 23, 2019, NOAA issued a notice in the **Federal Register** announcing a thirty day public comment period for the revised management plan for the Wells Research Reserve. (84.141 FR page 35375). Responses to the written and oral comments, and an explanation of how comments were incorporated into the final revised plan, are available in appendix C of the revised plan. The Wells Research Reserve outlined how it will manage administration of its core program, and provided details regarding steps to be taken to enable the reserve to accomplish specific goals and objectives. Since December 2013, the reserve has implemented its core and system-wide programs; secured science, education, and conservation grants to

serve southern Maine communities; made significant repairs and improvements to buildings including the installation of solar arrays to generate electricity; renovated the water tower; designed and installed climate change exhibit components in the visitor center; added a fully accessible trail at Wells Harbor; restored riverine and fisheries habitats in southern Maine watersheds; and helped partners acquire priority conservation lands. The revised management plan will serve as the guiding document for the 2,250-acre research reserve for the next five years.

NOAA has reviewed the impacts of the revised management plan and determined the revisions will not have a significant effect on the human environment and therefore qualifies for a categorical exclusion under NOAA Administrative Order 216–6A.

(Authority: 16 U.S.C. 1431 *et seq.*)

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–04758 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Approval of a Boundary Expansion for the Guana Tolomato Matanzas National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval of boundary expansion and availability of a final environmental assessment; finding of no significant impact.

SUMMARY: In accordance with applicable federal regulations, notice is hereby given that NOAA's Office for Coastal Management approved the final environmental assessment of a proposed boundary expansion for the Guana Tolomato Matanzas (GTM) National Estuarine Research Reserve in Florida. NOAA determined that the boundary expansion would not have significant environmental impacts and, therefore, issued a finding of no significant impact (FONSI). The final environmental assessment describes the alternatives considered, including the preferred alternative to add three parcels to the existing approved boundary, which would result in a net increase in size of 3,346.44 acres to the boundary. NOAA prepared a draft environmental assessment to analyze the effects of the requested expansion and solicited public comment before approving the request. The purpose of this notice is to inform the public of NOAA's approval of the boundary expansion and of the availability of the final environmental assessment.

ADDRESSES: The final environmental assessment and FONSI can be downloaded or viewed at *https://coast.noaa.gov/czm/compliance/.* The document is also available by sending a written request to the point of contact identified below.

FOR FURTHER INFORMATION CONTACT: Stephanie Robinson of NOAA's Office for Coastal Management by email at *steph.robinson@noaa.gov,* phone at (843) 740–1174, or mail at 2234 South Hobson Avenue, Charleston, SC 29405.

(Authority: 16 U.S.C. 1451 *et seq.*)

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–04731 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA070]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, March 27, 2020 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will receive an update on Framework Adjustment 32 submission and rulemaking. The committee will also work to finalize the range of alternatives in Amendment 21. The Council has identified three specific issues to address in this action: (1) Measures related to the Northern Gulf of Maine (NGOM) Management Area, (2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits, and (3) ability of Limited Access vessels with LAGC IFQ to transfer quota to LAGC IFQ only vessels. Review the Plan Development Team progress on Committee tasking from the February 27, 2020 meeting. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: March 4, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–04766 Filed 3–6–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Federal Advisory Committee Meeting

AGENCY: U.S. Air Force Scientific Advisory Board, Department of the Air Force, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Air Force Scientific Advisory Board will take place.

DATES: Closed to the public. Thursday April 2, 2020 from 1:15 p.m. to 4:15 p.m. CST.

ADDRESSES: Auditorium of the Eglin Enlisted Hall, located at 1760 Memorial Trail, Eglin AFB, FL 32542.

FOR FURTHER INFORMATION CONTACT: Evan Buschmann, (240) 612–5503 (Voice), 703–693–5643 (Facsimile), *evan.g.buschmann.civ@us.af.mil* (Email). Mailing address is 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762. Website: *http://www.sab.af.mil/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of this Air Force Scientific Advisory Board quarterly meeting is to conduct mid-term reviews of the Scientific Advisory Board's FY20 studies, offering board members the opportunity to hear directly from the Study Chairs on the progress they have made thus far and provide dedicated time to continue collaboration on research.

Agenda: 1315–1330 FY20 Study Remarks 1330–1415 Understanding and Avoiding Unintended Behaviors in Autonomous Systems (UBA)—Midterm Outbrief 1415–1500 Future Air Force Vanguard Selection and Management Processes (FVS)—Midterm Outbrief 1515–1600 Air Force Communications in the Future Operating Environment (CFE)—Midterm Outbrief 1600–1615 Closing Remarks. In accordance with section 10(d) of the Federal Advisory Committee Act, as amended, 5 U.S.C. Appendix and 41 CFR 102–3.155, the Administrative Assistant of the Air Force, in consultation with the Air Force General Counsel, has agreed that the public interest requires the United States Air Force Scientific Advisory Board meeting be closed to the public because it will involve discussions involving classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Any member of the public wishing to provide input to the United States Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed above at any time. Statements being submitted in response to the agenda announced in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting date. Written statements received after this date may not be provided to or considered by the United States Air Force Scientific Advisory Board until the next scheduled meeting. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2020–04714 Filed 3–6–20; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0028]

Proposed Collection; Comment Request

AGENCY: Pentagon Force Protection Agency (PFPA), DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Pentagon Force Protection Agency (PFPA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 8, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Pentagon Force Protection Agency, ATTN: Ms. Lillian Dockery, Room 1F1084, 9000 Defense Pentagon, Washington, DC 20301–9000, or call the Pentagon Access Control Division at (703) 697–9327.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoD Building Pass Application; DD Form 2249; OMB Number 0704–0328.

Needs and Uses: The information collection requirement is used by officials of Security Services, Pentagon Force Protection Agency, to maintain a listing of personnel who are authorized a DoD Building Pass.

Affected Public: Individuals or households.

Annual Burden Hours: 9,166.6.

Number of Respondents: 275,000.

Responses per Respondent: 1.

Annual Responses: 275,000.

Average Burden per Response: 2 minutes.

Frequency: On occasion.

This requirement provides for the collection of information from applicants for DoD Building Passes. The information collected from the DD Form 2249, ''DoD Building Pass Application,'' is used to verify the need for and to issue a DoD Building Pass to DoD personnel, other authorized U.S. Government personnel, and DoD consultants and experts who regularly work in or require frequent and

continuing access to DoD-owned or occupied buildings in the National Capital Region.

Dated: March 4, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–04775 Filed 3–6–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the meeting time of the April 1, 2020 Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel has changed. The updated meeting time is in the **DATES** section of this notice.

DATES: Open to the public Wednesday, April 1, 2020, from 12:15 p.m. to 5:00 p.m.

ADDRESSES: The address of the open meeting is the Naval Heritage Center Theater, 701 Pennsylvania Avenue NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Colonel Paul J. Hoerner, USAF, 703–681–2890 (Voice), None (Facsimile), *dha.ncr.j-6.mbx.baprequests@mail.mil* (Email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101. Website: *https://health.mil/bap*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: On February 26, 2020 (85 FR 11053–11054), the Department of Defense published a notice announcing the meeting of Uniform Formulary Beneficiary Advisory Panel on Wednesday, April 1, 2020. Subsequent to the publication of the notice at 85 FR 11053–11054, the meeting time has changed. All other information in the notice at 85 FR 11053–11054 remains the same.

Dated: March 4, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–04759 Filed 3–6–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; American Indian Vocational Rehabilitation Services

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for American Indian Vocational Rehabilitation Services (AIVRS)—Catalog of Federal Domestic Assistance (CFDA) number 84.250N—to partner with Indian Tribes in providing eligible American Indians with disabilities with vocational rehabilitation (VR) services. This notice relates to the approved information collection under OMB control number 1820–0018.

DATES:

Applications Available: March 9, 2020.

Deadline for Transmittal of Applications: May 26, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: August Martin, U.S. Department of Education, 400 Maryland Avenue SW, Room 5064A, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7410. Email: *August.Martin@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide VR services, including culturally appropriate services, to American Indians with disabilities who reside on or near Federal or State reservations, consistent with such eligible individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individual may prepare for, and engage in, high-quality employment that will increase opportunities for economic self-sufficiency.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 121(b)(4) of the Rehabilitation Act of 1973, as amended (Rehabilitation Act) (29 U.S.C. 741(b)(4)).

Competitive Preference Priority: For FY 2020, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets this priority.

This priority is:

Continuation of Previously Funded Tribal Programs.

In making new awards under this program, we give priority to applications for the continuation of programs that have been funded under the AIVRS program.

Program Authority: 29 U.S.C. 741.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, and 84. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 371.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $13,207,724.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Estimated Range of Awards: $300,000–$630,000.

Estimated Average Size of Awards: $440,000.

Estimated Number of Awards: 30.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Applications may be made only by Indian Tribes (and consortia of those Indian Tribes) located on Federal and State reservations. The definition of ''Indian Tribe'' in section 7(19)(B) of the Rehabilitation Act is

''any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a tribal organization (as defined in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).''

''Reservation'' is defined in 34 CFR 371.6 as ''a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, land held by incorporated Native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.''

The applicant for an AIVRS grant must be—

(1) The governing body of an Indian Tribe, either on behalf of the Indian Tribe or on behalf of a consortium of Indian Tribes; or

(2) A Tribal organization that is a separate legal organization from an Indian Tribe.

In order to receive an AIVRS grant, a Tribal organization that is not a governing body of an Indian Tribe must—

(1) Have as one of its functions the vocational rehabilitation of American Indians with disabilities; and

(2) Have the approval of the Tribe to be served by such organization.

If a grant is made to the governing body of an Indian Tribe, either on its own behalf or on behalf of a consortium, or to a Tribal organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the making of such a grant.

2. *Cost Sharing or Matching:* Cost sharing is required by section 121(a) of the Rehabilitation Act and 34 CFR 371.40 at 10 percent of the total cost of the project.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. While subgrants are not permitted, under 34 CFR 371.42(a), grantees are permitted to provide the VR services by contract or otherwise enter into an agreement with a designated State unit (DSU), a community rehabilitation program, or another agency to assist in the implementation of the Tribal VR program, as long as such contract or agreement is identified in the application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210, have a maximum score of 100 points, and are as follows:

(a) *Need for Project and Significance* (10 Points):

The Secretary considers the need for and significance of the proposed project. In determining the need for and significance of the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(iii) The potential contribution of the proposed project to increased knowledge or understanding of rehabilitation problems, issues, or effective strategies.

(iv) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of the Project Design* (20 Points):

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(c) *Quality of Project Services* (20 Points):

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(d) *Quality of Project Personnel* (15 Points):

In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of Resources* (10 Points):

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(iii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the Management Plan* (15 Points):

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(g) *Quality of the Project Evaluation* (10 Points):

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

The services and activities funded by grants under the AIVRS program must be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Applicants for the AIVRS program must provide evidence regarding the following special application requirements in 34 CFR 371.21(a)–(k). The application package includes a Special Application Requirements form in Section D that must be completed. An application is not complete without the Special Application Requirements form and will not be considered for review without that completed form submitted by the applicant. These requirements are:

(a) Effort will be made to provide a broad scope of vocational rehabilitation services in a manner and at a level of quality at least comparable to those services provided by the designated State unit.

(b) All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available vocational rehabilitation services and the provision of such services will be made by a representative of the Tribal vocational rehabilitation program funded through this grant and such decisions will not be delegated to another agency or individual.

(c) Priority in the delivery of vocational rehabilitation services will be given to those American Indians with disabilities who are the most significantly disabled.

(d) An order of selection of individuals with disabilities to be served under the program will be specified if services cannot be provided to all eligible American Indians with disabilities who apply.

(e) All vocational rehabilitation services will be provided according to an individualized plan for employment which has been developed jointly by the representative of the Tribal vocational rehabilitation program and each American Indian with disabilities being served.

(f) American Indians with disabilities living on or near Federal or State reservations where Tribal vocational rehabilitation service programs are being carried out under this part will have an opportunity to participate in matters of general policy development and implementation affecting vocational rehabilitation service delivery by the Tribal vocational rehabilitation program.

(g) Cooperative working arrangements will be developed with the DSU, or DSUs, as appropriate, which are providing vocational rehabilitation services to other individuals with disabilities who reside in the State or States being served.

(h) Any comparable services and benefits available to American Indians with disabilities under any other program, which might meet in whole or in part the cost of any vocational rehabilitation service, will be fully considered in the provision of vocational rehabilitation services.

(i) Any American Indian with disabilities who is an applicant or recipient of services, and who is dissatisfied with a determination made by a representative of the Tribal vocational rehabilitation program and files a request for a review, will be afforded a review under procedures developed by the grantee comparable to those under the provisions of section 102(c)(1)–(5) and (7) of the Act.

(j) The Tribal vocational rehabilitation program funded under this part must assure that any facility used in connection with the delivery of vocational rehabilitation services meets facility and program accessibility requirements consistent with the requirements, as applicable, of the Architectural Barriers Act of 1968, the Americans with Disabilities Act of 1990, section 504 of the Act, and the regulations implementing these laws.

(k) The Tribal vocational rehabilitation program funded under this part must ensure that providers of vocational rehabilitation services are able to communicate in the native language of, or by using an appropriate mode of communication with, applicants and eligible individuals who have limited English proficiency, unless it is clearly not feasible to do so.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not

fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established four performance measures for the AIVRS program. The measures are:

(1) Of all those exiting the program, the percentage of individuals who leave the program with an employment outcome after receiving services under an IPE.

(2)(a) The percentage of individuals who leave the program with an employment outcome after receiving services under an IPE.

(2)(b) The percentage of individuals who leave the program without an employment outcome after receiving services under an IPE.

(2)(c) The percentage of individuals who have not left the program and are continuing to receive services under an IPE.

(3) The percentage of projects that demonstrate an average annual cost per employment outcome of no more than $35,000.

(4) The percentage of projects that demonstrate an average annual cost of services per participant of no more than $10,000.

Each grantee must annually report the data needed to measure its performance on the GPRA measures through the Annual Performance Reporting Form (APR Form) for the AIVRS program.

Note: For purposes of this section, the term ''employment outcome'' means, with respect to an individual, (a) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; (b) satisfying the vocational outcome of supported employment; or (c) satisfying any other vocational outcome the Secretary of Education may determine to be appropriate (including satisfying the vocational outcome of customized employment, self-employment, telecommuting, or business ownership). (Section 7(11) of the Rehabilitation Act (29 U.S.C. 705(11)).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FUTHER INFORMATION CONTACT**. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–04757 Filed 3–6–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2019–OPEPD–0120]

Administrative Priorities for Discretionary Grant Programs

AGENCY: Office of Planning, Evaluation, and Policy Development, Department of Education.

ACTION: Final priorities.

SUMMARY: The Secretary of Education announces six priorities for discretionary grant programs that the Secretary may use in fiscal year (FY) 2020 and later years that expand the Department of Education's (the Department's) flexibility to give priority to a broader range of applicants with varying experience in administering Federal education funds (Priorities 1 and 2), applicants proposing to serve rural communities (Priorities 3 and 4), applicants that demonstrate a rationale for their proposed projects (Priority 5), or applicants proposing to collect data after the grant's original project period (Priority 6).

DATES: These priorities are effective April 8, 2020.

FOR FURTHER INFORMATION CONTACT: Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W312, Washington, DC 20202. Telephone: (202) 205–5231. Email: *kelly.terpak@ed.gov*.

SUPPLEMENTARY INFORMATION:

Program Authority: 20 U.S.C. 1221e–3.

We published a notice of proposed priorities in the **Federal Register** on November 29, 2019 (84 FR 65734). That notice contained background information and our reasons for proposing the particular administrative priorities.

We have made minor revisions to Priorities 1, 2, and 6, which we fully explain in the *Analysis of Comments and Changes* section of this document.

Public Comment: In response to our invitation in the notice of proposed priorities, 11 parties submitted comments, which, in total, addressed all six of the proposed priorities.

We group major issues according to subject.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities since publication of the notice of proposed priorities follows.

Comments: A few commenters questioned the impact of the Department's grant programs, recommended not making any changes, and wanted to ensure all funds go to public schools.

Discussion: We administer grant programs authorized and funded by Congress, and program statutes define which entities are eligible to apply. We intend to use these priorities to even the playing field for entities that are eligible for grants, but may lack experience or resources relative to more seasoned applicants. Additionally, Priorities 5 and 6 are designed to ensure we award projects that are based on a logic model and research and are better supported to collect longitudinal data. We believe both priorities will help us to measure and improve the impact our grants have on student outcomes.

Changes: None.

Comments: Multiple commenters expressed concern with Priorities 1 through 4, specifically Priorities 1 and 3, which prioritize a wider variety of applicants that commenters stated could lack prior experience or capacity to administer Federal grants. These commenters stated that the use of these priorities does not necessarily inform the applicant's ability to propose innovative projects.

Discussion: We appreciate commenters' concerns about applicant capacity and the importance of experience and demonstrated results. The Department agrees that organizational capacity is critical to a successful grant and provides regular technical assistance to grantees to ensure proper internal controls and compliance with Federal grant policies and procedures. In addition, before awarding grants, we conduct a review of the risks posed by applicants, including risks related to financial and management systems. However, we do not believe that only organizations that have previously or recently had Federal grants or that are experienced in grant writing can effectively manage awards and, as such, seek to expand the applicant and grantee pool in order to stimulate innovation in education across the country. The intent of these priorities is to prioritize grant awards in areas of the country and with grantees not previously served under Department grants. In programs where we would propose to use any of Priorities 1–4, we would carefully consider what resources and assistance we could provide to applicants and grantees to ensure strong applications and grant performance.

Changes: None.

Comments: Multiple commenters highlighted issues in prioritizing new potential grantees in programs where there is statutory language that prioritizes prior experience or specific statutory requirements on how funding decisions are made.

Discussion: The Department carefully considers which priorities to include in a grant competition, taking into consideration the purpose of the program and applicable statutory requirements. We only intend to use these priorities in programs where doing so is consistent with the program's authorizing statute.

Changes: None.

Comments: None.

Discussion: The Department wishes to clarify that, for Priorities 1 and 2, the phrase ''under the program'' is intended to mean the program's specific Catalog of Federal Domestic Assistance (CFDA) number and alpha. In situations where programs are newly authorized or reauthorized, the Department will consider on a case-by-case basis whether previous renditions of a grant program are considered to be ''under the program.'' The Department may consider several factors, including: (a) Whether the notice inviting applications for the program included a waiver of rulemaking in a previous competition under section 437(d)(1) of the General Education Provisions Act for a first grant competition under a new or substantially revised program authority, (b) the extent of programmatic changes when reauthorized, or (c) whether the program is newly authorized in statute. For these situations, the Department will identify ''the program'' in the competition's notice inviting applications for the purposes of Priorities 1 and 2.

Changes: None.

Comments: A few commenters expressed concerns with prioritizing grants that would serve rural communities, noting that these projects may be more likely to serve a small number of students or have a limited scope, and have other funding mechanisms available to rural communities.

Discussion: We recognize the concern that, under Priority 3—Rural Applicants, applicants may propose projects that serve a smaller number of students than urban applicants; however, we believe that rural applicants may often lack resources more widely available to urban applicants to submit higher-quality applications and want to ensure an equal playing field for rural applicants whenever possible. We also recognize that while rural communities may receive other funding from the Department, such as through formula funds, non-rural communities also receive formula funds, and thus, these funds should not limit a community from applying for discretionary funds. Unless a program has specific statutory

or regulatory requirements for the size and scope of a grant project, we do not believe that applicants should be penalized for proposing a project on a smaller scale. Moreover, we would carefully consider a program's purpose and design when determining when to use the Rural Applicant priority.

Changes: None.

Comments: Multiple commenters expressed support for Priorities 5 and 6 and the use of evidence and data to inform grantmaking, encouraging the Department to use these priorities where possible, including using Priority 5 as an absolute priority.

Discussion: We appreciate the comments in support of Priorities 5 and 6. The Department will carefully consider whether and how to include one or both these priorities in a competition, and whether to use these priorities as absolute, competitive preference, or invitational priorities, based on the program's purpose and design.

Changes: None.

Comments: None.

Discussion: As proposed, under paragraphs (iii), (iv), and (v) of Priority 1, programs would have had the discretion to establish the number of years that would have had to elapse since an applicant has had an active discretionary grant under that program, or an active discretionary grant or a contract from the Department, in order to qualify as a new potential grantee under those paragraphs of Priority 1. We proposed a similar formulation for qualifying as an applicant that is not a new potential grantee under Priority 2. Upon further review, rather than allowing a program broad discretion in establishing the number of years, we are revising paragraphs (iii), (iv), and (v) to provide a list of years—ranging from one year to seven—from which a program can choose. We believe these changes will more clearly convey the reasonable range of options that we intended in allowing programs the flexibility to determine what number of years, for a particular program, would result in giving priority to a broader range of applicants with varying experience in administering Federal education funds. We are establishing seven years as the outer bound because that period of time is sufficient to meet the goal of the priority—engaging a broader range of entities as grantees—without making it difficult for the Department to promptly and reliably ascertain whether a particular entity meets the priority's requirements.

Changes: We have added a list of years under paragraphs (iii), (iv), and (v) in Priorities 1 and 2.

Comments: None.

Discussion: In Priority 4, we are clarifying, in paragraph (d), that the applicant does not propose to serve a campus with a rural setting.

Changes: We have modified paragraph (d) in Priority 4 to say ''does not.''

Comments: None.

Discussion: Upon further review, we are revising the title of Priority 5 to remove the reference to a logic model, in order to align the title with the defined term ''demonstrates a rationale'' in 34 CFR 77.1.

Changes: We have removed the reference to the ''logic model'' in the priority title for Priority 5.

Comments: None.

Discussion: Upon further review, we are revising Priority 6 to more clearly align with 34 CFR 75.250(b) and to clarify what information an applicant would need to provide in addressing this priority.

Changes: We have revised the priority to specifically reference 34 CFR 75.205(b), request a budget as well as a data collection period, and specify a maximum length of up to 72 months.

Final Priorities

Priority 1—Applications From New Potential Grantees

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has never received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(ii) The applicant does not, as of the deadline date for submission of applications, have an active grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(iii) The applicant has not had an active discretionary grant under the program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(iv) The applicant has not had an active discretionary grant from the Department, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(v) The applicant has not had an active contract from the Department in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

Priority 2—Applications From Grantees That Are Not New Potential Grantees

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(ii) The applicant has, as of the deadline date for submission of applications, an active grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(iii) The applicant has had an active discretionary grant under the program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(iv) The applicant has had an active discretionary grant from the

Department, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(v) The applicant has had an active contract from the Department in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

(c) This priority can only be used in competitions where the priority for *Applications from New Potential Grantees* is used.

Priority 3—Rural Applicants

Under this priority, an applicant must demonstrate one or more of the following:

(a) The applicant proposes to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the Elementary and Secondary Education Act of 1965, as amended.

(b) The applicant proposes to serve a community that is served by one or more LEAs—

(i) With a locale code of 32, 33, 41, 42, or 43; or

(ii) With a locale code of 41, 42, or 43.

(c) The applicant proposes a project in which a majority of the schools served—

(i) Have a locale code of 32, 33, 41, 42, or 43; or

(ii) Have a locale code of 41, 42, or 43.

(d) The applicant is an institution of higher education (IHE) with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include any of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool.

Note: To determine whether a particular LEA is eligible for SRSA or RLIS, refer to the Department's website at *https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/*. Applicants are encouraged to retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings from the NCES College Navigator search tool (*https://nces.ed.gov/collegenavigator/*) where IHEs can be looked up individually to determine the campus setting.

Priority 4—Non-Rural Applicants

Under this priority, an applicant must demonstrate one or more of the following:

(a) The applicant does not propose to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the Elementary and Secondary Education Act of 1965, as amended.

(b) The applicant does not propose to serve a community that is served by one or more LEAs—

(i) With a locale code of 32, 33, 41, 42, or 43; or

(ii) With a locale code of 41, 42, or 43.

(c) The applicant does not propose a project in which a majority of the schools served—

(i) Have a locale code of 32, 33, 41, 42, or 43; or

(ii) Have a locale code of 41, 42, or 43.

(d) The applicant is not an institution of higher education (IHE) with a rural campus setting, or the applicant does not propose to serve a campus with a rural setting. Rural settings include any of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool.

(e) This priority can only be used in competitions where the priority for *Rural Applicants* is used.

Note: To determine whether a particular LEA is eligible for SRSA or RLIS, refer to the Department's website at *https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/*. Applicants are encouraged to retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings from the NCES College Navigator search tool (*https://nces.ed.gov/collegenavigator/*) where IHEs can be looked up individually to determine the campus setting.

Priority 5—Applications That Demonstrate a Rationale

Under this priority, an applicant proposes a project that demonstrates a rationale (as defined in 34 CFR 77.1).

Priority 6—Data Collection

Under this priority and consistent with 34 CFR 75.250(b), an applicant includes a budget for and description of a data collection period for a period of up to 72 months, as specified in the notice inviting applications, after the end of the project period.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this regulatory action is not a significant regulatory action, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Discussion of Potential Costs and Benefits

We have reviewed the priorities in accordance with Executive Orders 12866 and 13563 and do not believe that these priorities would generate a considerable increase in burden or cost. We believe that the combined benefit of Priorities 1, 2, 3, and 4 would be increased diversity among the Department's grantees. Priority 1 gives the Department the opportunity to prioritize a ''new potential grantee'' with greater flexibility than is currently available through the existing Education Department General Administrative Regulations provision allowing the Department to give special consideration to ''novice applicants.'' We believe that this priority could result in a number of changes in the behavior of both Department staff and applicants. We believe that the additional flexibility in the new definition would increase the number of competitions in which we prioritize a ''new potential grantee,'' resulting in additional applicants submitting applications for competitions that include such a priority. Using this priority could increase access to the Department's grants for eligible entities who have struggled to submit competitive applications in the past. However, because application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation in our grant competitions as costs associated with these priorities. Moreover, we believe any costs will be significantly outweighed by the potential benefits of more efficiently targeting funds and expanding the research base. In addition, participation in a discretionary grant program is entirely voluntary; as a result, these priorities do not impose any particular burden except when an entity voluntarily elects to apply for a grant.

Priority 2, as the inverse of Priority 1, similarly does not create costs or benefits, but may result in shifting some of the Department's grants among eligible entities. Again, since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation or differences in which entities receive awards as costs associated with this priority.

Priority 3 gives the Department the opportunity to prioritize rural applicants. We believe that this priority could result in changes in the behavior of both Department staff and applicants similar to those described above with respect to Priority 1. First, we believe that a priority for supporting rural communities will increase the number of competitions in which we prioritize rural applicants. Second, we believe that it may result in additional

applicants submitting applications for competitions that include such a priority, which could result in shifting some of the Department's grants among eligible entities. However, because application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation in our grant competitions as costs associated with this priority.

Similar to Priority 2, Priority 4, as the inverse of Priority 3, does not create costs or benefits. Instead, Priorities 3 and 4 may have the result of shifting at least some of the Department's grants among eligible entities. Again, since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation or differences in which entities receive awards as costs associated with this priority.

To the extent a program directs additional resources to evidence-based strategies or helps build the evidence base on a particular action or approach, such as through Priorities 5 and 6, there may be a benefit in the form of more effective use of Federal funding and broadened information about the evidence on the grantee's approach in the grantee's setting. However, it is not possible to quantify the extent of such a benefit without knowing which programs will use these priorities and in what circumstances.

Priority 5 allows the Secretary to prioritize or require applicants to submit a logic model that is informed by research findings. This provision may result in qualitative benefits if grantees use the logic model to better plan their projects and more clearly communicate the intended outcomes. Many grant competitions already include a requirement similar to this priority and, to the extent it is included in additional competitions in the future, we do not believe that it would create a substantial burden for applicants, because we assume that applicants in those programs would likely already have conceptualized an implicit logic model for their applications and would, therefore, experience only minimal paperwork burden associated with explaining it in their applications. In addition, the Department has several publicly available resources on designing logic models and intends to provide pre-applicant technical assistance on this subject where appropriate.

Finally, Priority 6 allows the Department to give priority to applications that propose to collect data after the original project period. The priority would not require a grantee to fund the data collection period itself; rather, at the completion of a project period, the Department would provide additional funds for data collection under existing authority to do so. As with Priorities 1 and 2, because this priority would neither expand nor restrict the universe of eligible entities for any Department grant program, since application submission and participation in our discretionary grant programs is voluntary, and since the Department would provide the additional funding to support the data collection period, we do not think that using this priority in a competition would incur costs on the part of the applicant. However, it is possible that, in electing to provide data collection grants to a particular cohort of grantees, the Department would have fewer funds available to fund new awards in future years. For example, if a cohort of five-year grants was awarded in 2020, and those grantees received data collection extensions in 2026, funds that would have been available in 2026 for new awards would be used, instead, to support the data collection extensions. It is not possible to predict the specific costs related to shifts from new awards to data collection awards because each grant program is funded at different levels and awards different average amounts to its grantees. Further, we anticipate that funding provided to grantees for the purpose of extended data collection would vary considerably depending on the scope of the original grant project and the scope of the extended data collection proposal. Finally, we believe that longitudinal data are valuable as a resource for practitioners, researchers, and the Department, and providing resources for extended data collection would likely improve the quality of information available on promising approaches to improve education outcomes.

Regulatory Flexibility Act Certification: The Secretary certifies that the final priorities will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the final priorities will significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 4, 2020.

Betsy DeVos,

Secretary.

[FR Doc. 2020–04761 Filed 3–6–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–10721–031]

Idaho Aviation Foundation; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* P–10721–031.

c. *Date filed:* February 28, 2020.

d. *Applicant:* Idaho Aviation Foundation.

e. *Name of Project:* Big Creek Hydroelectric Project.

f. *Location:* On McCorkle Creek near the town of Yellow Pine in Valley County, Idaho. The project would occupy 0.43 acre of United States lands administered by U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Vic Jaro, Idaho Aviation Foundation, P.O. Box 2016, Eagle, Idaho 83616; (208) 404–9627; *vjaro@filertel.com.*

i. *FERC Contact:* Suzanne Novak (202) 502–6665; or email at *Suzanne.novak@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: April 28, 2020.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–10721–xxx.

m. The application is not ready for environmental analysis at this time.

n. *The Big Creek Project consists of the following facilities:* (1) A 2 foot-high, 2-foot-wide, 3-foot-long diversion structure with a check gate; (2) a 1,340-foot long, 4-inch diameter, PVC buried penstock with a screened inlet; (3) a 10-foot wide by 10-foot-long log generator house containing a single unit with an estimated installed capacity of 5 kilowatts and a maximum hydraulic capacity of 0.5 cfs, (4) an 18-inch diameter tailrace that returns all withdrawn water back to McCorkle Creek, (5) 350 feet of electrical cable buried in 2-inch-diameter PVC conduit leading to Big Creek Lodge, and (6) appurtenant facilities. The project operates in a run-of-river mode between mid-May and late October; it does not operate the remainder of the year. During the off-season, the diversion check gate is removed and 100 percent of streamflow returns to the creek and the penstock inlet is sealed. No changes to project operation or facilities are proposed.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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 Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary hydro licensing schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance	April 2020.
Issue Scoping Document 1 for comments	May 2020.
Comments on Scoping Document 1 due	June 2020.
Issue notice of ready for environmental analysis	July 2020.
Commission issues EA	February 2021.
Comments on EA due	March 2021.

Dated: March 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–04740 Filed 3–6–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–5–000]

Commission Information Collection Activities (FERC–923); Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Request of reinstatement with changes.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is requesting that the Office of Management and Budget (OMB) reinstate FERC–923 (Communication of Operational Information between Natural Gas Pipelines and Electric Transmission

Operators, OMB control number 1902–0265).

DATES: Comments on this notice must be received by April 8, 2020.

ADDRESSES: Send written comments on FERC–923 to OMB by email at *OIRA_Submission@omb.eop.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902–0265) in the subject line of your comments.

Please provide a copy of your comments to the Commission by either of the following methods:

- *eFiling at the Commission's website: http://www.ferc.gov/docs-filing/efiling.asp;* or
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426

Please identify the following numbers in the title or subject line of your comments: FERC–923, OMB Control Number 1902–0265.

Instructions: All submissions to the Commission must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for Text Telephone (TTY).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION: *Type of Request:* Reinstatement of FERC–923 for 3 years.

Title: FERC–923, Communication of Operational Information between Natural Gas Pipelines and Electric Transmission Operators.

OMB Control No.: 1902–0265.

Abstract: The regulations that authorize FERC–923 (18 CFR 38.2 and 284.12(b)(4)(i)) eliminate actual and perceived prohibitions against the voluntary sharing of non-public, operational information between natural gas pipelines and public utilities. FERC promulgated those regulations in order to promote reliability of service. FERC–923 does not involve submission of information to FERC.

The expiration date of FERC–923 was January 31, 2020. FERC initiated the renewal process for FERC–923 on December 30, 2019, by publishing a 60-day notice (84 FR 71912). That notice provided for a comment period that ended on February 28, 2020. No comments were received.

On January 28, 2020, FERC sent OMB a request for a 3-month emergency extension of the expiration date in order to continue the renewal process. In addition, FERC published a notice of the emergency extension request on February 4, 2020 (85 FR 6153). OMB disapproved the request for an emergency extension on February 4, 2020. FERC now seeks reinstatement with changes, and once again invites public comment in this notice.

The changes consist of revised burden estimates due in part to adjustments of the burdens that OMB approved in 2017. These changes are based on normal market fluctuation. In addition, the previously approved burden estimates are not in effect at present because of OMB's February 4, 2020 disapproval of FERC's request for an emergency extension on February 4, 2020.

The net effect of reinstatement is outlined below. The requested changes are not a result of any program change or change in reporting/recordkeeping requirements.

Estimate of Annual Burden [1]: The total estimated annual burden for respondents is:

- 4,152 responses;
- 2,076 burden hours; and
- $166,080.

The following table shows the pertinent calculations:

A. Initiator of communication	B. Number of respondents	C. Annual number of responses per respondent	D. Total number of responses (Column B × Column C)	E. Average burden hrs. & cost per response [2]	F. Total annual hr. burdens & total annual cost (Column D × Column E)	G. Cost per respondent (Column F ÷ Column B)
Public Utility Transmission Operators.	165	12	1,980	0.5 hrs.; $40	990 hrs.; $79,200	$480
Interstate Natural Gas Pipelines.	181	12	2,172	0.5 hrs.; $40	1,086 hrs.; $86.880 ...	480
Totals	346	.....	4,152	.....	2,076 hrs.; $166,080	.....

Comments: Comments are invited on: (1)Whether FERC–923 is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of FERC–923, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of FERC–923; and (4) ways to minimize the burden of FERC–923 on those who are to respond, including the use of automated techniques or other forms of information technology.

Dated: March 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–04738 Filed 3–6–20; 8:45 am]

BILLING CODE 6717–01–P

[1] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the estimated burden, refer to Title 5 Code of Federal Regulations 1320.3.

[2] Commission staff estimates that the respondents' skill set (and wages and benefits) for FERC–923 are comparable to those of FERC employees. Based on the Commission's Fiscal Year 2019 average cost of $167,091/year (for wages plus benefits, for one full-time employee), $80.00/hour is used.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10006–24–OLEM]

FY2020 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the availability of funds.

SUMMARY: The Environmental Protection Agency (EPA) plans to make available approximately $5 million to provide supplemental funds to Revolving Loan Fund (RLF) cooperative agreements previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). EPA will consider awarding supplemental funding only to RLF grantees who have demonstrated an ability to deliver programmatic results by making at least one loan or subgrant. The award of these funds is based on the criteria described at CERCLA 104(k)(5)(A)(ii). The Agency is now accepting requests for supplemental funding from RLF grantees. Specific information on submitting a request for RLF supplemental funding is described below and additional information may be obtained by contacting the appropriate EPA Regional Brownfields Coordinator listed under **SUPPLEMENTARY INFORMATION**.

DATES: Requests for funding must be submitted to the appropriate EPA Regional Brownfields Coordinator listed under **SUPPLEMENTARY INFORMATION** by April 8, 2020.

ADDRESSES: A request for supplemental funding must be in the form of a letter addressed to the appropriate Regional Brownfields Coordinator listed under **SUPPLEMENTARY INFORMATION** with a copy to Rachel Congdon at *congdon.rachel@epa.gov* and to Rachel Lentz at *lentz.rachel@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Congdon, Office of Brownfields and Land Revitalization, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number (202) 566–1564; email address: *congdon.rachel@epa.gov.* You may also contact the appropriate Regional Brownfields Coordinator listed under **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION:

I. Background

The Small Business Liability Relief and Brownfields Revitalization Act added section 104(k) to CERCLA to authorize federal financial assistance for brownfields revitalization, including grants for assessment, cleanup and job training. Section 104(k) includes a provision for EPA to, among other things, award grants to eligible entities to capitalize Revolving Loan Funds and to provide loans and subgrants for brownfields cleanup. Section 104(k)(5)(A)(ii) authorizes EPA to make additional grant funds available to RLF grantees for any year after the year for which the initial grant is made (noncompetitive RLF supplemental funding) taking into consideration:

(I) The number of sites and number of communities that are addressed by the revolving loan fund;

(II) the demand for funding by eligible entities that have not previously received a grant under this subsection;

(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

(IV) such other similar factors as the Agency considers appropriate to carry out this subsection.

II. Eligibility

In order to be considered for supplemental funding, grantees must demonstrate that they have significantly depleted funds (both EPA grant funding and any available program income) and that they have a clear plan for utilizing requested additional funds in a timely manner. Grantees must demonstrate that they have made at least one loan or subgrant prior to applying for this supplemental funding and have significantly depleted existing available funds. For FY2020, EPA defines ''significantly depleted funds'' as uncommitted, available funding is 25% or less of total RLF funds awarded under all open and closed grants and cannot exceed $600,000. For new RLF recipients with an award of $1 million or less, funds will be consider significantly depleted if the uncommitted, available funding does not exceed $300,000. Additionally, the RLF recipient must have demonstrated a need for supplemental funding based on, among other factors, the list of potential projects in the RLF program pipeline; demonstrated the ability to make loans and subgrants for cleanups that can be started, completed, and will lead to redevelopment; demonstrated the ability to administer and revolve the RLF by generating program income; demonstrated an ability to use the RLF grant to address funding gaps for cleanup; and demonstrated that they have provided for past and will provide for future community benefit from past and potential loan(s) and/or subgrant(s). EPA encourages innovative approaches to maximize revolving and leveraging with other funds, including use of grants funds as a loan loss guarantee or combining with other government or private sector lending resources. Applicants for supplemental funding must contact the appropriate Regional Brownfields Coordinator below to obtain information on the format for supplemental funding applications for their region.

III. Regional Brownfields Coordinators

- *EPA Region 1 (for CT, ME, MA, NH, RI, and VT):* Joe Ferrari, 5 Post Office Square, Boston, MA 02109–3912; telephone number (617) 918–1105; email address: *Ferrari.Joe@epa.gov.*
- *EPA Region 2 (for NJ, NY, PR, and VI):* Alison Devine, 290 Broadway, 18th Floor, New York, NY 10007; telephone number (212) 637–4158; email address: *Devine.Alison@epa.gov.*
- *EPA Region 3 (for DE, DC, MD, PA, VA, and WV):* Brett Gilmartin, 1650 Arch Street, Mail Code 3HS51, Philadelphia, Pennsylvania 19103–2029; telephone number (215) 814–3405; email address: *Gilmartin.Brett@epa.gov.*
- *EPA Region 4 (for AL, FL, GA, KY, MS, NC, SC, and TN):* Derek Street, Atlanta Federal Center, 61 Forsyth Street SW, 10TH FL, Atlanta, GA 30303–8960; telephone number (404) 562–8574; email address: *Street.Derek@epa.gov.*
- *EPA Region 5 (for IL, IN, MI, MN, OH, and WI):* Keary Cragan, 77 West Jackson Boulevard, Mail Code SB–5J, Chicago, Illinois 60604–3507; telephone number (312) 353–5669; email address: *Cragan.Keary@epa.gov.*
- *EPA Region 6 (for AR, LA, NM, OK, and TX):* Camisha Scott, 1445 Ross Avenue, Suite 1200 (6SF–PB), Dallas, Texas 75202–2733; telephone number (214) 665–6755; email address: *Scott.Camisha@epa.gov.*
- *EPA Region 7 (for IA, KS, MO, and NE):* Susan Klein, 11201 Renner Blvd., Lenexa, Kansas 66219; telephone number (913) 551–7786; email address: *R7_Brownfields@epa.gov.*
- *EPA Region 8 (for CO, MT, ND, SD, UT, and WY):* Ted Lanzano, 1595 Wynkoop Street (EPR–B), Denver, CO 80202–1129; telephone number (303) 312–6596; email address: *Lanzano.Ted@epa.gov.*
- *EPA Region 9 (for AZ, CA, HI, NV, AS, and GU):* Noemi Emeric-Ford, 75 Hawthorne Street, WST–8, San Francisco, CA 94105; telephone number (213) 244–1821; email address: *Emeric-Ford.Noemi@epa.gov.*

• *EPA Region 10 (for AK, ID, OR, and WA):* Susan Morales, 1200 Sixth Avenue, Suite 900, Mailstop: ECL–112 Seattle, WA 98101; telephone number (206) 553–7299; email address: *Morales.Susan@epa.gov.*

Dated: March 3, 2020.

David Lloyd,

Director, Office of Brownfields and Land Revitalization, Office of Land and Emergency Management.

[FR Doc. 2020–04682 Filed 3–6–20; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting; Farm Credit System Insurance Corporation Board

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATES: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 12, 2020, from 2:00 p.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056, *aultmand@fca.gov.*

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit System Insurance Corporation Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

• January 30, 2020 (Regular Meeting)

B. Quarterly Business Reports

• FCSIC Financial Reports
• Report on Insured Obligations
• Report on Annual Performance

C. New Business

• Report on Investment Portfolio
• Presentation of 2019 Audit Results
• Consideration of Allocated Insurance Reserves Accounts

D. Closed Session

• FCSIC Report on Insurance Risk

E. Closed Session—Audit Committee

• Executive Session of the FCSIC Board Audit Committee with the External Auditor

Dated: March 3, 2020.

Dale Aultman,

Secretary, Farm Credit System Insurance Corporation.

[FR Doc. 2020–04690 Filed 3–6–20; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2020–03]

Filing Dates for the Georgia Senate Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Georgia has scheduled a Special General Election on November 3, 2020, to fill the U.S. Senate seat vacated by Senator Johnny Isakson. Under Georgia law, a majority winner in a Special General Election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on January 5, 2021, between the top two vote-getters. Political committees participating in the Georgia special elections are required to file pre- and post-election reports. Filing deadlines for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in both the Georgia Special General and Special Runoff Elections shall file a 12-day Pre-General Report on October 22, 2020; a 12-day Pre-Runoff Report on December 24, 2020; and a 30-day Post-Runoff Report on February 4, 2021. (See charts below for the closing date for each report.)

If both elections are held, all principal campaign committees of candidates who participate only in the Special General Election shall file a 12-day Pre-General Report on October 22, 2020. (See charts below for the closing date for each report.)

If only one election is held, all principal campaign committees of candidates in the Special General Election shall file a 12-day Pre-General Report on October 22, 2020; and a 30-day Post-General Report on December 3, 2020. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2020 or 2021 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Georgia Special General or Special Runoff Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Georgia Special General or Special Runoff Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Georgia special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $19,000 during the special election reporting period. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR GEORGIA SPECIAL ELECTION

Report	Close of Books [1]	Reg./Cert. & overnight mailing deadline	Filing deadline
If *Only* *the Special General is Held (11/03/2020), Committees Involved Must File:*			
Pre-General	10/14/2020	10/19/2020	10/22/2020
Post-General	11/23/2020	12/03/2020	12/03/2020
Year-End	12/31/2020	01/31/2021	01/31/2021 [2]
If Two Elections are Held, Committees Involved *Only* *in the Special General (11/03/2020) Must File:*			
Pre-General	10/14/2020	10/19/2020	10/22/2020
Year-End	12/31/2020	01/31/2021	01/31/2021 [2]
Campaign Committees Involved in *Both* *the Special General (11/03/2020) and Special Runoff (01/05/2021) Must File:*			
Pre-General	10/14/2020	10/19/2020	10/22/2020
Pre-Runoff	12/16/2020	12/21/2020	12/24/2020
Post-Runoff	01/25/2021	02/04/2021	02/04/2021
Year-End	—WAIVED—		
April Quarterly	03/31/2021	04/15/2021	04/15/2021
PACs and Party Committees not Filing Monthly Involved in *Both* *the Special General (11/03/2020) and Special Runoff (01/05/2021) Must File:*			
Pre-General	10/14/2020	10/19/2020	10/22/2020
Pre-Runoff	12/16/2020	12/21/2020	12/24/2020
Post-Runoff	01/25/2021	02/04/2021	02/04/2021
Year-End	—WAIVED—		
Mid-Year	06/30/2021	07/31/2021	07/31/2021
If Two Elections Are Held, PACs and Party Committees not Filing Monthly Involved *Only* *in the Special Runoff (01/05/2021) Must File:*			
Pre-Runoff	12/16/2020	12/21/2020	12/24/2020
Post-Runoff	01/25/2021	02/04/2021	02/04/2021
Year-End	—WAIVED—		
Mid-Year	06/30/2021	07/31/2021	07/31/2021

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: March 3, 2020.

On behalf of the Commission,

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2020–04700 Filed 3–6–20; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Clinical Laboratory Improvement Advisory Committee (CLIAC), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through February 19, 2022.

FOR FURTHER INFORMATION CONTACT: Nancy Anderson, MMSc, MT(ASCP), Executive Secretary, Clinical Laboratory Improvement Advisory Committee (CLIAC), Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop F–11, Atlanta, Georgia 30329–4018, telephone (404) 498–2741; *NAnderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–04713 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–1027; Docket No. CDC–2020–0026]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Generic Clearance for the *Collection of Qualitative Feedback on Agency Service Delivery*. This data collection is designed to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

DATES: CDC must receive written comments on or before May 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0026 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1027, Exp. 7/31/2020)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP). Centers for Disease Control and Prevention (CDC)

Background and Brief Description

CDC is requesting a three-year revision to Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1027, Exp. 7/31/2020). During the past three-year approval period, seven GenICs consisting of 13,574 respondents were submitted for review and approval. The collections included web-based surveys, focus groups, and program assessments. The information collection activities conducted under this revision will continue to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

Qualitative feedback is information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Respondents will be screened and selected from individuals and households, businesses, organizations, and/or State, Local or Tribal Governments. Below we provide CDC's projected annualized estimate for the next three years. There is no cost to respondents other than their time. The estimated annualized burden hours for this data collection activity are 9,690.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of collection	Number of respondents	Annual frequency per response	Hours per response	Total hours
Online surveys	10,500	1	30/60	5,250
Discussion Groups	280	1	2	560
Focus groups	640	1	2	1,280
Website/app usability testing	2,000	1	30/60	1,000
Interviews	800	1	2	1,600
Total				9,690

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–04727 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20KN; Docket No. CDC–2020–0028]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Promoting Adolescent Health through School-Based HIV/STD Prevention Reporting Templates. The data collection is designed to obtain detailed, specific, and consistent reporting to ensure that the Division of Adolescent and School Health (DASH) can determine the context, process and effectiveness of program activities.

DATES: CDC must receive written comments on or before May 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0028 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov. Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact, Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Promoting Adolescent Health through School-Based HIV/STD Prevention Reporting Templates—New—Division of Adolescent and School Health (DASH), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

PS18–1807 Promoting Adolescent Health through School-Based HIV/STD Prevention was awarded August 1, 2018 with a five year project period. It is funded through the Division of Adolescent and School Health.

Health behaviors during adolescence set the stage for behaviors and health into adulthood. In 2017, 40% of high school students in the US had never had sexual intercourse and 29% were currently sexually active. Among currently sexually active students, 46% did not use a condom, and 14% did not use any method to prevent pregnancy the last time they had sexual intercourse. In 2016, young people aged 13–24 accounted for an estimated 21% of all new HIV diagnoses in the United States. Half of the nearly 20 million new STDs reported each year were among young people aged 15–24.

Schools have direct contact with over 50 million students for at least six hours a day over 13 key years of their social, physical, and intellectual development. Schools can help understand and

prevent adolescent risk for HIV, STD and teen pregnancy. Schools play an important role in HIV/STD prevention. Schools can influence students' risk for HIV infection and other STD through parental engagement, health education, connection to physical and mental health services, and connecting youth to each other and important adults.

The PS18–1807 award supports implementation of activities at multiple levels of the education system to achieve health goals. School curricula, policies, and services are generally locally determined by local education agencies (LEA), or local school districts, with guidance from state education agencies (SEA). LEA and SEA both provide training, resources, and technical assistance to schools. SEA establish supportive state environments for local decision making about school policies and practices. LEA support implementation of school-based strategies through district level actions and decisions. Recognizing the importance of locally tailoring approaches, PS18–1807 uses priority schools within a district, or LEA, as a natural laboratory for working through program implementation details before scaling up—or diffusing—activities to all schools in a district. This approach supports close connections with decision-makers responsible for educational options and school environments at each of these levels. Additional support from organizations with specialized expertise and capacity for national reach will be used to increase the impact of SEA and LEA strategies. They provide a range of highly trained experts for professional development and technical assistance to advance HIV/STD prevention work.

The Centers for Disease Control and Prevention requests a three-year OMB approval to conduct three information collections entitled, Promoting Adolescent Health through School-Based HIV/STD Prevention Reporting Templates. There are separate templates and work plans for Component 1 reporting and for Component 2 reporting. Eighty (80) sites will be filling out the Component 1 reporting template and work plan; twenty-five (25) sites will be filling out the Component 2 reporting template and work plans (required programmatic activities work plan and professional development work plan).

The Component 1 information collection uses a self-administered reporting template to assess surveillance activities conducted by recipient education and health agencies funded by the Centers for Disease Control and Prevention, Division of Adolescent and School Health under Component 1 of PS18–1807 Promoting Adolescent Health through School-Based HIV/STD Prevention. This data collection will provide DASH with data to generate internal reports that will identify successful and problematic surveillance areas. In addition, the information collection will allow DASH to determine if recipient agencies are completing the required activities of the NOFO on time, as well as identifying problems in implementation. With this information, DASH can ascertain if additional technical assistance is needed to help recipients improve their surveillance implementation, if necessary. The reporting template will include questions on the following topics: Youth Risk Behavior Survey completion and School Health Profiles (Profiles) completion. No personally identifiable information will be collected.

The Component 2 information collection uses a self-administered reporting template to assess HIV and STD prevention efforts conducted by local education agencies (LEA) funded by the Centers for Disease Control and Prevention, Division of Adolescent and School Health under Component 2 of PS18–1807 Promoting Adolescent Health through School-Based HIV/STD Prevention. This data collection will provide DASH with data to generate internal reports that will identify successful and problematic programmatic areas. In addition, both information collections will allow DASH to determine if recipient agencies are completing the required activities of the NOFO on time, as well as identifying problems in implementation. With this information, DASH can ascertain if additional technical assistance is needed to help recipients improve their program implementation, if necessary. In addition, the findings will allow CDC to determine the potential impact of currently recommended strategies and make changes to those recommendations if necessary. The reporting template will include sections on the following topics: sexual health education (SHE), sexual health services (SHS), safe and supportive environments (SSE) required and additional activities. No personally identifiable information will be collected.

The estimated burden per response ranges from eight hours for Component 1 to 14 hours for Component 2. Recipients will complete the reporting templates every six months and the work plan templates once a year under this approval. Annualizing the collection over one year results in an estimated annualized burden of 3,320 hours for respondents. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent (in hours)	Average burden per response (in hours)	Total burden (in hours)
Surveillance recipients (Program Managers).	Promoting Adolescent Health through School-Based HIV/STD Prevention Component 1 Reporting Template and Work Plan.	80	3	8	1,920
Local education agency HIV prevention recipients (Program Managers).	Promoting Adolescent Health through School-Based HIV/STD Prevention Component 2 Reporting Template and Work Plans (required programmatic activities work plan and professional development work plan).	25	4	14	1,400
Total	.....	.....	.....	.....	3,320

Jeffery M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–04726 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number NIOSH 278]

Solicitation of Nominations for Appointment to the Board of Scientific Counselors (BSC), National Institute for Occupational Safety and Health (NIOSH)

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the BSC, NIOSH. The BSC consists of 15 experts in fields associated with occupational safety and health. Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of occupational medicine, occupational nursing, industrial hygiene, occupational safety and health engineering, toxicology, chemistry, safety and health education, ergonomics, epidemiology, biostatistics, and psychology. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of the board's objectives *http://www.cdc.gov/niosh/BSC/default.html.*

DATES: Nominations for membership on the BSC must be received no later than April 20, 2019. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to NIOSH Docket 278, c/o Pauline Benjamin, Committee Management Specialist, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS V–24–4, Atlanta, Georgia 30329–4027, or emailed (recommended) to *nioshdocket@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: Alberto Garcia, M.S., Executive Secretary, BSC, NIOSH, CDC, 1090 Tusculum Avenue, MS R–5, Cincinnati, Ohio 45226, Telephone: (513) 841–4596; *agarcia1@cdc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for NIOSH BSC membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in January 2021, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. SGE nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- Cover letter, including a description of the candidate qualifications and why the candidate would be a good fit for the BSC
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate. The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–04712 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–0853]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Asthma Information Reporting System (AIRS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 6, 2019 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Asthma Information and Reporting System (AIRS) (OMB Control No. 0920–0853, Exp. 5/31/2020)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 1999, the CDC began its National Asthma Control Program (NACP), a public health approach to address the burden of asthma. The program supports the proposed objectives of ''Healthy People 2030'' for asthma and is based on the public health principles of surveillance, partnerships, interventions, and evaluation. The CDC requests a three-year approval to revise the ''Asthma Information Reporting System (AIRS)'' (OMB Control No. 0920–0853; Expiration Date 5/31/2020). Specifically, CDC seeks to make the following changes:

- Increase the number of respondents from 25 to 30.
- Increase the burden from 89 hours to 105 hours.
- Reduce and consolidate the required performance measures (PMs), from 18 to eight core measures.
- Change the collection method for receipt of PMs from an Excel spreadsheet to a newly developed electronic reporting tool (SharePoint site).
- Include instructions for the newly developed electronic reporting tool that will be utilized to report the eight core PMs.
- Change the collection method for receipt of surveillance data, from uploading to a SharePoint site to submitting by email to a dedicated mailbox.
- Update the estimated annualized cost to the government to reflect current funding for the cooperative agreement, updated salaries for staff, and contractor costs for development of the new electronic reporting tool.

The three-year approval will allow CDC to continue to monitor states' program planning and delivery of public health activities and the programs' collaboration with health care systems through a new five-year cooperative agreement—*A Comprehensive Public Health Approach to Asthma Control Through Evidence-Based Interventions* (CDC–RFA–EH19–1902).

The goal of this data collection is to provide NCEH with routine information about the activities and performance of the state, local and territorial recipients funded under the NACP through an annual reporting system. NACP requires recipients to report activities related to partnerships, infrastructure, evaluation and interventions to monitor the programs' performance in reducing the burden of asthma. AIRS also includes two forms to collect aggregate emergency department (ED) visits and hospital discharge (HD) data from recipients.

AIRS was first approved by OMB in 2010 to collect data in a web-based system to monitor and guide participating state health departments. Since implementation in 2010, AIRS and the technical assistance provided by CDC staff have provided states with uniform data reporting methods and linkages to other states' asthma program information and resources. Thus, AIRS has saved state resources and staff time when asthma programs embark on asthma activities similar to those conducted elsewhere.

In the past three years, AIRS data was used to:

- Serve as a resource to NCEH when addressing congressional, departmental and institutional inquiries.
- Help the branch align its current interventions with CDC goals and allowed the monitoring of progress toward these goals.
- Allow the NACP and the state asthma programs to make more informed decisions about activities to achieve objectives.
- Facilitate communication about interventions across states and enable inquiries regarding interventions by populations with a disproportionate burden, age groups, geographic areas and other variables of interest.
- Provide feedback to the grantees about their performance relative to others through the distribution of two written reports and several presentations (webinar and in-person) summarizing the results.
- Customize and provide technical assistance and support materials to address implementation challenges.

There will be no cost to respondents other than their time to complete the PM Reporting Tool, ED Visits Reporting Form, and HD Reporting Form, on an annual basis. The estimated annualized time burden is 105 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Funded Asthma Program Recipients	Performance Measures Reporting Tool	30	1	150/60
	Emergency Department Visits Reporting Form	30	1	30/60
	Hospital Discharge Reporting Form	30	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–04720 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20KH; Docket No. CDC–2020–0027]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Injection Drug Use Surveillance Project, which proposes to assess (1) the risk behaviors, injection risk networks, receipt of prevention services, and barriers to prevention and care among persons who inject drugs (PWID) and their drug-using peers; and (2) the prevalence of HIV and Hepatitis C infections among PWID and their drug using peers.

DATES: CDC must receive written comments on or before May 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0027 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Injection Drug Use Surveillance Project—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of the Injection Drug Use Surveillance Project (IDU–SP) is to develop a surveillance system to monitor drug use risk and prevention behaviors and the infectious disease consequences of high-risk drug use in 6–30 select urban and non-urban areas of the US that have been impacted by the opioid crisis. Such a surveillance system is needed to inform prevention efforts and policy. The specific objectives of the project are to assess the following among persons who use drugs (*i.e.,* via injecting and non-injecting routes of administration) who are recruited in syringe services programs (SSPs) and through peer-driven recruitment: (1) drug use and sex risk behaviors, injection risk networks, receipt of prevention services, and barriers to prevention and care; and (2) the prevalence of HIV and Hepatitis C (HCV) infections.

The project will involve a two-stage sampling approach. First, 6–30 SSPs will be selected to ensure geographic diversity and representation of key program characteristics, such as syringe distribution model (needs-based vs all other) and length in operation (<5 years, 5 years or longer). Second, SSP clients and their drug using peers will be recruited through a combination of random recruitment at SSPs, and social network strategies to partake in a survey and HCV and HIV testing. Clients of SSPs and their peers who meet eligibility criteria will complete a survey using the Research Electronic Data Capture (REDCap) system, a secure web-based application for administering online surveys.

The survey will include questions on drug use and sex risk behaviors, risk networks, transitions from non-injection drug use to drug injection, drug treatment history, history of drug use related adverse health outcomes, such as overdose, experiences with law enforcement, experiences with violence and access, HIV and HCV testing experience, and use of prevention and health care services. Lastly, participants will be offered anonymous HIV and HCV testing in conjunction with the survey, which they may refuse with no effect on participation in the survey.

Approximately 10,500 individuals will complete the eligibility screener. Our target population is 300 participants per site or 9,000 from up to 30 sites. We anticipate that, on average, 16.66% or 1,499 persons (from up to 30 SSPs), will be either not interested in completing a questionnaire, yielding a maximum of 10,499 eligible participants.

Data from the IDU–SP will be used to inform planning and evaluation of prevention programs at the local and national level that aim to reduce adverse health outcomes of injecting and non-injecting drug use and to contribute to the overall opioid crisis response efforts. Data from the IDU–SP will also inform establishing an ongoing surveillance system in the U.S. to monitor drug use and the infectious disease consequences of drugs. The total annualized burden is

6,125 hours. There are no other costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (in hours)
Persons Screened	Eligibility Screening Form	10,499	1	5/60	875
Informed Consent	Informed Consent Form	9000	1	5/60	750
Eligible Participants	IDU Survey	9000	1	30/60	4,500
Total					6,125

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–04722 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20HR; Docket No. CDC–2020–0019]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Community-Based Organizations' Changes in Preparedness and Resources for Support of Biomedical HIV Prevention. The information collection project will be used to assess community-based organizations' (CBOs) awareness of, intentions to provide, and provision of Treatment as Prevention (TasP), non-occupational post-exposure prophylaxis (nPEP), or pre-exposure prophylaxis (PrEP) among clinical and non-clinical CBOs that have received funding from CDC's Division of HIV/AIDS Prevention (DHAP) and those that applied but did not receive funding.

DATES: CDC must receive written comments on or before May 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0019 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Community-Based Organizations' Changes in Preparedness and Resources for Support of Biomedical HIV Prevention—New—Division of HIV/AIDS Prevention (DHAP), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Antiretroviral (ARV) medications can be effectively used to reduce the number of new HIV infections. In persons without HIV infection, ARVs can be given as either: (1) For 28 days following a potential HIV exposure through sexual or injection behaviors as nPEP or (2) begun before potential sexual HIV exposures and taken daily for months to years as PrEP. In persons with HIV infection, beginning treating with ARVs early in their infection (*e.g.,* with high CD4 cell counts) can greatly lower their risk of transmitting infection

to uninfected sexual partners; this is also called treatment as prevention or TasP. PrEP is 99% effective at reducing the risk of HIV through sexual contact when taken daily. PrEP is also 74%–84% effective at reducing the risk of HIV infection through injection drug use when taken daily. Persons living with HIV who are taking ARVs as prescribed as well as achieving viral suppression effectively have no risk for transmitting the virus to an HIV-negative partner through sexual contact. CDC is working with various jurisdictions with high HIV prevalence to increase capacity of ARV provision, build collaborative efforts between health departments and community-based organizations, and engage multi-sector provider systems to reach individuals with high risk of HIV infection as part of the End the HIV Epidemic Initiative. CBOs will play a crucial role in the End the HIV Epidemic Initiative. In a previous survey conducted by CDC's Division of HIV/AIDS Prevention, CBOs reported high awareness of nPEP, PrEP, and TasP, but their ability to meet client need was low. Although clinical CBOs were more prepared to support the expansion of biomedical HIV prevention interventions, the likelihood that all CBOs would incorporate these interventions if they had additional resources was somewhat high.

Research is needed to better understand the capacity of CBOs to incorporate biomedical HIV prevention interventions into their existing infrastructure. It is unclear whether the provision of and capacity to provide nPEP, PrEP, and TasP has increased among CBOs since the original survey was conducted. Furthermore, it is unclear whether non-clinical CBOs have achieved parity in linking clients to biomedical HIV prevention interventions with their clinical counterparts. This new survey will assess current capacity and provision of nPEP, PrEP, and TasP among CBOs providing HIV services to populations with increased risk for HIV acquisition. In addition, the results of this survey will be compared to the results of the 2015 survey to assess differences in awareness, capacity, and provision of biomedical HIV prevention interventions. Respondents will include organizations engaged in HIV prevention and outreach. Up to 330 respondents (N=330; 175 funded CBOs and 155 CBOs that did not receive funding) will be recruited to complete the survey. This project will employ a cross-sectional survey design. All CBOs within each of the two strata (1. Clinical and non-clinical CBOs directly funded by CDC, and 2. Clinical and non-clinical CBOs that did not receive CDC funding) will receive phone calls to elicit interest in participating in the survey and to receive the contact information of an organization's representative to complete the survey on behalf of the organization. Potential respondents will be contacted from a list of CBOs that completed the 2015 survey. In addition, CBOs that received DHAP funding through PS15–1502 and PS17–1704 will also be contacted to determine their interest in participating in the data collection effort and to nominate a staff member to complete the survey. Each organization's representative will receive an email with a link to the survey website (created with Survey Monkey). The email will instruct the representative on how to complete the survey. Three email reminders will be sent to organizations for those that do not complete the survey. Where possible, data from the 2015 survey will be combined with data from the 2020 survey. Analyses will include completeness (non-response rates per item) as well as frequency of item responses for awareness, intentions, and provision of PrEP, nPEP, and TasP will be assessed for all respondents combined. Frequency and differences in item responses will be analyzed for relationship to CBO characteristics (*e.g.,* clinical CBOs vs non-clinical CBOs). Frequency and differences in item responses will be analyzed across survey years. We will perform multivariable analysis as needed (to assess interactions between time and type of CBO). The total annualized burden hours is 165 hours. There are no other costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Community Based Organization	Community Based Organization HIV Prevention Needs Assessment Survey.	330	1	30/60	165
Total	.....	.....	.....	.....	165

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–04721 Filed 3–6–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–0043]

Contact Dermatitis From Topical Drug Products for Cutaneous Application: Human Safety Assessment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Contact Dermatitis From Topical Drug Products for Cutaneous Application: Human Safety Assessment.'' This draft guidance provides recommendations for the characterization, during product development, of local safety of topical drug products regarding the risk for contact dermatitis. These recommendations are specifically directed to development of topical new drug products intended for cutaneous application.

DATES: Submit either electronic or written comments on the draft guidance

by May 8, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–D–0043 for ''Contact Dermatitis From Topical Drug Products for Cutaneous Application: Human Safety Assessment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Jennifer Harmon, Center for Drug Evaluation and Research (HFD–540), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5239, Silver Spring, MD 20993; 240–402–4880.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Contact Dermatitis From Topical Drug Products for Cutaneous Application: Human Safety Assessment.''

Historically, FDA requested sponsors of new topical drug products to characterize local safety with regard to cutaneous irritation, sensitization, phototoxicity, and photoallergy (the latter two only for products that absorb ultraviolet radiation at relevant wavelengths) through the conduct of dedicated ''dermal safety studies.'' These studies were conducted in healthy volunteers by repeated application of the drug product under occlusion on the skin of the back or upper arm. The studies are considered provocative in that the test condition of occlusion is used to evoke the adverse reaction at a greater rate than might be observed under labeled conditions of use.

The Division of Dermatology and Dental Products (DDDP) became concerned that these provocative studies, conducted under augmented conditions, were not informative for drug development, did not provide information that was useful for labeling, and induced adverse reactions in study subjects that might result in permanent harm. DDDP convened a scientific workshop in September 2018 during which outside experts provided input on the utility of these studies for development of new topical drugs. The consensus of the workshop was that the dedicated dermal safety studies, previously requested by FDA, were not needed to evaluate local cutaneous safety of topical new drug products.

DDDP intends to publish this draft guidance to inform sponsors of new topical drug products intended for cutaneous application of our recommendations for evaluating local (cutaneous) safety of topical drug products with regard to contact dermatitis. These recommendations will be specifically directed to developing topical new drug products; the draft guidance will not address over-the-counter drugs under monograph, generic drugs, or nondrug cosmetic products or ingredients.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Contact Dermatitis From Topical Drug Products for Cutaneous Application: Human Safety Assessment.'' It does not establish any rights for any person and is not binding

on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: March 2, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04753 Filed 3–6–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0256]

United States Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a regional public meeting entitled ''U.S. Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH).'' The purpose of the public meeting is to provide information and solicit public input on the current activities of the ICH, as well as the upcoming ICH Assembly Meeting and the Expert Working Group Meetings in Vancouver, Canada, scheduled for May 23 through 27, 2020. The topics to be addressed at the public meeting are the current ICH guideline topics under development that will be discussed at the forthcoming ICH Assembly Meeting in Vancouver.

DATES: The public meeting will be held on Friday, April 3, 2020, from 10 a.m. to 1 p.m. Submit either electronic or written comments on this public meeting by Thursday, April 30, 2020. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, Rm. 1503 (the Great Room), Silver Spring, MD 20993–0002. The meeting will also be broadcast on the web, allowing participants to join in person or via the web. For those who will attend in person, the entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.* For those who register to attend the public meeting remotely via the webcast, a link to access the webcast will be emailed 1 week in advance of the meeting.

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 May 20, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time on Thursday, April 30, 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–2020–N–0256 for ''U.S. Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting; 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.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and

contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: William Lewallen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6304, Silver Spring, MD 20993–0002, 301–796–3810, *William.Lewallen@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The ICH, formerly known as the International Conference on Harmonisation, was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory requirements for safety and effectiveness. One of the goals of harmonization is to identify and then reduce regional differences in technical regulatory requirements for pharmaceutical products while preserving a consistently high standard for drug efficacy, safety, and quality.

In 2015, the ICH was reformed to establish it as a true global initiative and to expand beyond the previous ICH members. More involvement from regulators around the world is expected, as they join counterparts from Europe, Japan, the United States, Canada, and Switzerland as ICH observers and regulatory members. Expanded involvement is also anticipated from global regulated pharmaceutical industry parties, joining as ICH observers and industry members. The reforms built on a 25-year track record and have allowed ICH to continue its successful delivery of harmonized guidelines for global pharmaceutical development and their regulation.

II. Topics for Discussion at the Public Meeting

The topics for discussion at this public meeting include the current guidelines under development under the ICH. ICH guidelines are developed following a five-step process.

In step 1, experts from the different ICH regions work together to prepare a consensus draft of the step 1 technical document. The step 1 technical document is submitted to the ICH Assembly to request endorsement under step 2a of the process. Step 2b is a ''regulators only'' step in which the ICH regulatory members review the step 2a final technical document and take any actions, which might include revisions that they deem necessary, to develop the draft ''guideline.'' Step 3 of the process begins with the public consultation process conducted by each of the ICH regulatory members in their respective regions, and this step concludes with completion and acceptance of any revisions that need to be made to the step 2b draft guideline in response to public comments. Adoption of the new guideline occurs in step 4. Following adoption, the harmonized guideline moves to step 5, the final step of the process when it is implemented by each of the regulatory members in their respective regions. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the ICH regions since 1990. More information on the current ICH process and structure can be found at the following website: *https://www.ich.org.*

III. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online by April 2, 2020. To register for the public meeting, please visit the following website: *https://ich_regional_consultation_2020.eventbrite.com*. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting in person must register by April 2, 2020, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 9:30 a.m.

The agenda for the public meeting will be made available on the internet at *http://wcms-internet.fda.gov/drugs/news-events-human-drugs/health-canada-and-fda-joint-public-consultation-international-council-harmonisation-technical-0* approximately 2 weeks in advance of the meeting.

If you need special accommodations due to a disability, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than March 20, 2020.

Persons attending FDA's meetings are advised that FDA is not responsible for providing access to electrical outlets.

Requests for Oral Presentations: If you wish to make a presentation during the public comment session, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than March 20, 2020. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. If selected for presentation, any presentation materials must be emailed to William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than April 2, 2020. No commercial or promotional material will be permitted to be presented or distributed at the public meeting. Signup for making a public comment will also be available between 9 a.m. and 10 a.m. on the day of the meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast through the following link: *https://collaboration.fda.gov/fdahealthcanada/*. To register to attend via webcast, please visit the following website: *https://ich_regional_consultation_2020.eventbrite.com*.

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm*. To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview*. FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Dated: March 2, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04754 Filed 3–6–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0601]

Mylan Institutional LLC et al.; Withdrawal of Approval of 16 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of 16 abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of April 8, 2020.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 040471 ..	Promethazine Hydrochloride (HCl) Injection, 25 milligrams (mg)/milliliters (mL).	Mylan Institutional LLC, 4901 Hiawatha Dr., Rockford, IL 61103.
ANDA 060286 ..	Penicillin G Procaine Injection, 300,000 units/mL and 600,000 units/mL.	Pfizer, Inc., 235 East 42nd St., New York, NY 10017.
ANDA 065247 ..	Cefazolin Sodium for Injection, Equivalent to (EQ) 10 grams base/vial.	Hospira, Inc., 275 North Field Dr., Bldg. H1, Lake Forest, IL 60045.
ANDA 065488 ..	Azithromycin Oral Suspension, EQ 100 mg base/5 mL; EQ 200 mg base/5 mL.	Lupin Pharmaceuticals, Inc., 111 South Calvert St., Harborplace Tower, 21st Floor, Baltimore, MD 21202.
ANDA 076185 ..	Dimethyl Sulfoxide Intravesical Solution, 50%	Mylan Institutional LLC.
ANDA 076428 ..	Milrinone Lactate Injection, EQ 1 mg base/mL	Do.
ANDA 076488 ..	Mesna Injection, 100 mg/mL	Do.
ANDA 078410 ..	Topiramate Tablets, 25 mg, 50 mg, 100 mg, and 200 mg	Lupin Pharmaceuticals, Inc.
ANDA 078957 ..	Stavudine Capsules, 15 mg, 20 mg, 30 mg, and 40 mg	Hetero USA, Inc., 1035 Centennial Ave., Piscataway, NJ 08854.
ANDA 090441 ..	Imipramine HCl Tablets, 10 mg, 25 mg, and 50 mg	Lupin Pharmaceuticals, Inc.
ANDA 200563 ..	Ciprofloxacin Oral Suspension, 250 mg/5 mL and 500 mg/5 mL.	Do.
ANDA 205657 ..	Chlorpheniramine Maleate, Hydrocodone Bitartrate, and Pseudoephedrine HCl Solution, 4 mg/5 mL; 5 mg/5 mL; and 60 mg/5 mL.	Mayne Pharma Inc., 1240 Sugg Pkwy., Greenville, NC 27834.
ANDA 205658 ..	Hydrocodone Bitartrate and Pseudoephedrine HCl Oral Solution, 5 mg/5 mL; and 60 mg/5 mL.	Do.
ANDA 200624 ..	Metformin HCl, and Repaglinide Tablets, 500 mg/1 mg; 500 mg/2 mg.	Lupin Pharmaceuticals, Inc.
ANDA 202384 ..	Omeprazole Delayed-Release Capsules, 40 mg	Do.
ANDA 202532 ..	Clarithromycin Extended-Release Tablets, 500 mg	Do.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of April 8, 2020. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on April 8, 2020 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: March 2, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04691 Filed 3–6–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Organ Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's Advisory Committee on Organ Transplantation (ACOT) has scheduled a public meeting. Information about ACOT and the agenda for this meeting can be found on the ACOT website at *https://www.organdonor.gov/about-dot/acot.html.*

DATES: April 7, 2020, 8:00 a.m.–4:00 p.m. Eastern Time (ET).

ADDRESSES: This meeting will be held in-person. The address for the meeting is 5600 Fishers Lane, Rockville, Maryland 20857, Room 5A03.

FOR FURTHER INFORMATION CONTACT: Robert Walsh, Designated Federal Official, (DFO), at Healthcare Systems Bureau, Division of Transplantation, HRSA, 5600 Fishers Lane, 8W60, Rockville, Maryland 20857; 301–443–6839; or *RWalsh@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACOT provides advice and recommendations to the Secretary of HHS (Secretary) on

policy, program development, and other matters of significance concerning the activities under 42 U.S.C. Section 217a, Section 222 of the Public Health Service Act, as amended, and 42 CFR 121.12. ACOT advises the Secretary, through the HRSA Administrator, on all aspects of organ donation, procurement, allocation, and transplantation, and on such other matters that the Secretary determines; advises the Secretary on federal efforts to maximize the number of deceased donor organs made available for transplantation and to support the safety of living organ donation; at the request of the Secretary, reviews significant proposed Organ Procurement and Transplantation Network policies submitted for the Secretary's approval to recommend whether they should be made enforceable; and provides expert input on the latest advances in the science of transplantation.

During the April 7, 2020, meeting, ACOT will discuss issues related to the recent HHS National Survey of Organ Donation Attitudes and Behaviors and efforts to increase organ transplantation. Agenda items are subject to change as priorities dictate. Refer to the ACOT website for any updated information concerning the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to ACOT should be sent to Robert Walsh, DFO, using the contact information above at least 3 business days prior to the meeting.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Robert Walsh at the address and phone number listed above at least 10 business days prior to the meeting. Since this meeting occurs in a federal government building, attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–04744 Filed 3–6–20; 8:45 am]

BILLING CODE 4165–15–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: Application and Other Forms Used by the National Health Service Corps (NHSC) Scholarship Program (SP), the NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP), OMB No. 0915–0146—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than May 8, 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.

Information Collection Request Title: Application and Other Forms Used by NHSC Scholarship Program (SP), the NHSC Students to Service Loan Repayment Program, and the Native Hawaiian Health Scholarship Program.

OMB No. 0915–0146—Revision

Abstract: Administered by HRSA's Bureau of Health Workforce, the NHSC SP, NHSC S2S LRP, and the NHHSP provide scholarships or loan repayment to qualified students who are pursuing primary care health professions education and training. In return, students agree to provide primary health care services in medically underserved communities located in federally designated Health Professional Shortage Areas once they are fully trained and licensed health professionals. Awards are made to applicants who demonstrate the greatest potential for successful completion of their education and training as well as commitment to provide primary health care services to communities of greatest need. The information from program applications, forms, and supporting documentation is used to select the best qualified candidates for these competitive awards, and to monitor program participants' enrollment in school, postgraduate training, and compliance with program requirements.

Although some program forms vary from program to program (see program-specific burden charts below), required forms generally include: A program application, academic and non-academic letters of recommendation, the authorization to release information, and the acceptance/verification of good standing report. Additional forms for the NHSC SP include the data collection worksheet, which is completed by the educational institutions of program participants; the post-graduate training verification form (applicable for NHSC S2S LRP participants), which is completed by program participants and their residency director; and the enrollment verification form, which is completed by program participants and the educational institution for each academic term. For this ICR, the NHHSP program proposes to add 3 new forms including the scholar enrollment verification, change in program curriculum and graduation documentation forms. These forms will be completed by the grantee on behalf of the participant and the educational institution to verify the participant's enrollment status for each academic term, to provide notice of any change in the participant's program curriculum, and to verify that NHHSP has met its financial obligation to pay tuition and related fees or to hold additional funds to cover any tuition balance or fees on the participant's student account.

Need and Proposed Use of the Information: The NHSC SP, S2S LRP, and NHHSP applications, forms, and supporting documentation are used to collect necessary information from applicants that enable HRSA to make selection determinations for the competitive awards and monitor compliance with program requirements.

Likely Respondents: Qualified students who are pursuing education and training in primary care health professions and are interested in working in health professional shortage areas.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

NHSC Scholarship Program Application

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC Scholarship Program Application	1,889	1	1,889	2.00	3,778.00
Letters of Recommendation	1,889	2	3,778	1.00	3,778.00
Authorization to Release Information	1,889	1	1,889	.10	188.90
Acceptance/Verification of Good Standing Report	1,889	1	1,889	.25	472.25
Verification of Disadvantaged Background Status	547	1	547	.25	136.75
Total	*1,889		9,992		8,353.9

** Certain documents are submitted by a subset of respondents consistent with program requirements.*

NHSC Awardees/Schools/Post Graduate Training Programs/Sites

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Data Collection Worksheet	400	1	400	1.00	400
Post Graduate Training Verification Form	100	1	100	.50	50
Enrollment Verification Form	600	2	1,200	.50	600
Total	*600		1,700		1,050

** Please note that the same group of respondents may complete each form as necessary.*

NHSC Students To Service Loan Repayment Program Application

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC Students to Service Loan Repayment Program Application	200	1	200	2.00	400
Letters of Recommendation	200	2	400	1.00	400
Authorization to Release Information	200	1	200	.10	20
Acceptance/Verification of Good Standing Report	200	1	200	.25	50
Verification of Disadvantaged Background Status	70	1	70	.25	17.5
Post Graduate Training Verification Form	150	1	150	.50	75
Total	*150		1,220		962.5

** Certain documents are submitted by a subset of respondents consistent with program requirements.*

Native Hawaiian Health Scholarship Program Application

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Native Hawaiian Health Scholarship Program Application	310	1	310	2.00	620.0
Letters of Recommendation	310	2	620	.25	155.0
Authorization to Release Information	310	1	310	.25	77.5
Acceptance/Verification of Good Standing Report	30	1	30	.25	7.5
Scholar Enrollment Verification Form	30	7.5	225	0.50	112.5
Change in Program Curriculum Form	30	2	60	.25	15.0
NHHSP Graduation Documentation Form	30	1	30	0.25	7.5

NATIVE HAWAIIAN HEALTH SCHOLARSHIP PROGRAM APPLICATION—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Total	*310		1,585		995

** Certain documents are submitted by a subset of respondents consistent with program requirements.*

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. 2020–04762 Filed 3–6–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Nurse Corps Scholarship Program (NCSP), OMB No. 0915–0301—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 8, 2020.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Nurse Corps Scholarship Program OMB No. 0915–0301—Revision.

Abstract: The NCSP, administered by the Bureau of Health Workforce in HRSA, provides scholarships to nursing students in exchange for a minimum 2-year full-time service commitment (or part-time equivalent) at an eligible health care facility with a critical shortage of nurses (*i.e.,* Critical Shortage Facility (CSF)). The scholarship consists of payment of tuition, fees, other reasonable educational costs, and a monthly support stipend. Program recipients are required to fulfill NCSP service commitments at CSFs located in the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

A 60-day notice was published in the **Federal Register** on October, 04, 2019, vol. 84, No. 193; pp. 53158–160. No comments were received.

Need and Proposed Use of the Information: The NCSP collects data to determine an applicant's eligibility for the program, monitor a participant's continued enrollment in a school of nursing, monitor the participant's compliance with the NCSP service obligation, and prepare annual reports to Congress. Generally, the following information is collected (1) from the schools of nursing, on a quarterly basis—general applicant and nursing school data such as full name, location, tuition/fees, and enrollment status; (2) from the schools of nursing, on an annual basis—data concerning tuition/fees and overall student enrollment status; and (3) from the participants and their employing CSF, on a biannual basis—data concerning the participant's employment status, work schedule and leave usage. In addition, this notice includes one additional form, Verification of Academic Standing, to be completed by the academic institution to verify that the participant remains in good academic standing under the policies of the institution. The form was not included in the 60 day notice but due to programmatic need, it is now being included in this notice.

The Employment Verification Form has been updated to include two questions about participants who work at multiple sites. The In-Service Verification form has been updated to include questions on telehealth and mental health services provided by NCSP participants. Additionally, the application will include an essay question about participation in other federal pipeline programs.

The revised information collection request includes updates to existing forms for the Nurse Corps SP in order to expand the service options for awarded participants, promote the use of telehealth for delivering care throughout the nation especially in rural areas, and to reduce the application burden on respondents.

Updated Form #1—The Participant Semi-Annual Employment In-Service Verification Form will be updated to include additional information about the participant's service including information about telehealth services. This form is also being requested for providers that work at multiple CSF sites. Telehealth helps expand the reach of providers especially in rural areas where medical service sites are more remote. The information collected will assist Program with determining the impact and utilization of telehealth services in various health care settings which will be used to inform our telehealth policies. Enabling service at multiple CSF sites will also allow greater flexibility for providers who rotate or split time between multiple sites which benefits both the participants and the underserved communities—especially in our Federally Qualified Health Centers (FQHC), which support many of our Nurse Corps Nurse Practitioners.

Updated Form #2—The Nurse Corps SP application will include questions for applicants to provide information regarding telehealth services, multiple CSF sites, and verification of base salary to determine the debt to salary ratio used to rank applicant's for award

consideration. The application will also be updated to identify applicants eligible for Nurse Corps SP psychiatric nurse practitioner and women's health funding.

Likely Respondents: NCSP participants, educational institutions, and critical shortage facilities.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications/Application Program Guidance	2,600	1	2,600	2	5,200
School Enrollment Verification Form	500	4	2,000	.33	660
Confirmation of Interest Form	250	1	250	.2	50
Data Collection Worksheet Form	500	1	500	1	500
Graduation Close Out Form	200	1	200	.17	34
Initial Employment Verification Form	500	1	500	.42	210
In Service Verification Form	1,000	2	2,000	.12	240
Verification of Academic Standing	500	1	500	.33	165
CSF Verification Form	200	1	200	.2	40
Authorization to Release Information	200	1	200	.2	40
Total	6,450		8,950		7,139

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–04679 Filed 3–6–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, March 30–31, 2020, 8:00 a.m. to 5:00 p.m., Doubletree Hotel Bethesda, Conference Room Bethesdan D, 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on February 11, 2020, 85 FR 7772.

The meeting notice is amended to change the meeting time and name of the Hotel from March 30–31, 2020, 8:00 a.m. to 5:00 p.m., Doubletree Hotel Bethesda, Conference Room Bethesdan D, 8120 Wisconsin Avenue, Bethesda, MD 20814 to March 30–31, 2020, 05:00 p.m. to 5:00 p.m., The Bethesdan Hotel, Conference Room Bethesdan D, 8120 Wisconsin Avenue, Bethesda, MD 20814.

The meeting is closed to the public.

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04698 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–16–005: 2020 Pioneer Award Review.

Date: April 1–3, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, Tapestry Collection by Hilton, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: April 1–2, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, (301) 755–4355, *bynumsa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacterial Pathogenesis and Virulence.

Date: April 1, 2020.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Center for Scientific Review, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, (301) 435–1167, *pandyaga@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Selected Topics in Transfusion Medicine.

Date: April 1–2, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, (301) 408–9497, *zouai@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Stress, Sleep, Cognition, and Aging.

Date: April 1, 2020.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: International and Cooperative Projects 1.

Date: April 1, 2020.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7490, *brianscott@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Endocrinology and Metabolism.

Date: April 1, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gregory S. Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, Bethesda, MD 20892–7892, (301) 435–0492, *shelnessgs@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04696 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public 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 meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 30, 2020.

Time: 8:00 a.m. to 6:05 p.m.

Agenda: Director's Report; RFA, RFP, and PAR Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Room TE406 & 408, Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.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 NCI-Shady Grove campus. All 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: BSA: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 3, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04697 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Center for Advancing Translational Sciences Advisory Committee, was renewed for an additional two-year period on February 7, 2020.

It is determined that the National Center for Advancing Translational Sciences Advisory Committee, is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), Telephone (301) 496–2123, or *harriscl@mail.nih.gov.*

Dated: March 3, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04702 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–19–507: Limited Competition for the Closeout of the SEARCH for Diabetes in Youth Cohort Study (R01).

Date: April 14, 2020.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–7682, *campd@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04705 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; (Re)Building A Kidney Applications.

Date: April 14, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), Conference Room Auburn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–4721, *ryan.morris@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS.)

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04706 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; Review of Innovative Programs to Enhance Research Training (IPERT).

Date: April 3, 2020.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott at Metro Center, Conference Room Capitol Hill, 775 12th Street NW, Washington, DC 20005.

Contact Person: Lisa A. Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, (301) 594–2849, *dunbarl@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04699 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource-Related Research Projects (R24).

Date: April 15, 2020.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergies and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Steven F. Santos, Ph.D., Scientific Review Officer, AIDS Research Review Branch, Scientific Review Program, Division of Extramural Activities, National

Institute of Allergies and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33, Rockville, MD 20852, 301–761–7049, *steven.santos@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 2, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04701 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, RFA–RM–19–006: NIH Director's New Innovator Award Review (DP2), March 12, 2020 08:00 a.m. to March 13, 2020 07:00 p.m., Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115 which was published in the **Federal Register** on February 12, 2020, 85 FR 8007.

The meeting location is being changed to National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, meeting start time is changing to 09:00 a.m. and meeting end time 07:00 p.m. The meeting is closed to the public.

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04704 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: March 30–31, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Infectious Diseases and Microbiology Fellowship Review Meeting.

Date: March 30, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tamara Lyn McNealy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, Bethesda, MD 20892, 301–827–2372 *tamara.mcnealy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Blood Cell and Vascular Pathobiology.

Date: March 30–31, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.

Date: March 30, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Benjamin Greenberg Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182 Bethesda, MD 20892, *shaperobg@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; National Primate Research Center Supplements and Social Behavior.

Date: March 30, 2020.

Time: 5:30 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 2, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04703 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory Neuroscience and Learning and Memory.

Date: March 27, 2020.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451–4251, *Armaz.aschrafi@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pulmonary Diseases.

Date: March 31–April 1, 2020.

Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7814, Bethesda, MD 20892, (301) 451–8754, *nussb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions.
Date: March 31, 2020.
Time: 10:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, (301) 379–5632, *hfriedman@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Discovery and Validation of Novel Safe and Effective Pain Treatment.
Date: March 31, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, (301) 435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Gastroenterology.
Date: March 31, 2020.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Julia Spencer Barthold, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–3073, *julia.barthold@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Discovery and Validation of Novel Safe and Effective Pain Treatment.
Date: March 31, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451–4251, *Armaz.aschrafi@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Chronic Diseases and Epidemiology.
Date: March 31, 2020.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Chittari V. Shivakumar, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 408–9098, *chittari.shivakumar@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIH Research Enhancement Award (R15) in Oncological Sciences.
Date: March 31, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892.
Contact Person: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, (301) 594–7945, *kotliars@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: ECHO IdeA States Pediatric Clinical Trials Networks and Data Coordinating Centers.
Date: March 31, 2020.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Oncology.
Date: March 31, 2020.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Amy L. Rubinstein, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7844, Bethesda, MD 20892, (301) 408–9754, *rubinsteinal@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: U.S. Tobacco Control Policies to Reduce Health Disparities.
Date: March 31, 2020.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, (301) 496–0726, *prenticekj@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Tobacco Control Policies to Reduce Health Disparities.
Date: March 31, 2020.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lee S. Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677, *mannl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AG–20–024: Science of Behavior Change (SOBC) Resource and Coordinating Center (U24).
Date: March 31, 2020.
Time: 3:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda 20892, (301) 402–4780, *shaperobg@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 3, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04695 Filed 3–6–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6202–N–01]

Section 8 Housing Assistance Payments Program—Fiscal Year 2020 Inflation Factors for Public Housing Agency Renewal Funding

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This notice establishes Renewal Funding Inflation Factors to adjust Fiscal Year (FY) 2020 renewal funding for the Housing Choice Voucher (HCV) program of each public housing agency (PHA), as required by the Further Consolidated Appropriations Act, 2020. The notice apportions the expected percent change in national Per Unit Cost (PUC) for the HCV program, 4.25 percent, to each PHA based on the change in Fair Market Rents for their operating area to produce the FY 2020 RFIFs. HUD's FY 2020 methodology is the same as that which was used in FY 2019.

DATES: *Applicable Date:* March 9, 2020.

FOR FURTHER INFORMATION CONTACT: Miguel A. Fontanez, Director, Housing Voucher Financial Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, telephone number 202–402–4212; or for technical information regarding the development of the schedules for specific areas or the methods used for calculating the inflation factors, Peter B. Kahn, Director, Program Parameters and Research Division, Office of Policy Development and Research, telephone number 202–402–2409. Their mailing address is: Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Relay Service at 800–877–8339 (TTY). (Other than the ''800'' TTY number, the above-listed telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

I. Background

Division H, Title II of the Further Consolidated Appropriations Act, 2020 states that the HUD Secretary ''for the calendar year 2020 funding cycle shall provide renewal funding for each public housing agency based on validated voucher management system (VMS) leasing and cost data for the prior calendar year and by applying an inflation factor as established by the Secretary, by notice published in the **Federal Register** . . .'' This notice announces the availability of the FY 2020 inflation factors and describes the methodology for calculating them. Tables in PDF and Microsoft Excel formats showing Renewal Funding Inflation Factors (RFIFs) by HUD Fair Market Rent (FMR) Area are available electronically from the HUD data information page at: *https://www.huduser.gov/portal/datasets/rfif/rfif.html.*

II. Methodology

RFIFs are used to adjust the allocation of Housing Choice Voucher (HCV) program funds to PHAs for local changes in rents, utility costs, and tenant incomes. To calculate the RFIFs, HUD first forecasts a national inflation factor, which is the predicted annual change in the national average Per Unit Cost (PUC). HUD then calculates individual area inflation factors, which are based on the annual changes in the two-bedroom FMR for each area. Finally, HUD adjusts the individual area inflation factors to be consistent with the national inflation factor.

HUD's forecast of the national average PUC is based on forecasts of gross rent and tenant income. Each forecast is produced using historical and forecasted macroeconomic data as independent variables, where the forecasts are consistent with the Economic Assumptions of the Administration's FY 2021 Budget. The forecast of gross rent is itself based on forecasts of the Consumer Price Index (CPI) Rent of Primary Residence Index and the CPI Fuels and Utilities Index. Forecasted values of these two CPI series are applied to the FY 2020 national average two-bedroom FMR to produce a CY 2020 gross rent value. A ''notional'' PUC is calculated as the difference between gross rent value and 30 percent of tenant income (the standard for tenant rent contribution in the voucher program). The forecast of tenant income is based on a model that uses HUD administrative data and employment data from the Bureau of Labor Statistics. The change between the forecasted CY 2020 notional PUC and the CY 2019 notional PUC is the expected national change in PUC, or 4.25 percent. HUD uses notional PUCs as opposed to actual PUCs because notional PUCs are not affected by differences in the number and quality of units among PHAs. For more information on HUD's forecast methodology, see 82 FR 26710.

The inflation factor for an individual geographic area is based on the annualized change in the area's FMR between FY 2019 and FY 2020. These changes in FMRs are then scaled such that the voucher-weighted average of all individual area inflation factors is equal to the national inflation factor, *i.e.,* the expected annual change in national PUC from CY 2019 to CY 2020, and such that no area has a factor less than one. For PHAs operating in multiple FMR areas, HUD calculates a voucher-weighted average inflation factor based on the count of vouchers in each FMR area administered by the PHA as captured in HUD administrative data as of December 31, 2019.

III. The Use of Inflation Factors

HUD subsequently applies the calculated individual area inflation factors to eligible renewal funding for each PHA based on VMS leasing and cost data for the prior calendar year.

IV. Geographic Areas and Area Definitions

As explained above, inflation factors based on area FMR changes are produced for all FMR areas and applied to eligible renewal funding for each PHA. The tables showing the RFIFs, available electronically from the HUD data information page, list the inflation factors for each FMR area on a state-by-state basis. The inflation factors use the same OMB metropolitan area definitions, as revised by HUD, that are used for the FY 2020 FMRs. PHAs should refer to the Area Definitions Table on the following web page to make certain that they are referencing the correct inflation factors: *http://www.huduser.org/portal/datasets/rfif/FY2020/FY2020_RFIF_FMR_AREA_REPORT.pdf.* The Area Definitions Table lists areas in alphabetical order by state, and the counties associated with each area. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. HUD is also releasing the data in Microsoft Excel format to assist users who may wish to use these data in other calculations. The Excel file is available at *https://www.huduser.gov/portal/datasets/rfif/rfif.html.* Note that, as described earlier, the actual renewal funding inflation factor applied to agency funding will be the voucher-weighted average of the FMR area factors when the PHA operates in multiple FMR areas.

V. Environmental Impact

This notice involves a statutorily required establishment of a rate or cost determination which does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: March 2, 2020.

Todd M. Richardson,

General Deputy, Assistant Secretary for Policy, Development and Research.

[FR Doc. 2020–04768 Filed 3–6–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7027–N–07]

60-Day Notice of Proposed Information Collection: Single Family Application for Insurance Benefits

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 8, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Single Family Application for Insurance Benefits.

OMB Approval Number: 2502–0429.

Type of Request: Revision.

Form Numbers: HUD–27011, HUD–9519–A, HUD–9539, HUD–50002, HUD–50012.

Description of the need for the information and proposed use: The respondents for this collection of information are Mortgagees that service FHA-insured mortgage loans; Mortgagors who are the homeowners; and the Mortgage Compliance Manager (MCM) contractor who manages HUD's single family real estate owned (REO) activities. This collection of information is where FHA-insured mortgage loan servicing covers the claims, conveyance process, property inspection, and preservation. The data and information provided is essential for managing HUD's programs and FHA's Mutual Mortgage Insurance Fund.

Respondents: Individuals or households and business or other for-profits.

Estimated Number of Respondents: 1,960.

Estimated Number of Responses: 1,125,455.

Frequency of Response: Varies.

Average Hours per Response: 50 minutes.

Total Estimated Burdens: 933,416.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Dated: February 26, 2020.

John L. Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2020–04769 Filed 3–6–20; 8:45 am]

BILLING CODE 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 Electronic Candle Products and Components Thereof, DN 3437;* 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 L&L Candle Company LLC and Sotera Tschetter Inc. on March 2, 2020. 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 electronic candle products and components thereof. The complaint names as respondents: The Gerson Company of Olathe, KS; Gerson International (H.K.) Ltd. of Hong Kong; Sterno Home Inc. of Canada; Ningbo Huamao International Trading Co., Ltd. of China; Ningbo Yinzhou Langsheng Artware Co., Ltd. of China; Lifetime Brands, Inc. of Garden City, NY; Scott Brothers Entertainment, Inc. of Las Vegas, NV; Nantong Ya Tai Candle Arts & Crafts Co., Ltd. of San Gabriel, CA; NapaStyle, Inc. of Napa, CA; Veraflame International, Inc. of Canada; MerchSource, LLC of Irvine, CA; Ningbo Mascube Import Export Company of China; Decorware International Inc. dba Decoreware Inc. of Rancho Cucamonga, CA; Shenzhen Goldenwell Smart Technology Co., Ltd. of China; Shenzhen Ksperway Technology Co., Ltd. of China; Ningbo Shanhuang Electric Appliance Co. of China; Yiwu Shengda Art Co., Ltd. of China; Shenzhen Tongfang Optoelectronic Technology Co., Ltd of China; TFL Candles of China; Guangdong Tongfang Lighting Co., Ltd. of Hong Kong; Tongfang Optoelectric Company of Hong Kong; and Virtual Candles Limited of the United Kingdom. The complainant requests that the Commission issue a general exclusion order, a limited exclusion order, cease desist orders 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. 3437'') 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 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: March 3, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–04739 Filed 3–6–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[USITC SE–20–010]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 19, 2020 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–638 and 731–TA–1473 (Preliminary) (Corrosion Inhibitors from China). The Commission is currently scheduled to complete and file its determination on March 23, 2020; views of the Commission are currently scheduled to be completed and filed on March 30, 2020.

5. Vote on Inv. Nos. 701–TA–618–619 and 731–TA–1441–1442 (Final) (Carbon and Alloy Steel Threaded Rod from China and India). The Commission is currently scheduled to complete and file its determinations and views of the Commission by April 3, 2020.

6. Outstanding action jackets: None.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 4, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–04791 Filed 3–5–20; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–20–009]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 17, 2020 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 731–TA–1435–1436 and 1439 (Final) (Acetone from Belgium, Korea, and South Africa). The Commission is currently scheduled to complete and file its determinations and views of the Commission by March 30, 2020.
5. Outstanding action jackets: None.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 4, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–04792 Filed 3–5–20; 11:15 am]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2020–0045]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit Nos. 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an April 15, 2019 request from Entergy Nuclear Operations, Inc. (Entergy, the licensee). The exemption allows a certified fuel handler, in addition to a licensed senior operator, to suspend security measures in an emergency or during severe weather for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3) after both the ''Certification of Permanent Cessation of Operations'' and the ''Certification of Permanent Fuel Removal'' have been docketed for that respective unit.

DATES: The exemption was issued on February 28, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0045 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0045. 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 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: Richard V. Guzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1030, email: *Richard.Guzman@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated at Rockville, Maryland, this 3rd day of March, 2020.

For the Nuclear Regulatory Commission.

Richard V. Guzman,

Senior Project Manager, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–247 and 50–286

Entergy Nuclear Operations, Inc.

Indian Point Nuclear Generating Unit Nos. 2 and 3

Exemption Related to the Approval Authority for Suspension of Security Measures in an Emergency or During Severe Weather

I. Background

Entergy Nuclear Operations, Inc. (Entergy, the licensee) is the holder of Renewed Facility Operating License Nos. DPR–26 and DPR–64 for Indian Point Nuclear Generating Units Nos. 2 and 3 (Indian Point 2 and 3). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission), now or hereafter in effect. The Indian Point 2 and 3 facility consists of two pressurized-water reactors located in Buchanan, New York.

By letter dated February 8, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17044A004), the licensee submitted a Notification of Permanent Cessation of Power Operations for Indian Point 2 and 3. In this letter, Entergy provided notification to the NRC of its intent to permanently cease power operations at Indian Point 2 and 3 no later than April 30, 2020, and April 30, 2021, respectively, subject to

operating extensions through, but not beyond, 2024 and 2025, respectively.

In accordance with title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.82(a)(1)(i) and (ii) and 50.82(a)(2), upon the docketing of the certifications for permanent cessation of operations and the permanent removal of fuel from the reactor vessel, the 10 CFR part 50 license no longer authorizes reactor operation or emplacement or retention of fuel in the reactor vessel. As a result, licensed senior operators (*i.e.,* individuals licensed under 10 CFR part 55 to manipulate the controls of a facility and to direct the licensed activities of licensed operators) will no longer be required to support plant operating activities. Instead, certified fuel handlers (CFHs) (*i.e.,* non-licensed operators who have qualified in accordance with a fuel handler training program approved by the Commission) will perform activities associated with decommissioning and irradiated fuel handling and management. Commission approval of a fuel handler training program is needed to facilitate these activities.

By letter dated April 15, 2019 (ADAMS Accession No. ML19105A632), Entergy submitted a request for Commission approval of the CFH Training and Retraining Program for Indian Point 2 and 3. By letter dated December 18, 2019 (ADAMS Accession No. ML19333B868), the Commission approved the CFH Training and Retraining Program for Indian Point 2 and 3. The CFH Training and Retraining Program is to be used to satisfy training requirements for the plant personnel responsible for supervising and directing the monitoring, storage, handling, and cooling of irradiated fuel in a manner consistent with ensuring the health and safety of the public. As stated in 10 CFR 50.2, ''Definitions,'' CFHs are qualified in accordance with a Commission-approved training program.

II. Request/Action

The Commission's regulations at 10 CFR 73.55(p)(1) address the suspension of security measures in an emergency (10 CFR 73.55(p)(1)(i)) or during severe weather (10 CFR 73.55(p)(1)(ii)):

> The licensee may suspend implementation of affected requirements of this section under the following conditions:
>
> (i) In accordance with §§ 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any security measures under this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of security measures must be approved as a minimum by a licensed senior operator before taking this action.
>
> (ii) During severe weather when the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection. This suspension of security measures must be approved, as a minimum, by a licensed senior operator, with input from the security supervisor or manager, before taking this action.

By letter dated April 15, 2019 (ADAMS Accession No. ML19105B237), the licensee requested an exemption from 10 CFR 73.55(p)(1)(i) and (ii), pursuant to 10 CFR 73.5, ''Specific exemptions.'' Consistent with 10 CFR 50.54(y), Entergy intends to have a CFH, in addition to a licensed senior operator, approve the suspension of security measures in an emergency or during severe weather at Indian Point 2 and 3.

III. Discussion

The NRC's security rules have long recognized the potential need to suspend security or safeguards measures under certain conditions. Accordingly, 10 CFR 50.54(x) and (y), first published in 1983, allow a licensee to take reasonable actions in an emergency that depart from license conditions or technical specifications when those actions are immediately ''needed to protect the public health and safety,'' and no actions consistent with license conditions and technical specifications that can provide adequate or equivalent protection are immediately apparent (48 FR 13970; April 1, 1983). As originally issued, the departure from license conditions or technical specifications must be approved, as a minimum, by a licensed senior operator. In 1986, in its final rule, ''Miscellaneous Amendments Concerning the Physical Protection of Nuclear Power Plants'' (51 FR 27821; August 4, 1986), the Commission issued 10 CFR 73.55(a), stating in part:

> In accordance with § [§] 50.54 (x) and (y) of Part 50, the licensee may suspend any safeguards measures pursuant to § 73.55 in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specification that can provide adequate or equivalent protection is immediately apparent. This suspension must be approved as a minimum by a licensed senior operator prior to taking the action.

In 1996, the NRC made a number of regulatory changes to address decommissioning. One of the changes was to amend 10 CFR 50.54(x) and (y) to authorize a non-licensed operator called a ''certified fuel handler,'' in addition to a licensed senior operator, to approve such protective actions in an emergency situation at a permanently shutdown facility. Specifically, in addressing the role of the CFH during emergencies, the Commission stated in the proposed rule, ''Decommissioning of Nuclear Power Reactors'' (60 FR 37379; July 20, 1995):

> The Commission is proposing to amend 10 CFR 50.54(y) to permit a certified fuel handler at nuclear power reactors that have permanently ceased operations and permanently removed fuel from the reactor vessel, subject to the requirements of § 50.82(a) and consistent with the proposed definition of ''Certified Fuel Handler'' specified in § 50.2, to make these evaluations and judgments. A nuclear power reactor that has permanently ceased operations and no longer has fuel in the reactor vessel does not require a licensed individual to monitor core conditions. A certified fuel handler at a permanently shutdown and defueled nuclear power reactor undergoing decommissioning is an individual who has the requisite knowledge and experience to evaluate plant conditions and make these judgments.

In the final rule (61 FR 39298; July 29, 1996), the NRC added the following definition to 10 CFR 50.2: ''*Certified fuel handler* means, for a nuclear power reactor facility, a non-licensed operator who has qualified in accordance with a fuel handler training program approved by the Commission.'' However, the decommissioning rule did not propose or make parallel changes to 10 CFR 73.55(a), and did not discuss the role of a non-licensed CFH at a permanently shutdown facility.

In the final rule, ''Power Reactor Security Requirements'' (74 FR 13926; March 27, 2009), the NRC relocated the security suspension requirements from 10 CFR 73.55(a) to 10 CFR 73.55(p)(1)(i) and (ii). The role of a CFH was not discussed in the rulemaking; therefore, the suspension of security measures in accordance with 10 CFR 73.55(p) continues to require approval, as a minimum, by a licensed senior operator, even for a permanently shutdown facility.

Under 10 CFR 73.5, the Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 73 as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. As explained below, the proposed exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

A. The Exemption is Authorized by Law

The proposed exemption from 10 CFR 73.55(p)(1)(i) and (ii) would remove the requirement that a licensed senior operator at Indian Point 2 and 3 approve the suspension of security measures under certain emergency conditions or severe weather. The licensee intends to use the authority of a non-licensed CFH, in addition to a licensed senior operator, to approve the suspension of security measures in an emergency or during severe weather. Although the exemption is effective upon receipt, the exemption may not be implemented at Indian Point 2 and 3 until the respective 10 CFR part 50 license no longer authorizes operation of the reactor or the emplacement or retention of fuel in the reactor vessel in accordance with 10 CFR 50.82(a)(2).

Per 10 CFR 73.5, the NRC may grant specific exemptions from the requirements of 10 CFR part 73. Granting the proposed exemption is consistent with the Atomic Energy Act of 1954, as amended, and not otherwise inconsistent with NRC regulations or other applicable laws. Therefore, the exemption is authorized by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

The requested exemption would permit a CFH, in addition to a licensed senior operator, to approve the suspension of security measures in an emergency or during severe weather at Indian Point 2 and 3 only when that respective reactor is permanently shut down and defueled. The NRC staff finds that the exemption will not endanger life or property or the common defense and security for the reasons discussed below.

First, 10 CFR 73.55(p)(2) will continue to require that ''[s]uspended security measures must be reinstated as soon as conditions permit.''

Second, the suspension of security measures for emergencies under 10 CFR 73.55(p)(1)(i) will continue to be invoked only ''when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.'' Thus, the exemption would not prevent the licensee from meeting the underlying purpose of 10 CFR 73.55(p)(1)(i) to protect the public health and safety.

Third, the suspension of security measures for severe weather under 10 CFR 73.55(p)(1)(ii) will continue to be used only when ''the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection.'' The requirement in 10 CFR 73.55(p)(1)(ii) to receive input from the security supervisor or manager will remain. Therefore, the exemption would not prevent the licensee from meeting the underlying purpose of 10 CFR 73.55(p)(1)(ii) to protect the health and safety of the security force.

Additionally, by letter dated December 18, 2019 (ADAMS Accession No. ML19333B868), the NRC approved the Indian Point 2 and 3 CFH Training and Retraining Program. The NRC staff found that, among other things, the program addresses the safe conduct of decommissioning activities, the safe handling and storage of spent fuel, and the appropriate response to plant emergencies. Because a CFH at Indian Point 2 and 3 will be sufficiently trained and qualified under an NRC-approved program, the NRC staff considers the CFH to have sufficient knowledge of operational and safety concerns, such that allowing the CFH to suspend security measures in emergencies or during severe weather will not result in undue risk to the public health and safety.

In addition, since the exemption allows a CFH the same authority currently given to the licensed senior operator under 10 CFR 73.55(p)(1)(i) and (ii), no change is required to physical security. Since no change is required to physical security, the exemption would not reduce the overall effectiveness of the Indian Point 2 and 3 physical security plan and would not adversely impact the licensee's ability to physically secure the site or protect special nuclear material at Indian Point 2 and 3, and thus, would not have an adverse effect on the common defense and security. The NRC staff has determined that the exemption would not reduce security measures currently in place to protect against radiological sabotage. Instead, the exemption would align the requirements of 10 CFR 73.55(p)(1)(i) and (ii) with the existing requirements of 10 CFR 50.54(y).

For these reasons, granting the exemption from the requirements in 10 CFR 73.55(p)(1)(i) and (ii) and permitting a CFH, in addition to a licensed senior operator, to approve the suspension of security measures in an emergency or during severe weather at Indian Point 2 and 3 when that respective reactor is permanently shut down and defueled will not endanger life or property or the common defense and security.

C. The Exemption is Otherwise in the Public Interest

The proposed exemption would allow a CFH, in addition to a licensed senior operator, to approve the suspension of security measures in an emergency when ''immediately needed to protect the public health and safety,'' or during severe weather events when ''immediately needed to protect the personal health and safety of security force personnel'' at Indian Point 2 and 3 when that respective reactor is permanently shut down. If the exemption is not granted, Indian Point 2 and 3 will be required to have a licensed senior operator available to approve the suspension of security measures in an emergency or during severe weather for a permanently shutdown plant, even though there would no longer be an NRC requirement for Entergy to maintain a licensed senior operator at Indian Point 2 and 3 after the certifications required by 10 CFR 50.82(a)(1)(i) and (ii) are submitted respective to each reactor.

This exemption is in the public interest for the following reasons. Without the exemption, there would be uncertainty regarding how the licensee will invoke the temporary suspension of security measures that may be needed for protecting the public health and safety or the personal health and safety of the security force personnel in emergencies or during severe weather, given the differences between the requirements in 10 CFR 73.55(p)(1)(i) and (ii), and 10 CFR 50.54(y). The exemption would allow the licensee to make decisions pursuant to 10 CFR 73.55(p)(1)(i) and (ii) without having to maintain a staff of licensed senior operators at a nuclear power reactor that has permanently ceased operations and permanently removed fuel from the reactor vessel. The exemption would also allow the licensee to have an established procedure in place to allow a CFH to suspend security measures in an emergency or during severe weather after the certifications required by 10 CFR 50.82(a)(1)(i) and (ii) have been submitted. Finally, the consistent and efficient regulation of nuclear power plants serves the public interest, and this exemption would ensure consistency between the regulations in 10 CFR part 73 and 10 CFR 50.54(y) and the requirements concerning licensed operators in 10 CFR part 55.

The NRC staff has determined that granting the proposed exemption would allow the licensee to designate a CFH

with qualifications appropriate for a permanently shutdown and defueled reactor to approve the suspension of security measures in an emergency to protect the public health and safety and during severe weather to protect the personal health and safety of the security force personnel. The actions permitted by the exemption may be implemented at each Indian Point 2 and 3 unit separately when both the ''Certification of Permanent Cessation of Operations'' and the ''Certification of Permanent Fuel Removal'' for that respective reactor is submitted in accordance with 10 CFR 50.82(a)(1)(i) and (ii), which is consistent with the similar authority provided by 10 CFR 50.54(y). Therefore, the exemption is in the public interest.

D. Environmental Consideration

The NRC's approval of the proposed exemption belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Pursuant to 10 CFR 51.22(b), as determined by the Commission, an environmental assessment or an environmental impact statement is not required for any action within a category of actions included in the list of categorical exclusions set out in paragraph (c) of Section 51.22. Specifically, the NRC's approval of the exemption is categorically excluded from further environmental analysis under 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (i) There is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve: Recordkeeping requirements; reporting requirements; inspection or surveillance requirements; equipment servicing or maintenance scheduling requirements; education, training, experience, qualification, requalification or other employment suitability requirements; safeguard plans, and materials control and accounting inventory scheduling requirements; scheduling requirements; surety, insurance or indemnity requirements; or other requirements of an administrative, managerial, or organizational nature.

The NRC staff has determined that granting the proposed exemption involves no significant hazards consideration because allowing a CFH, in addition to a licensed senior operator, to approve the security suspension at a permanently shutdown and defueled power plant does 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 proposed exemption is unrelated to any operational restriction. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The proposed exemption is not associated with construction, so there is no significant construction impact. The proposed exemption does not concern the source term (*i.e.,* potential amount of radiation in an accident) or mitigation. Thus, there is no significant increase in the potential for or consequences from radiological accidents. Finally, the requirement regarding suspensions of security measures involves either safeguards, materials control, or managerial/organizational matters.

Therefore, pursuant to 10 CFR 51.22(b) and (c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of the proposed exemption.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee's request for an exemption from the requirements of 10 CFR 73.55(p)(1)(i) and (ii) to authorize that the suspension of security measures must be approved, as a minimum, by either a licensed senior operator or a CFH at Indian Point 2 and 3 during emergency or severe weather, once the respective unit's certifications required under 10 CFR 50.82(a)(1) have been submitted.

Dated at Rockville, Maryland, this 28th day of February, 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–04710 Filed 3–6–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530; NRC–2020–0069]

Arizona Public Service Company; Palo Verde Nuclear Generating Station, Units 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a July 6, 2018, request, as supplemented by letters dated October 18, 2018; March 1, 2019; May 17, 2019; October 4, 2019; November 26, 2019; and December 19, 2019, from Arizona Public Service Company (the licensee) in order to use Framatome M5® alloy as a fuel rod cladding material at Palo Verde Nuclear Generating Station, Units 1, 2, and 3.

DATES: The exemption was issued on March 4, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0069 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 *http://www.regulations.gov* and search for Docket ID NRC–2020–0069. 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 Documents collection at *http://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 in this

document (if that document 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: Siva P. Lingam, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1564, email: *Siva.Lingam@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated at Rockville, Maryland, this 4th day of March, 2020.

For the Nuclear Regulatory Commission.

Siva P. Lingam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment: Exemption

Nuclear Regulatory Commission

Docket Nos. STN 50–528, STN 50–529, and STN 50–530 Arizona Public Service Company Palo Verde Nuclear Generating Station, Units 1, 2, and 3 Exemption

I. Background

Arizona Public Service Company (APS, the licensee) is the holder of Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74, which authorizes operation of Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (Palo Verde), respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect. The facility consists of a pressurized-water reactor (PWR) located in Maricopa County, Arizona.

By application dated July 6, 2018, as supplemented by letters dated October 18, 2018; March 1, 2019; May 17, 2019; October 4, 2019; November 26, 2019; and December 19, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML18187A417, ML18296A466, ML19060A298, ML19137A118, ML19277J457, ML19331A361, and ML19353C038, respectively), APS, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.12, ''Specific exemptions,'' requested an exemption from certain requirements of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems [ECCS] for light-water nuclear power reactors,'' and 10 CFR part 50, Appendix K, ''ECCS Evaluation Models,'' for Palo Verde. Since these regulations specifically refer only to zircaloy and ZIRLO™, an exemption would be required to apply them to fuel clad with other materials, such as Framatome M5® zirconium alloy.[1] Therefore, APS has requested such an exemption to support transition to the Framatome M5® alloy cladding. The proposed request would not exempt Palo Verde from the requirements of 10 CFR 50.46 or 10 CFR part 50, Appendix K regarding acceptance criteria, evaluation model features and documentation, reporting of changes or errors, etc.

The submittal from APS described above also contains the fuel transition license amendment request that is necessary to support batch loading of Framatome Advanced Combustion Engineering (CE) 16x16 High Thermal Performance (HTP™) fuel. This exemption is specific to the Framatome M5® cladding material exemption request only. The fuel transition and associated technical specification changes are subject to a concurrent review that is being documented in the safety evaluation (SE) with the license amendments (ADAMS Accession No. ML20031C947).

Precedent exemptions have also been approved for other CE plants including St. Lucie Plant, Unit Nos. 1 and 2 (ADAMS Accession Nos. ML14064A125 and ML16015A286, respectively).

II. Request/Action

By application dated July 6, 2018, as supplemented by letters dated October 18, 2018, and March 1, 2019; May 17, 2019; October 4, 2019; November 26, 2019; and December 19, 2019, APS, pursuant to 10 CFR 50.12, requested an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR part 50. The proposed exemption request would permit the application of 10 CFR 50.46 and Appendix K to 10 CFR part 50 to fuel rods cladded with Framatome M5® alloy at Palo Verde. Since the requirements in 10 CFR 50.46 and Appendix K to 10 CFR part 50 are predicated upon the use of fuel clad with zircaloy or ZIRLO™ alloy, an exemption is necessary to apply these requirements to fuel rods clad with Framatome M5® alloy.

The technical basis supporting the use of fuel clad with M5® in PWRs is documented primarily in Topical Report BAW–10227–P–A, Revision 1, ''Evaluation of Advanced Cladding and Structural Material (M5®) in PWR Reactor Fuel,'' dated June 2003 (ADAMS Accession No. ML15162B043). This topical report describes Framatome's evaluation supporting the use of the M5® alloy in PWR fuel assemblies as a replacement for Zircaloy-4. This topical report discusses fundamental material properties of M5®, as well as its behavior under normal operation, anticipated transients, and postulated accident conditions.

III. Discussion

The regulation in Section 50.46(a)(1)(i) of 10 CFR states, in part:

> Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated.

Since 10 CFR 50.46 specifically refers to fuel with zircaloy or ZIRLO™ cladding, its application to fuel clad with materials other than zircaloy or ZIRLO™ requires an exemption from this section of the regulations.

The regulation in paragraph I.A.5, ''Metal—Water Reaction Rate,'' of 10 CFR part 50, Appendix K, states, in part:

> The rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction shall be calculated using the Baker-Just equation (Baker, L., Just, L.C., ''Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reaction,'' ANL–6548, page 7, May 1962).

The requirement for using the Baker-Just equation in Appendix K-conformant loss-of-coolant accident evaluation models presumes use of zircaloy or ZIRLO™ clad fuel rods. Therefore, application of 10 CFR part 50, Appendix K to cladding materials other than zircaloy or ZIRLO™ also requires an exemption.

The exemption request from APS relates solely to the particular types of fuel cladding materials specified in these regulations. As written, the regulations presume use of zircaloy or ZIRLO™ cladding. Thus, an exemption is necessary to apply 10 CFR 50.46 and 10 CFR part 50, Appendix K to other cladding materials such as M5®. The proposed request would not exempt Palo Verde from any other requirements of 10 CFR 50.46 or 10 CFR part 50,

[1] HTP and M5®″ are trademarks or registered trademarks of Framatome, Inc. (formerly AREVA Inc.).

Appendix K regarding acceptance criteria, evaluation model features and documentation, reporting of changes or errors, etc.

Section 50.12 of 10 CFR states that the Commission may grant exemptions from requirements of the regulations in 10 CFR part 50 for reasons, which are (1) the exemption is authorized by law, (2) the exemption will not present an undue risk to the public health and safety, (3) the exemption is consistent with the common defense and security, and (4) special circumstances, as defined in 10 CFR 50.12(a)(2), are present. The licensee's submittal identifies in particular that the special circumstance associated with this exemption request is that restricting application of 10 CFR 50.46 and 10 CFR part 50, Appendix K to fuels clad with only zircaloy or ZIRLO™ is not necessary to achieve the underlying purpose of these regulations.

A. The Exemption is Authorized by Law

The NRC has the authority under 10 CFR 50.12 to grant exemptions from the requirements of Part 50 upon demonstration of proper justification. The fuel that will be irradiated at Palo Verde is clad with a zirconium-based alloy that is not expressly within the scope of 10 CFR 50.46 and 10 CFR part 50, Appendix K. However, the NRC staff considers the acceptance criteria and methods of these regulations applicable to M5®, and the licensee will ensure that these regulations are satisfied for operation with fuel clad with M5®. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The NRC-approved Topical Report BAW–10227–P–A, which concerns the properties of the M5® alloy, provides assurance that predicted chemical, thermal, and mechanical characteristics of M5® alloy cladding are acceptable under normal operation, anticipated transients, and postulated accidents. The NRC staff further found that the acceptance criteria and analytical methods from 10 CFR 50.46 and 10 CFR part 50, Appendix K provide acceptable safety margins for fuel clad with M5® that are consistent with those the NRC has established for zircaloy and ZIRLO™. Reload cores involving M5® cladding will continue to be subject to the operating limits specified in the technical specifications and core operating limits report. Thus, granting this exemption request will not pose undue risk to public health and safety.

C. The Exemption Is Consistent With the Common Defense and Security

The proposed exemption will allow the licensee to use an enhanced fuel rod cladding material relative to the zircaloy material for which the requirements of 10 CFR 50.46 and 10 CFR part 50, Appendix K were originally established. In addition to its review of the exemption request described in this SE, the NRC staff has further evaluated all licensing-basis changes necessary to support loading fuel clad with M5® in a separate SE and documented the basis for their acceptability. Based on these reviews, the NRC staff concludes that the use of M5® fuel rod cladding at Palo Verde will not significantly affect plant operations and is therefore consistent with the common defense and security.

D. Special Circumstances

Neither 10 CFR 50.46 nor 10 CFR part 50, Appendix K explicitly applies to fuel clad with M5®. However, the underlying purpose of 10 CFR 50.46 and 10 CFR part 50, Appendix K is to provide requirements capable of ensuring adequate core cooling following the most limiting postulated loss-of-coolant accident. As discussed above, Framatome has demonstrated in an NRC-approved topical report (*i.e.,* BAW–10227–P–A) that application of the acceptance criteria and analytical methods required in 10 CFR 50.46 and 10 CFR part 50, Appendix K to fuel clad with M5® is acceptable. Normal core reload safety analyses will further confirm on a cycle-specific basis that there is no adverse impact on ECCS performance for Palo Verde. Therefore, strict application of the material-specific requirements for fuel cladding in 10 CFR 50.46 and 10 CFR part 50, Appendix K is not necessary to achieve the underlying purpose of ensuring adequate core cooling in this instance. Furthermore, granting an exemption to allow application of the balance of these regulations to fuel clad with M5® at Palo Verde would be consistent with the underlying regulatory purpose.

E. Supplemental Information

For more technical details, refer to the SE associated with this exemption under ADAMS Accession No. ML20022A109 (Enclosure 2).

F. Environmental Considerations

The NRC staff determined that the exemption discussed herein meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9) because it is related to a requirement concerning the installation or use of facility components located within the restricted area, as defined in 10 CFR part 20, and the granting of this exemption involves: (i) No significant hazards consideration, (ii) no significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, and (iii) no significant increase in individual or cumulative occupational radiation exposure. Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's consideration of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants APS an exemption from the requirements of 10 CFR 50.46 and 10 CFR part 50, Appendix K, to allow the use of Framatome M5® alloy fuel rod cladding material at Palo Verde, Units 1, 2, and 3. As stated above, this exemption relates solely to the cladding material specified in these regulations.

Dated at Rockville, Maryland, this 4th day of March 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–04767 Filed 3–6–20; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0136, Designation of Beneficiary: Federal Employees' Group Life Insurance, SF 2823

AGENCY: Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Federal Employee Insurance Operations, Healthcare Insurance, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR), Designation of Beneficiary: Federal Employees' Group Life Insurance, SF 2823.

DATES: Comments are encouraged and will be accepted until May 8, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0136). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Standard Form 2823 is used by any Federal employee or retiree covered by the Federal Employees' Group Life Insurance (FEGLI) Program, or an assignee who owns an insured's coverage, to instruct the Office of Federal Employees' Group Life Insurance how to distribute the proceeds of the FEGLI coverage when the statutory order of precedence does not meet his or her needs.

Analysis

Agency: Federal Employee Insurance Operations, Healthcare Insurance, OPM.

Title: Designation of Beneficiary: Federal Employees' Group Life Insurance.

OMB Number: 3206–0136.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 48,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 12,000.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–04687 Filed 3–6–20; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–97 and CP2020–101]

New Postal Product

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:* March 11, 2020.

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:

Table of Contents

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).:* MC2020–97 and CP2020–101; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 3, 2020; *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:* March 11, 2020.

[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).

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–04756 Filed 3–6–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

TIME AND DATE: Thursday, March 5, 2020, at 9:00 a.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Thursday, March 5, 2020, at 9:00 a.m.

1. Strategic Issues.
2. Administrative Items.

On March 5, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC. The Board determined that no earlier public notice was practicable.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2020–04895 Filed 3–5–20; 4:15 pm]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., March 18, 2020.

PLACE: 8th Floor Board Conference Room, 844 North Rush Street, Chicago, Illinois 60611.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Wisconsin Central SCOTUS decision next steps.
2. Status of Chief Medical Officer position.
3. Fraud Risk Assessment Committee taskforce next steps/Disability process improvement recommendations.
4. High-level budget overview.

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, Phone No. 312–751–4920.

(Authority: 5 U.S.C. 552b)

Dated: March 5, 2020.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2020–04861 Filed 3–5–20; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934; Release No. 34–88318/March 4, 2020]

Order Under Section 36 of the Securities Exchange Act of 1934 Granting Exemptions From Specified Provisions of the Exchange Act and Certain Rules Thereunder

The current outbreak of coronavirus disease 2019 (COVID–19) was first reported on December 31, 2019 in Wuhan, China. The staff understands from entities and their representatives that COVID–19 may present challenges in timely meeting certain of their obligations under the federal securities laws. These entities may include U.S. companies with significant operations in the affected areas, as well as companies located in those regions. In light of this, we are issuing this Order to assist affected entities with meeting their obligations under the federal securities laws.

Section 36 of the Exchange Act authorizes the Commission, by rule, regulation, or order, to exempt, either conditionally or unconditionally, any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Any registrant or other person in need of additional assistance related to deadlines, delivery obligations or their public filings, should contact the Division of Corporation Finance at (202) 551–3500 or at *https://tts.sec.gov/cgi-bin/corp_fin_interpretive.*

I. Time Period for the Relief

The time period for the relief specified in Sections II of this Order is as follows:

- With respect to those registrants or other persons impacted by COVID–19, the period from and including March 1, 2020 to April 30, 2020.
- The Commission intends to monitor the current situation and may, if necessary, extend the time period during which this relief applies, with any additional conditions the Commission deems appropriate and/or issue other relief.

II. Filing Requirements for Registrants and Other Persons

Disruptions to transportation, and limited access to facilities, support staff, and professional advisors as a result of COVID–19, could hamper the efforts of public companies and other persons with filing obligations to meet their filing deadlines. At the same time, investors have an interest in the timely availability of required information about these companies and the activities of persons required to file schedules and reports with respect to these companies. While the Commission believes that the relief from filing requirements provided by the exemption below is necessary and appropriate in the public interest and consistent with the protection of investors, we remind public companies and other persons who are the subjects of this Order to continue to evaluate their obligations to make materially accurate and complete disclosures in accordance with the federal securities laws.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act, that a registrant (as defined in Exchange Act Rule 12b–2) subject to the reporting requirements of Exchange Act Section 13(a) or 15(d), and any person required to make any filings with respect to such a registrant, is exempt from any requirement to file or furnish materials with the Commission under Exchange Act Sections 13(a), 13(f), 13(g), 14(a), 14(c), 14(f), 15(d) and Regulations 13A, Regulation 13D–G (except for those provisions mandating the filing of Schedule 13D or amendments to Schedule 13D), 14A, 14C and 15D, and Exchange Act Rules 13f–1, and 14f–1, as applicable, where the conditions below are satisfied.

Conditions

(a) The registrant or any person required to make any filings with respect to such a registrant is unable to meet a filing deadline due to circumstances related to COVID–19;

(b) Any registrant relying on this Order furnishes to the Commission a Form 8–K or, if eligible, a Form 6–K by

the later of March 16 or original filing deadline of the report [1] stating: [2]

(1) That it is relying on this Order;

(2) a brief description of the reasons why, it could not file such report, schedule or form on a timely basis;

(3) the estimated date by which the report, schedule, or form is expected to be filed;

(4) if appropriate, a risk factor explaining, if material, the impact of COVID–19 on its business; and

(5) if the reason the subject report cannot be filed timely relates to the inability of any person, other than the registrant, to furnish any required opinion, report or certification, the Form 8–K or Form 6–K shall have attached as an exhibit a statement signed by such person stating the specific reasons why such person is unable to furnish the required opinion, report or certification on or before the date such report must be filed.

(c) The registrant or any person required to make any filings with respect to such a registrant files with the Commission any report, schedule, or form required to be filed no later than 45 days after the original due date; and

(d) In any report, schedule or form filed by the applicable deadline pursuant to paragraph (c) above, the registrant or any person required to make any filings with respect to such a registrant must disclose that it is relying on this Order and state the reasons why it could not file such report, schedule or form on a timely basis.

III. Furnishing of Proxy and Information Statements

We also believe that relief is warranted for those seeking to comply with the requirements of Exchange Act Sections 14(a) and (c) and Regulations 14A and 14C and Exchange Act Rule 14f–1 thereunder to furnish materials to security holders when mail delivery is not possible and that the following exemption is necessary and appropriate in the public interest and consistent with the protection of investors.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act, that a registrant or any other person is exempt from the requirements of the Exchange Act and the rules thereunder to furnish proxy statements, annual reports, and other soliciting materials, as applicable (the ''Soliciting Materials''), and the requirements of the Exchange Act and the rules thereunder to furnish information statements and annual reports, as applicable (the ''Information Materials''), where the conditions below are satisfied.

Conditions

(a) The registrant's security holder has a mailing address located in an area where, as a result of COVID–19, the common carrier has suspended delivery service of the type or class customarily used by the registrant or other person making the solicitation; and

(b) The registrant or other person making a solicitation has made a good faith effort to furnish the Soliciting Materials to the security holder, as required by the rules applicable to the particular method of delivering Soliciting Materials to the security holder, or, in the case of Information Materials, the registrant has made a good faith effort to furnish the Information Materials to the security holder in accordance with the rules applicable to Information Materials.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–04763 Filed 3–6–20; 8:45 am]

BILLING CODE 8011–01–P

[1] Any registrant relying on this Order would not need file a Form 12b–25 so long as the report, schedule, or form is filed within the time period prescribed by this Order.

[2] The Commission believes such statements, as furnished, to the extent they contain ''forward-looking statements,'' would be subject to the safe harbor under Exchange Act, Section 21E. *See* the Private Securities Litigation Reform Act of 1995, 15 U.S.C. 77z–1 (1998).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88317; File No. SR–OCC–2020–801]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Concerning a Master Repurchase Agreement as Part of OCC's Overall Liquidity Plan

March 4, 2020.

I. Introduction

On January 10, 2020, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2020–801 (''Advance Notice'') pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act'') [3] to enter into a committed master repurchase agreement with a bank counterparty to access a committed source of liquidity to meet its settlement obligations.[4] The Advance Notice was published for public comment in the **Federal Register** on February 11, 2020,[5] and the Commission has received no comments regarding the changes proposed in the Advance Notice. The Commission is hereby providing notice of no objection to the Advance Notice.

II. Background [6]

OCC maintains cash and other liquid resources to help it ensure that it can meet its obligations in the event of a Clearing Member default. OCC's liquid resources have included access to a diverse set of funding sources, including a syndicated credit facility, a committed master repurchase program with institutional investors such as pension funds (the ''Non-Bank Liquidity Facility''), and Clearing Member minimum cash Clearing Fund requirements.[7] The confirmations [8] under the Non-Bank Liquidity Facility, totaling $1 billion, expired on January 6, 2020.[9] To help ensure that OCC's total committed liquidity resources did not decrease following expiration of the $1 billion Non-Bank Repo Facility, OCC previously sourced an additional $500 million by exercising the accordion feature of its syndicated bank credit facility.[10] In addition to that, OCC exercised its existing authority to temporarily increase the cash funding requirement in its Clearing Fund from $3 billion to $3.5 billion, which Clearing Members were obligated to fund by January 6, 2020.[11] Taken together, these two liquidity sources fully replaced the $1 billion Non-Bank Repo Facility prior to its expiration on January 6, 2020. Now, OCC proposes to access an additional committed source of liquidity to meet its settlement obligations by entering into a committed

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] *See* Notice of Filing *infra* note 5, at 85 FR 7812.

[5] Securities Exchange Act Release No. 88120 (Feb. 5, 2020), 85 FR 7812 (Feb. 11, 2020) (SR–OCC–2020–801) (''Notice of Filing'').

[6] Capitalized terms used but not defined herein have the meanings specified in OCC's Rules and By-Laws, available at *https://www.theocc.com/about/publications/bylaws.jsp.*

[7] *See* Notice of Filing, 85 FR at 7812 (citations omitted).

[8] A confirmation under a master repurchase agreement describes the terms of a transaction, including the purchased securities, purchase price, purchase date, repurchase date, and any additional terms or conditions not inconsistent with the master repurchase agreement.

[9] *See* Notice of Filing, 85 FR at 7814 n. 19.

[10] *See* Notice of Filing, 85 FR at 7814 n. 20.

[11] *See* OCC Information Memo #46287, Revised *Cash Requirement in Clearing Fund* (Jan. 3, 2020), available at *https://www.theocc.com/webapps/infomemos?number=46287&date=202001&lastModifiedDate=01%2F03%2F202000%3A00%3A00.*

master repurchase agreement (''MRA'') with a bank counterparty with confirmations totaling $500 million (the ''Bank Repo Facility'').[12]

The Commission previously reviewed and did not object to OCC's execution of the Non-Bank Repo Facility, which was based on the same standard form master repurchase agreement as the MRA governing the proposed Bank Repo Facility.[13] As with the Non-Bank Repo Facility, under the MRA, the securities eligible for transactions under the MRA would include U.S. government securities. Specifically, OCC would use securities included in the margin deposits of a suspended Clearing Member as well as Clearing Fund contributions to access the Bank Repo Facility. The market value of the securities supporting each transaction under the Bank Repo Facility would be determined daily, and OCC would be obligated to provide additional securities as necessary in response to a fall in the market value of purchased securities. Similarly, the standard terms addressing an event of default under the MRA would be substantially similar to the terms of the agreement underlying the Non-Bank Liquidity Facility. Further, as part of establishing the Bank Repo Facility, OCC would review and monitor its counterparty's ability to meet obligations under the MRA.

Many of the terms of the MRA specifically tailored to the Bank Repo Facility would nonetheless be substantially similar to the terms of the agreement underlying the Non-Bank Liquidity Facility, including (1) the duration of the agreement; (2) the buyer's obligation to fund regardless of a material adverse change, such as the failure of a Clearing Member; (3) availability of funds within 60 minutes of OCC providing securities to the buyer; (4) a prohibition against rehypothecation of the purchased securities by the buyer; (5) OCC's option to terminate a transaction early and to specify a new repurchase date;[14] (6) OCC's right to substitute any eligible securities for purchased securities; and (7) the use of a ''mini-default'' in lieu of declaring an event of default at the discretion of the non-defaulting party.[15]

Where necessary and appropriate, however, certain terms of the proposed MRA would differ from the terms of the agreement underlying the Non-Bank Liquidity Facility. For example, the Bank Repo Facility would include confirmations totaling $500 million rather than $1 billion.[16] Other differences between the MRA and the agreement underlying the Non-Bank Liquidity Facility relate to the fact that OCC's counterparty for the Bank Repo Facility is a commercial bank rather than a pension fund. Specifically, unlike the terms underlying the Non-Bank Liquidity Facility, OCC would not require the Bank Repo Facility counterparty to maintain cash and investments in a designated account into which OCC has visibility.[17] Such a designated account was necessary to facilitate prompt funding for the Non-Bank Liquidity Facility counterparties because they, unlike the Bank Repo Facility counterparty, were not commercial banks and therefore were not in the business of daily funding.[18] Similarly, the MRA would not include terms related to a custodian other than the Bank Repo Facility counterparty because OCC's counterparty, as a commercial bank, would be capable of acting as custodian of the purchased securities.[19]

III. Commission Findings and Notice of No Objection

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities (''SIFMUs'') and strengthening the liquidity of SIFMUs.[20]

Section 805(a)(2) of the Clearing Supervision Act[21] authorizes the Commission to prescribe regulations containing risk-management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act[22] provides the following objectives and principles for the Commission's risk-management standards prescribed under Section 805(a):

- To promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk-management standards may address such areas as risk-management and default policies and procedures, among other areas.[23]

The Commission has adopted risk-management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[24] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk-management practices on an ongoing basis.[25] As such, it is appropriate for the

[12] Because the counterparty may be a bank with which OCC has existing relationships, in which case the proposed Bank Repo Facility could materially increase OCC's exposure to the bank, the Commission requested and reviewed information about existing relationships and exposures. *See* Notice of Filing, 85 FR at 7812, n. 9 (stating that OCC provided additional information in a confidential Exhibit 3b). The Commission also reviewed information regarding OCC's processes for monitoring such exposures. *Id.*

[13] *See e.g.,* Securities Exchange Act Release No. 76821 (Jan. 4, 2016), 81 FR 3208 (Jan. 20, 2016) (SR–OCC–2015–805); Securities Exchange Act Release No. 73979 (Jan. 2, 2015), 80 FR 1062 (Jan. 8, 2015) (SR–OCC–2014–809). Similar to the agreement underlying the Non-Bank Liquidity Facility, the materials terms of the MRA would be based on a standard form master repurchase agreement published by the Securities Industry and Financial Markets Association.

[14] The buyer would not have a similar right, but rather, would be permitted to terminate a transaction early only upon the occurrence of an event of default with respect to OCC.

[15] For example, if the buyer fails to transfer purchased securities on the applicable repurchase date, rather than declaring an event of default, OCC may (1) if OCC has already paid the repurchase price, require the buyer to repay the repurchase price, (2) if there is a margin excess, require the buyer to pay cash or deliver purchased securities in an amount equal to the margin excess, or (3) declare that the applicable transaction, and only that transaction, will be immediately terminated, and apply default remedies under the MRA to only that transaction.

[16] As described above, OCC has already sourced additional liquid resources through its syndicated credit facility that would cover the other half of the Non-Bank Liquidity Facility. Additionally, the establishment of the Bank Repo Facility would not preclude OCC from establishing other arrangements with different liquidity providers in the future.

[17] *See* Notice of Filing, 85 FR at 7813 n. 16.

[18] *See id.*

[19] Based on information provided by OCC, the Commission understands that OCC's counterparty to the Bank Repo Facility, as a commercial bank, would custody the purchased securities, and would provide to OCC information regarding purchased securities similar to what was required of a third-party custodian under the Non-Bank Repo Facility. *See* Notice of Filing, 85 FR at 7812, n. 9 (stating that OCC provided additional information in a confidential Exhibit 3b).

[20] *See* 12 U.S.C. 5461(b).

[21] 12 U.S.C. 5464(a)(2).

[22] 12 U.S.C. 5464(b).

[23] 12 U.S.C. 5464(c).

[24] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (Nov. 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). The Commission established an effective date of December 12, 2016 and a compliance date of April 11, 2017 for the Covered Clearing Agency Standards. OCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[25] 17 CFR 240.17Ad–22.

Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the changes proposed in the Advance Notice are consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,[26] and in the Clearing Agency Rules, in particular Rules 17Ad–22(e)(7).[27]

A. Consistency With Section 805(b) of the Clearing Supervision Act

The Commission believes that the proposal contained in OCC's Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act. Specifically, as discussed below, the Commission believes that the changes proposed in the Advance Notice are consistent with promoting robust risk management in the area of liquidity risk, promoting safety and soundness, reducing systemic risks, and supporting the stability of the broader financial system.[28]

The Commission believes that the proposed changes are consistent with promoting robust risk management, in particular management of liquidity risk presented to OCC. OCC is a SIFMU.[29] As a SIFMU, it is imperative that OCC have adequate resources to be able to satisfy its counterparty settlement obligations, including in the event of a Clearing Member default.[30] As described above, OCC proposes to implement the Bank Repo Facility, in part, to address the expiration of the Non-Bank Facility and ensure that OCC's committed liquid resources remain at or above the amount that OCC has determined it needs to ensure that it has adequate resource to be able to satisfy its counterparty settlement obligations, after the Non-Bank Repo Facility expired on January 6, 2020. In addition, implementing the Bank Repo Facility would help OCC maintain its access to liquid resources through a committed repurchase agreement, which would have the additional advantage of helping to maintain diversity among the liquidity resources that OCC may use to resolve a Clearing Member default.[31] As such, the Commission believes that the proposal would promote robust risk management practices at OCC, consistent with Section 805(b) of the Clearing Supervision Act.[32]

The Commission also believes that the changes proposed in the Advance Notice are consistent with promoting safety and soundness, reducing systemic risks, and promoting the stability of the broader financial system. As described above, the Bank Repo Facility would provide OCC with another liquidity resource in the event of a Clearing Member default, in addition to the existing syndicated credit facility and Clearing Member minimum cash Clearing Fund requirements. This would promote safety and soundness for Clearing Members because it would provide OCC with diversity among resources and a readily available liquidity resource that could enable OCC to continue to meet its settlement obligations in a timely fashion in the event of a Clearing Member default, thereby helping to contain losses and liquidity pressures from such a default. Maintaining adequate and diversified resources to help manage a Clearing Member default, in turn, enhances OCC's ability to manage systemic risk and to support the broader financial system. As such, the Commission believes it is consistent with promoting safety and soundness, reducing systemic risks, and promoting the stability of the broader financial system as contemplated in Section 805(b) of the Clearing Supervision Act.[33]

Accordingly, and for the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[34]

B. Consistency With Rule 17Ad–22(e)(7) Under the Exchange Act

Rule 17Ad–22(e)(7)(ii) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, holding qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i)[35] in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.[36] For any covered clearing agency, ''qualifying liquid resources'' means assets that are readily available and convertible into cash through prearranged funding arrangements, such as, committed arrangements without material adverse change provisions, including, among others, repurchase agreements.[37]

As described above, implementation of the Bank Repo Facility would provide OCC with a committed funding arrangement that would give OCC access to $500 million of committed liquid resources through an MRA with a bank counterparty. Under the terms of the MRA, OCC's bank counterparty would be required to provide OCC with funding subject to a number of conditions, including an obligation to fund regardless of any material adverse change at OCC, such as the failure of a Clearing Member. Taken together, the Commission believes that the Bank Repo Facility provides OCC with $500 million of ''qualifying liquid resources'' as that term is defined in Rule 17Ad–22(e)(14) of the Exchange Act,[38] and therefore is consistent with the requirements of Rule 17Ad–22(e)(7)(ii) under the Exchange.

Accordingly, the Commission believes that implementation of the Bank Repo Facility would be consistent with Rule 17Ad–22(e)(7)(ii) under the Exchange Act.[39]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission DOES NOT OBJECT to Advance Notice

[26] 12 U.S.C. 5464(b).

[27] 17 CFR 240.17Ad–22(e)(7).

[28] 12 U.S.C. 5464(b).

[29] *See* Financial Stability Oversight Council (''FSOC'') 2012 Annual Report, Appendix A, available at *https://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.*

[30] *See* Securities Exchange Act Release No. 73979 (Jan. 2, 2015), 80 FR 1062, 1065 (Jan. 8, 2015) (SR–OCC–2014–809).

[31] OCC maintains access to a diverse set of funding sources in addition to the Bank and Non-Bank Repo Facilities, including a syndicated credit facility and Clearing Member minimum cash Clearing Fund requirements.

[32] 12 U.S.C. 5464(b).

[33] 12 U.S.C. 5464(b).

[34] 12 U.S.C. 5464(b).

[35] Rule 17Ad–22(e)(7)(i) requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by OCC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment of obligation for the covered clearing agency in extreme but plausible conditions. 17 CFR 240.17Ad–22(e)(7)(i).

[36] 17 CFR 240.17Ad–22(e)(7)(ii).

[37] 17 CFR 240.17Ad–22(a)(14)(ii)(3).

[38] 17 CFR 240.17Ad–22(a)(14)(ii)(3).

[39] 17 CFR 240.17Ad–22(e)(7)(ii).

(SR–OCC–2020–801) and that OCC is AUTHORIZED to implement the proposed change as of the date of this notice.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–04771 Filed 3–6–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88313; File No. SR–IEX–2020–03]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rules 2.220(a)(7) and 11.410(a) To Include the Long-Term Stock Exchange, Inc. (LTSE) in the List of Away Trading Centers to Which the Exchange Routes and the Market Data Sources the Exchange Will Use To Determine LTSE's Top of Book Quotation

March 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2020, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[3] and Rule 19b–4 thereunder,[4] the Exchange is filing with the Commission a proposed rule change to amend IEX Rules 2.220(a)(7) and 11.410(a) to include the Long-Term Stock Exchange, Inc. (''LTSE'') in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine LTSE's Top of Book[5] quotation, in anticipation of LTSE's planned launch. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7] The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 these statement [sic] 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 amend IEX Rules 2.220(a)(7)[8] and 11.410(a)[9] to include the Long-Term Stock Exchange, Inc. (''LTSE'') in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine LTSE's Top of Book[10] quotation, in anticipation of LTSE's planned launch, which LTSE expects ''toward the end of Q1 2020.''[11] The Exchange is also proposing to re-alphabetize the list of away trading centers in both IEX Rules 2.220(a)(7) and 11.410(a).

Specifically, the Exchange proposes to amend IEX Rule 2.220(a)(7) to add LTSE to the list of away trading centers to which IEX Services routes orders. As set forth in IEX Rule 11.230(b)(2), IEX Services routes eligible orders to away trading centers with accessible Protected Quotations in compliance with Regulation NMS Rule 611.[12] The Exchange must include LTSE in its list of away trading centers to which it routes, because LTSE's best-priced, displayed quotation will be a Protected Quotation under Regulation NMS Rule 600(b)(62)[13] for purposes of Regulation NMS Rule 611.[14]

The Exchange also proposes to amend and update the table in IEX Rule 11.410(a) specifying the primary sources for LTSE market data. As specified in IEX Rule 11.410(a)(2), the Exchange uses market data from each away trading center that produces a Protected Quotation[15] to determine each away trading center's Top of Book quotation, as well as the NBBO[16] for certain reporting, regulatory and compliance systems within IEX. As proposed, the Exchange will use securities information processor (''SIP'') data, *i.e.,* CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges plan, to determine LTSE Top of Book quotes. No secondary source for LTSE market data will be specified because LTSE has announced that it will only distribute market data to the SIPs and will not have a proprietary market data feed.[17]

Consistent with the proposed changes to the table in IEX Rule 11.410(a), the Exchange proposes to make a conforming change to IEX Rule 11.410(a)(2) to reflect that, as proposed, the Exchange will use SIP data as the primary source from which it will determine Top of Book quotations for LTSE and for certain reporting, regulatory and compliance systems within IEX.[18] While the Exchange uses proprietary market data feeds to determine the Protected Quotations of all but two of the other away markets,[19] it will utilize the SIP quote feeds to determine LTSE's Protected Quotations because LTSE will only distribute market data to the SIP and will not have a proprietary market data feed.[20]

Furthermore, the Exchange is proposing to make nonsubstantive changes to the list of away trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] *See* IEX Rule 11.410(a)(1).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] IEX Rule 2.220(a)(7) lists the away trading centers that IEX Services LLC (''IEX Services'') routes to as outbound router for the Exchange.

[9] IEX Rule 11.410(a) specifies the market data sources for each away trading center that the Exchange uses for necessary price reference points.

[10] *See* IEX Rule 11.410(a)(1).

[11] *See* LTSE FAQ for Exchange Launch published on January 3, 2020, available at: *https://ltse.com/static/MA-2020-001-e5bc8cb62425903526027cdeed7b14fd.pdf.*

[12] 17 CFR 242.611.

[13] 17 CFR 242.600(b)(62).

[14] *See* Securities Exchange Act Release No. 85828 (May 10, 2019), 84 FR 21841, 21849 (May 15, 2019) (File No. 10–234) (Order approving LTSE application for registration as a national securities exchange).

[15] *See* IEX Rule 1.160(bb).

[16] *See* IEX Rule 1.160(u).

[17] *See supra* note 11 at 2.

[18] *See* IEX Rule 11.410(a)(2).

[19] The Exchange also uses CQS/UQDF SIP data as the exclusive source of market data for NYSE Chicago (XCHI) and NYSE National (XCIS). *See* IEX Rule 11.410(a).

[20] *See supra* note 11 at 2.

centers in IEX Rule 2.220(a)(7) and the table of away trading centers in IEX Rule 11.410(a) to list each away trading center in alphabetical order.

The Exchange is not proposing any other changes to IEX Rules 2.220(a)(7) and 11.410. The proposed changes do not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[21] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[22] in particular, in that it is 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.

For the reasons discussed in the Purpose section, the Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because including LTSE in the list of away trading centers to which IEX routes and in the sources of market data the Exchange will use to determine away trading center Top of Book quotes will facilitate the Exchange's compliance with the applicable requirements of Regulation NMS. Similarly, the Exchange believes it is consistent with the Act to specify in Rule 11.410(a)(2) that the Exchange will use SIP data to calculate LTSE's Top of Book quotation and for certain reporting, regulatory and compliance systems within the Exchange, because it will facilitate compliance with the applicable requirements of Regulation NMS and provide clarity in this regard to market participants.

Additionally, adding LTSE to the list of away trading centers to which IEX routes and in the sources of market data the Exchange will use to determine away trading center Top of Book quotes provides transparency with respect to the away trading centers to which IEX Services may route orders and the sources of market data the Exchange will use to determine LTSE Top of Book quotes. In addition, and as further noted in the Purpose section, LTSE will only disseminate its market data through the SIP, so use of SIP data to determine LTSE's Top of Book quotes is the only means to do so.

Further, the Exchange believes it is consistent with the Act to update the referenced rules to list all the away trading centers in alphabetical order, to enhance clarity to market participants.

As noted in the Purpose section, the proposed changes are nonsubstantive and do not alter the manner in which orders are handled or routed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed update does not impact competition in any respect since its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds, and to update an away market name.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(6) thereunder.[24]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[25] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[26] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay.

The proposed rule change amends IEX rules to reflect the launch of LTSE as an away trading center with a Protected Quote and specifies that IEX will route orders to LTSE and use the SIP to determine LTSE's Top of Book quotation. Additionally, the proposed rule change will make a nonsubstantive change to re-alphabetize the list of away trading centers in IEX Rule 2.220(a)(7) to enhance clarity to market participants.

The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change in anticipation of LTSE's exchange launch, thereby facilitating IEX's compliance with the applicable requirements of Regulation NMS and providing clarity to market participants with respect to whether IEX routes to LTSE and how IEX determines LTSE's Top of Book quotation. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[27]

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 under Section 19(b)(2)(B)[28] 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:

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 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.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] 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).

[28] 15 U.S.C. 78s(b)(2)(B).

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–IEX–2020–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2020–03. 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 will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* 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–IEX–2020–03 and should be submitted on or before March 30,2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–04678 Filed 3–6–20; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88312; File No. SR–CBOE–2020–014]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Adopt a Delta-Adjusted at Close (DAC) Order Instruction That a User May Apply to an Order When Entering it Into the System for Execution in an Electronic or Open Outcry Auction

March 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 18, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to adopt a Delta-Adjusted at Close (''DAC'') order instruction that a User may apply to an order when entering it into the System [3] for execution in an electronic or open outcry auction. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a Delta-Adjusted at Close or DAC order instruction that a User may apply to an order when entering it into the System for execution in an electronic or open outcry auction. In particular, if a DAC order executes during the trading day, upon receipt of the official closing price or value for the underlying from the primary listing exchange or index provider, respectively, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the underlying reference price between the time of execution and the market close. As proposed, DAC orders will allow Users the opportunity to incorporate into the pricing of their options the closing price or value of the underlying on the transaction date based on how much the price or value changed during the trading day.

Near the market close, the Exchange has observed that significant numbers of market participants interact in the equity markets, which may substantially impact the price or value, as applicable, of the underlying at the market close. For example, shares of exchange-traded funds (''ETFs'') that track indexes, which are increasingly popular, often trade at or near the market close in order to better align with the indexes they track and attempt to align the market price of shares of the ETF as close to the net asset value (''NAV'') [4] per share as possible. Further, the Exchange understands that market makers and other liquidity providers seek to balance their books before the market close and contribute to increased price discovery surrounding the market close. The Exchange also believes it is common for other market participants to seek to offset intraday positions and mitigate exposure risks based on their predictions of the closing underlying prices or underlying indexes (which represent the settlement prices of options on those underylings). The Exchange understands this substantial

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 1.1, which defines the System as the Exchange's hybrid trading platform that integrates electronic and open outcry trading of option contracts on the Exchange, and includes any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub.

[4] The NAV is an ETF's total assets minus its total liabilities. ETFs generally must calculate their NAV at least once every business day, and typically do so after market close. *See* 17 CFR 270.2a–4.

activity near the market close may create wider spreads and increased price volatility, which may attract further trading activity from those participants seeking arbitrage opportunities and further drive prices. In light of the significant liquidity and price/value movements in equity shares that can occur near the market close, option closing and settlement prices may deviate significantly from option execution prices earlier that trading day. The proposed DAC order instruction is designed to allow investors to incorporate any upside market moves that may occur following execution of the order up to the market close while limiting downside risk. Additionally, the Exchange has noted that there have been a number of managed funds that recognize the benefits to their investors in employing certain strategies that allow for their investors to mitigate risk at the market close while also participating in beneficial market moves at the close. The proposed DAC order would provide such funds with an additional method to attempt to meet their objectives through options strategies, thereby benefitting their investors.

As stated, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the price of the underlying from the time of order execution to the market close. Delta is the measure of the change in the option price as it relates to a change in the price of the underlying security or value of the underlying index, as applicable. For example, an option with a 50 delta (which is generally represented as 0.50) would result in the option moving $0.50 per $1.00 move in the underlying (*i.e.,* price move in the underlying x delta value = anticipated price move in the option). Delta changes as the price or value of the underlying stock or index changes and as time changes, thus giving a User an estimate of how an option will behave if the price of the underlying moves in either direction. Call option deltas are positive (ranging from 0 to 1), because as the underlying increases in price so does a call option. Conversely, put option deltas are negative (ranging from −1 to 0), because as the underlying increases in price the put option decreases in price. The Exchange understands that investors use delta as an important hedging and risk management tool in options trading. For example, by trading an option with a lower delta, an investor's underlying position will be exposed to more downside risk if price or value of the underlying fall. Therefore, the Exchange believes the proposed DAC order instruction will allow a market participant to maintain a full hedge of its position taken upon intraday execution of a DAC order throughout the remainder of the trading day, which ultimately reduces the market participant's portfolio risk.

The Exchange proposes to make the DAC pricing instruction available for simple orders in Rule 5.30(a)(2), for complex orders in Rule 5.33(b)(5), for orders submitted in FLEX Options in Rule 5.70(a)(2), and, as indicated above, for orders submitted for open outcry trading pursuant to Rule 5.83(a)(2) (simple orders) and Rule 5.83(b)(2) (complex orders). As proposed, Rule 5.6(c) (Order Types, Order Instructions, and Times-in-Force) provides that a DAC order is an order for which the System delta-adjusts its execution price after the market close. Specifically, the delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or value of the underlying on the transaction date and the reference price or index value of the underlying (''reference price''). Upon order entry for electronic execution, a User must designate a delta value and may designate a reference price. If no reference price is designated, the System will include the price or value, as applicable, of the underlying at the time of order entry as the reference price. Upon order entry for open outcry execution, a User may designate a delta value and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value and reference price would be reflected in the final terms of the execution.

Likewise, the proposed definition in Rule 5.33(b)(5) (Types of Complex Orders) provides for essentially the same definition, differing only in that: It applies to complex orders; upon order entry for electronic execution a User must designate a delta value per leg, and for open outcry execution may designate a delta value for one or more legs; a DAC complex order may only be submitted for execution in a complex electronic auction pursuant to Rules 5.33(d), 5.38, and 5.40 or in open outcry trading on the Exchange's trading floor pursuant to Rule 5.85; and a DAC complex order is not eligible to rest in the Complex Order Book (''COB'').

Users will enter into the System all DAC orders as they would any other order pursuant to Rule 5.7 (governing the order entry of simple and complex orders) or 5.72(b) (governing the order entry of FLEX orders), as applicable, and the applicable auction rules. As defined above, a User may designate the reference price of the underlying upon submitting a DAC order. Proposed Rule 5.34(c)(12) (Order and Quote Price Protection Mechanisms and Risk Controls) provides that a User-designated reference price will be subject to a reasonability check. Specifically, if a User submits a DAC order to the System with a reference price more than an Exchange-determined amount away from the underlying price or value at the time of submission of the DAC order, the System cancels or rejects the order.[5] Moreover, if a User chooses to submit a DAC order without a reference price, the System will automatically input the price or value of the underlying at the time of order entry as the reference price.

For a DAC order submitted for electronic execution, a User will be required to designate a delta value upon order entry (including for each leg of a DAC complex order as set forth in proposed Rule 5.33(b)(5)).[6] A User may designate a delta value upon entry of a DAC order submitted for open outcry execution. As noted above, delta are either between 0 and 1 for calls, and 0 and −1 for puts.[7] The Exchange notes that 1.0000 is the equivalent of a 100 delta. Pursuant to the general principles by which deltas function, the delta for a call leg(s) must be greater than zero and the delta for a put option leg(s) must be less than zero. Additionally, the delta for call (put) legs must be less (greater) than or equal to the delta for the adjacent call (put) leg (*i.e.,* the leg with the next largest strike price) of the same expiration as the strike price increases. This is also consistent with the general manner in which deltas function, and ensures that the deltas on the same leg type within the same expiration trend away from zero as the strike value increases.

Typically, a User submits an electronic complex order (including a DAC complex order, as proposed) with a net price, and the System then uses the Book and the NBBO as a benchmark in determining leg prices based on the

[5] The System will use the most recent last sale (or disseminated index value) as the reference price.

[6] The same requirement would apply for a FLEX DAC complex order. *See* proposed Rule 5.72(b)(2)(A).

[7] Note the Exchange will permit delta values to be input up to four decimals, as prices for the underlying securities and index values may be expressed in four decimals. However, bids and offers may only be input in accordance with Rule 5.4, which bids and offers the System will use to rank and allocate orders and auction responses.

net execution price of a complex order (which leg prices may not be outside of the best prices of orders and quotes in the book for those legs).[8] However, as the delta value will be applied at market close as part of the calculation to adjust the DAC order, that is, after the System has already determined and populated the leg prices intraday based on the net execution price of a complex order, the System will need to be able to apply a delta value per each of the leg prices to properly calculate the DAC by adjusting the execution price of each leg.

In line with its proposed definition, a User may apply the DAC order instruction to:

- A simple order submitted into the Automated Improvement Mechanism (''AIM'' or ''AIM Auction'') [9] or the Solicitation Auction Mechanism (''SAM'' or ''SAM Auction''); [10]
- a complex order submitted into a Complex Order Auction (''COA''),[11] the Complex Automated Improvement Auction (''C–AIM'' or ''C–AIM Auction''),[12] or the Complex Solicitation Auction Mechanism (''C–SAM'' or ''C–SAM Auction''); [13]
- a FLEX order submitted into an electronic FLEX auction,[14] the FLEX Automated Improvement Auction (''FLEX AIM'' or FLEX AIM Auction'') [15] or the FLEX Solicitation Auction Mechanism (''FLEX SAM'' or ''FLEX SAM Auction''); [16] or
- a simple, complex, or FLEX order submitted for manual handling in an open outcry auction on the Exchange's trading floor.[17]

A DAC order will be handled and executed in all of these auctions in the same manner as any other order pursuant to the applicable auction rules, including pricing, priority, and allocation rules.[18] Similarly, a DAC order submitted for open outcry trading will execute in the same manner as any other order executed in open outcry pursuant to Chapter 5, Section G of the Rules (and Rule 5.72(d) with respect to FLEX Options).

As proposed, a DAC order submitted for electronic execution will not be eligible to rest in the Book, and may only execute in an electronic auction. The delta and reference price appended to a DAC order would be based on data regarding the underlying at the time of order entry. As those values change as the price or value of the underlying change, the reference price and delta at the time of submission would achieve the desired delta-adjusted price result only if the DAC order executes almost immediately upon submission. To allow a DAC order to rest on the Book and potentially execute after a significant amount of time has passed since entry, underlying price and related delta at the time a DAC order would eventually execute would be different and thus not achieve the User's desired result. By only permitting a DAC order to execute in an electronic auction, the proposed rule ensures that, if a DAC orders executes, it will do so within a short time following submission. Indeed, the Exchange's electronic auctions last for a brief, defined period, the length of which is currently 100 milliseconds for non-FLEX electronic auctions [19] and, for FLEX electronic auctions, between three seconds to five minutes as designated by the Submitting/Initiating FLEX Trader.[20] As such, the Exchange believes that permitting DAC orders submitted for electronic execution to execute only in electronic auctions is consistent with the intended purpose of a DAC order.

Pursuant to the proposed definitions in Rules 5.6(c) and 5.33(b)(5) (as well as proposed Rule 5.72(b)(2)(B) for FLEX DAC orders), for DAC orders submitted for execution in open outcry, a User has the option to designate a delta value (per one or more legs for DAC complex orders) and/or a reference price. In-crowd market participants then determine the final delta value(s) [21] and/or reference price during the open outcry auction. That is, they would negotiate the delta value(s)/reference price as terms of the order (in conjunction with their negotiation of the price of the order) and reflect the ultimately agreed upon delta value(s)/reference price in the final terms of the DAC order. This is consistent with the manner that the terms (including execution price) of any other order are currently negotiated and ultimately reflected for open outcry executions. For similar reasons why the proposed rule change will not permit DAC orders to rest in the Book, the proposed rule change does not require a User to include a delta value or reference price when submitting a DAC order for open outcry execution. A floor broker may be unable to execute an order until well after it received the order for manual handling. Given that the delta and reference price may move during that time, the proposed rule provides the ability of market participants to agree to appropriate terms given the then-current underlying price or value at the time of execution. Unlike in the electronic market, in-crowd market participants are able to negotiate and agree to these terms as part of open outcry trading. As a result, the delta-adjusted price may achieve the desired result of the broker's customer.

For any DAC order that executes during a trading day, upon receipt of the official closing price for the underlying from the primary listing exchange or index provider, the System will adjust the original execution price based on the delta applied to the absolute change in the underlying between the time of execution and the market close. The Exchange notes that, like the execution price of any option, a delta-adjusted price may never be zero or negative. If this occurs as a result of the DAC calculation, the System will set the delta-adjusted price to the minimum permissible increment.

The delta adjustment formula that will be applied at the close will be as follows:

The delta-adjusted price = the original execution price + (the change in the underlying price × delta) or P2 = P1 + (U − R) * D, where:

- P1 = Original execution price
- P2 = Delta-adjusted price calculated at the close
- R = Reference price
- U = price of the underlying at the market close
- D = Delta

Example 1: A DAC call order is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

- P1 = $1.00
- R = $100.00
- U = $101.00
- D = .4000

Therefore, P2 = ($1.00 + (($101 − $100) * .4000) = $1.40.

[8] There is no requirement to systematize leg prices upon submission of a complex order. *See generally* Rule 5.7(f).

[9] *See* Rule 5.37.

[10] *See* Rule 5.39.

[11] *See* Rule 5.33(d).

[12] *See* Rule 5.38.

[13] *See* Rule 5.40.

[14] *See* Rule 5.72(c).

[15] *See* Rule 5.73.

[16] *See* Rule 5.74.

[17] *See* Rules 5.72(d) and 5.85.

[18] *See id.*

[19] *See* Cboe Tradedesk Updates, No. C2019102100 (October 21, 2019), available at: *https://cdn.cboe.com/resources/release_notes/2019/Update-to-Auction-Response-Time-Interval-for-Cboe-Options-Exchanges.pdf. See also* Rules 5.37(c); 5.38(c); 5.39(c); and 5.40(c), which provide that an auction period is a period of time determined by the Exchange, which may be no less than 100 milliseconds and no more than one second, for AIM, C–AIM, SAM, and C–SAM, respectively; and Rule 5.33(d)(3), which provides that for a COA the Exchange determines the duration of the Response Time Interval, which may not exceed 500 milliseconds.

[20] *See* Rules 5.72(c), 5.73(c)(3) and 5.74(c)(3).

[21] The Exchange notes that in-crowd participants currently have delta values built into their own analytics and pricing tools and that generally such values only slightly differ across participants.

Example 2: A DAC put order in a penny class is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

- P1 = $1.00
- R = $100.00
- U = $103.00
- D = −.4000

Therefore, P2 = ($1.00 + ((103 − $100) * −.4000) = -$0.20. However, because an execution price, including a delta-adjusted execution price, may not be negative, the System would adjust P2 = $0.01 (the minimum permissible increment).

The Exchange notes a User may only apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price expressed as a fixed price in dollars and decimals. The proposed change to Rule 5.83(a)(2) and (b)(2) specifies that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date, as this functionality is not compatible with the DAC order instruction.[22] The System will need a fixed execution price at the time of order execution that will be delta-adjusted (which delta value is based on dollar price movements in the underlying) following the market close. However, a FLEX order for a series with an exercise price formatted as a percentage of the closing value will execute at a percentage rather than a fixed price, which would not be determined until the market close. Therefore, execution price of such a FLEX order will incorporate the closing price or value of the underlying in a different manner, and the System would not have an execution price to adjust. Similarly, the proposed change to Rule 5.83(a)(2) and (b)(2) specifies a User will not be able to designate a FLEX Order in a FLEX Option series that is Asian- or Cliquet-settled. The settlement prices for these options are determined by averaging a pre-set number of closing index values or summing the monthly returns, respectively, on specified monthly observation dates.[23] The transaction prices for these options reflect these terms, and delta-adjustment of those transaction prices would be based on the movement of the underlying on only the transaction date. These settlement types are, as a result, inconsistent with the DAC order instruction.

The proposed definition of DAC orders in Rule 5.6(c) also states that a DAC order submitted through PAR has a Time-in-Force of Day.[24] A Time-in-force of Day for an order so designated means that the order, if not executed, expires at RTH market close. Thus, this proposed Time-in-Force for DAC orders submitted for execution in open outcry ensures that such orders will execute in line with their intended purpose—intraday and as close in time as possible to the time in which it was submitted to achieve the desired result of the broker's customer. Moreover, the proposed DAC definition provides that a User may not designate a DAC order as All Sessions (*i.e.,* eligible for Regular Trading Hours (''RTH'') and Global Trading Hours (''GTH'')),[25] as the adjustment calculation for DAC orders is linked to the RTH market close for the underlying securities and indexes. Additionally, equities are not traded during the entire GTH session, and not all indexes have values disseminated during GTH, so there would not be a then-current reference price for DAC orders outside of RTH. Finally, the proposed definition provides that a User may not designate bulk messages as DAC. A bulk message is a bid or offer included in a single electronic message a User submits to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers.[26] The Exchange notes that the purpose of bulk messages is to encourage market-maker quoting and the provision of liquidity on the exchange throughout the trading day. As a DAC order will not be eligible to rest in the Book and, instead, execute almost immediately, allowing Users to designate their bulk messages as a DAC order would conflict with the intended purpose of a bulk message.[27]

The reference price and delta value, as well as the execution price, will be provided to all transaction parties on all fill reports at the time of the execution of a DAC order (*i.e.,* an ''unadjusted DAC trade''). Unadjusted DAC trade information will also be sent to the Options Clearing Corporation (''OCC'') and disseminated to Options Price Reporting Agency (''OPRA''). Upon conclusion of the delta-adjustment of the execution price following the market close, fill restatements will be sent to all transaction parties. Matched trades will be sent to the OCC and OPRA once the restatement process is complete with the delta-adjusted price. The prior unadjusted trade reported to the OCC and disseminated to OPRA will be cancelled and replaced with a trade report with all of the same information, except the original execution price will be replaced with the delta-adjusted price.[28] The Exchange has discussed with both the OCC and OPRA of its plans to adopt DAC orders and confirmed that adopting the proposed restatement process is acceptable. Additionally, the Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle additional any additional order traffic, and the associated restatements, that may result from the adoption of DAC orders. Further, the Exchange represents it has an adequate surveillance program in place to monitor orders with DAC pricing and that the proposed pricing instruction will not have an adverse impact on surveillance capacity. Finally, the proposed order instruction will not have any impact on pricing or price discovery at or near the market close. A DAC order will execute intraday in the same manner as any other order, and its price will merely be automatically adjusted following determination of the final closing price or value of the underlying security or index, respectively.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[29] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[30] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to,

[22] *See* Rule 4.21(b)(6)(A).

[23] *See* Rule 4.21(b)(5)(B).

[24] The Exchange again notes that electronically submitted DAC orders will be submitted through the electronic auctions, and either executed or cancelled upon the conclusion of an auction, making an instruction regarding the time the System will hold an order unnecessary. Therefore, a requirement to apply a Time-in-Force of Day is not necessary for electronic DAC orders.

[25] *See* Rule 1.1.

[26] *See id.*

[27] The Exchange also notes that bulk messages are not currently available for complex orders (thus, not eligible to trade in the complex electronic auctions), not currently eligible to submit to any of the auctions.

[28] The Exchange notes that this restatement process is the same for an order that has been adjusted or nullified and subsequently restated pursuant to the Exchange's obvious error rules. *See* Rule 6.5.

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[31] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed DAC order will promote just and equitable principles of trade and will remove impediments to and perfect the mechanism of a free and open market and national market system, as it will allow market participants to incorporate into the pricing of their options the closing price of the underlying on the transaction date based on the amount in which the price or value of the underlying change intraday, thus, allowing investors to incorporate potential upside market moves that may occur following the execution of an order up to the market close while limiting downside risk. As described above, the market close is a time in which maximum significant numbers of participants interact on the equity markets. This activity may contribute to substantially increased liquidity and significant price volatility near the close of the equity markets, which can potentially cause the closing prices of the underlyings and, therefore, the settlement prices of options on those underlyings to greatly deviate from the average option execution prices traded earlier that trading day. The Exchange believes DAC orders will serve to protect investors by allowing them, through use of the underlying reference prices and delta, to fully hedge their options positions taken during the trading day through the market close and potentially benefit from price movements at the close. Also, as managed funds have recently begun utilizing strategies at the close in order to mitigate risk at the close and participate in beneficial market moves at the same time, the Exchange believes that DAC orders will offer an additional method by which these funds will be able meet these objectives through the execution of options strategies, thereby benefiting investors that hold shares of these funds.

The Exchange further believes that the adoption of DAC orders on the Exchange will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because DAC orders will be entered, priced, prioritized, allocated and execute as any other order would when submitted into any of the applicable electronic auctions or for open outcry trading. As such, market participants would not be subject to any new or novel order entry, pricing, allocation, and execution processes in relation to their DAC orders as such orders will be handled pursuant to the Exchange Rules governing the applicable auction processes or execution in open outcry, which have been previously approved by the Commission.

The Exchange believes the proposed differences regarding the requirements to enter DAC-specific pricing information for electronic and open outcry trading reflect the differences in those types of trading, and as a result, may assist investors in achieving the goals of DAC orders. The general delta value requirements are in line with just and equitable principles or trading and with the protection of investors because they are consistent with the manner in which a delta is commonly known to function and generally used in options trading. Further, the Exchange believes that proposed Rule 5.34(c)(12) provides System controls in connection with DAC orders that are designed to protect investors. The Exchange believes the proposed reference price reasonability check will mitigate risks associated submitting a DAC order with a reference price unintended by the User as a likely result of human or operational error. The Exchange also notes that similar mechanisms and controls are currently in place on the Exchange for various types of orders.[32]

In addition to this, the Exchange believes that permitting a DAC order submitted for electronic execution to execute only in an electronic auction will protect investors and serve to remove impediments to and perfect the mechanism of a free and open market and national market system, because it is consistent with the intended purpose of DAC orders. This would ensure that DAC orders that can execute would do so within a short time following submission and therefore in a manner that achieves a User's desired delta-adjusted price. As described above, the goal of a DAC order is to adjust the execution price based on a delta value applied to the change in the underlying price between the market close and the time of the trade. Therefore, a DAC order must be able to execute as close in time as possible to the time of order submission (*i.e.,* the point in time a User designates a reference price and delta) so as to allow the reference price and related delta to remain in line with the underlying price information at the time of submission and achieve the User's desired result. This result may not occur for a DAC order resting in the Book for a significant amount of time. As such, a DAC order submitted through an electronic auction, like any order submitted in an auction, will be executed within a short time following submission. Thus, the Exchange believes that the proposed limitation to electronic auctions would protect investors by allowing DAC orders to execute in line with Users' expectations and a DAC order's intended purpose.

The Exchange believes that by providing that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date or in options that are Asian-or Cliquet-settled will remove impediments to and perfect the mechanism of a free and open market and national market system and generally protect investors because these FLEX terms are inconsistent with the DAC order instruction and would conflict with the manner in which the System calculates the delta-adjusted price upon the market close. Similarly, the Exchange believes that the proposed rule designating DAC orders submitted for execution in open outcry with a Time-in-Force of Day, as well as not permitting a User to designate a DAC order as All Sessions will also protect investors because, execution on the following trading day, or during the GTH session would prevent achievement of the desired result of a DAC order. As discussed above, such executions would be inconsistent with the intended purpose of a DAC order. Also, the proposed provision that a User may not designate bulk messages as DAC will remove impediments to and perfect the mechanism of a free and open market and national market system because it will ensure bulk messages do not contain an instruction that would conflict with their intended purpose in encouraging the provision of liquidity on the Exchange throughout the trading day.

The Exchange notes that it has discussed with the OCC and OPRA its plan to adopt DAC orders, including the proposal to apply the restatement process described above to DAC orders. Moreover, the Exchange represents that the Exchange itself and OPRA have the

[31] *Id.*

[32] *See generally* Rule 5.34, which provides for additional order and quote price protection mechanisms and risk controls for simple and complex orders, including similar reasonability checks set at Exchange-determined amounts.

necessary systems capacity to handle any additional order traffic and the related restatements that may result from the adoption of DAC orders, thereby ensuring the protection of investors. The Exchange also believes the additional restatements and adjustments for DAC orders would be manageable and that its existing surveillances are adequate to monitor trading of DAC orders thereby helping to ensure the maintenance of a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because use of the DAC order instruction will be optional and available to all Users. Any User may determine whether to apply a DAC order instruction to the orders it submits to the Exchange, and the System will handle all DAC orders submitted by all Users to the Exchange in the same manner according to the proposed rule change. Users will not be required to apply a DAC order instruction to any orders, and may continue to apply any other currently available order instructions to their orders.

The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it is intended to provide market participants with an additional means to manage risks in connection with potential volatility and downside price swings that may occur near the market close, while allowing them to receive potential benefits associated with any upside market moves near the market close. The Exchange believes the proposed rule change may foster competition, as other options exchanges in their discretion may pursue the adoption of orders with similar purposes, which will result in additional choices for investors. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [33]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–014, and should be submitted on or before March 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–04677 Filed 3–6–20; 8:45 am]

BILLING CODE 8011–01–P

[33] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, March 11, 2020 at 9:00 a.m.

PLACE: The meeting will be held in Auditorium LL–002 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 9:00 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: The Commission will consider whether to adopt amendments to the accelerated filer and large accelerated filer definitions to promote capital formation for smaller reporting issuers by more

appropriately tailoring the types of issuers that are included in the categories of accelerated and large accelerated filers and revising the transition thresholds for these filers.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: March 4, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–04863 Filed 3–5–20; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Docket No.: SBA–2019–0011]

Class Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notification of waiver of the Nonmanufacturer Rule for commercially available off-the-shelf laptop and tablet computers.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a class waiver of the Nonmanufacturer Rule (NMR) for commercially available off-the-shelf laptop and tablet computers under North American Industry Classification System (NAICS) code 334111 and Product Service Code (PSC) 7435. This U.S. industry comprises establishments primarily engaged in manufacturing laptop and tablet computers.

DATES: This action is effective April 8, 2020.

FOR FURTHER INFORMATION CONTACT: Carol J. Hulme, Attorney Advisor, by telephone at (202) 205–6347 or by email at *carol-ann.hulme@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations require that recipients of Federal supply contracts issued as a small business set-aside (except as stated below), service-disabled veteran-owned small business (SDVO SB) set-aside or sole source contract, Historically Underutilized Business Zone (HUBZone) set-aside or sole source contract, WOSB (women-owned small business) or economically disadvantaged women-owned small business (EDWOSB) set-aside or sole source contract, 8(a) set-aside or sole source contract, partial set-aside, or set aside of an order against a multiple award contract provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR 121.406(b). Note that the NMR does not apply to small business set-aside acquisitions with an estimated value between the micro-purchase threshold and the simplified acquisition threshold. Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

The SBA defines ''class of products'' based on a combination of (1) the six-digit NAICS code, (2) the four-digit PSC, and (3) a description of the class of products. As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

On July 26, 2019, SBA received a request to waive the NMR for commercially available off-the-shelf laptops and tablet computers under NAICS code 334111 and PSC 7435. According to that request, submitted with supporting information, there are no small business manufacturers of these items in the Federal market.

On December 17, 2019 (84 FR 69010), the SBA issued a Notice of Intent to grant a class waiver for commercially available off-the-shelf laptops and tablet computers. SBA received 41 comments in response to the Notice. All comments supported the issuance of the class waiver as there are no small business manufacturers in the Federal market for commercially available off-the-shelf laptops and tablet computers.

As expressed in the Notice of Intent, SBA limits this class waiver to laptops and tablet computers procured by the government that meet the Federal Acquisition Regulation (FAR) definition of ''commercially available off-the-shelf (COTS)'' items. In FAR section 2.101, the FAR defines the term ''commercially available off-the-shelf (COTS) item'' as follows: ''(1) Means any item or supply (including construction material) that is—(i) A commercial item (as defined in paragraph (1) of the definition in this section); (ii) Sold in substantial quantities in the commercial marketplace; and (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.''

SBA received 41 comments in response to the Notice of Intent. All comments were in support of the waiver. Although none of the comments mentioned specialty laptops and tablet computers that are modified to meet demands of the Federal Government, those items are not included in the waiver. The exclusion of specialty laptops and tablet computers modified to meet Federal Government was included in the Notice of Intent.

Therefore, in the absence of a small business manufacturer of commercially available off-the-shelf laptops and tablet computers, this class waiver is necessary to allow otherwise qualified regular dealers to supply the product of any manufacturer on a Federal contract or order set aside for small business, SDVOSB, WOSB, EDWOSB, HUBZone or participants in the SBA's 8(a) Business Development Program. SBA's waiver of the nonmanufacturer rule has no effect on the requirements in 13 CFR 121.406(b)(1)(i) to (iii) and on requirements external to the Small Business Act which involve domestic sources of supply, such as the Buy American Act or the Trade Agreements Act.

More information on the NMR and Class Waivers can be found at *https://www.sba.gov/contracting/contracting-officials/non-manufacturer-rule/non-manufacturer-waivers.*

David Wm. Loines,

Director, Office of Government Contracting.

[FR Doc. 2020–04681 Filed 3–6–20; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2017–0046]

Social Security Ruling, SSR 20–01p: How We Determine an Individual's Education Category

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are providing notice of SSR 20–01p. This Ruling explains how we determine an individual's education category in adult disability claims under

titles II and XVI of the Social Security Act.

DATES: We will apply this notice on April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dan O'Brien, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, 410–597–1632. For information on eligibility or filing for benefits, call our national toll-free number at 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a) (1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

We use SSRs to make available to the public precedential decisions relating to the Federal old age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made in our administrative review process, Federal court decisions, decisions of our Commissioner, opinions from our Office of the General Counsel, or other interpretations of law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all of our components. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the **Federal Register** that rescinds it, or until we publish a new SSR in the **Federal Register** that rescinds and replaces or modifies it.

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

Dated: February 10, 2020.

Andrew Saul,

Commissioner of Social Security.

Policy Interpretation Ruling

SSR 20–01p: Titles II and XVI: How We Determine an Individual's Education Category

Purpose: This Social Security Ruling (SSR) explains how we determine an individual's education category in adult initial disability decisions, determinations, redeterminations, and continuing disability reviews under titles II and XVI of the Social Security Act.

Citations (Authority): Sections 223(d)(2)(A), 225, 221(i), 1614(a)(3)(B), and 1614(a)(3)(H) of the Social Security Act, as amended and 20 CFR 404.1520, 404.1564, Part 404 Subpart P Appendix 2, 416.920, and 416.964.

Background

We use a five-step sequential evaluation process to determine whether an individual is disabled or blind under titles II and XVI of the Act.[1] If we are unable to make a disability finding at the first four steps, we consider an individual's residual functional capacity (RFC)[2] and the vocational factors of age, education, and work experience to determine whether the individual is able to perform work that exists in significant numbers in the national economy.[3]

Our rules explain how we evaluate the vocational factor of education.[4] Education primarily means formal schooling or other training that contributes to an individual's ability to meet vocational requirements, such as reasoning ability, communication skills, and arithmetical ability.[5] The lack of formal schooling does not necessarily mean that the individual is uneducated or does not have these abilities.[6] Past work experience and the kinds of responsibilities the individual had while working, daily activities, hobbies, or results of testing may show that the individual has significant intellectual ability that can be used to work.[7]

We use the following four education categories to evaluate an individual's education level:[8]

1. *High school education and above.* High school education and above means abilities in reasoning, arithmetic, and language skills acquired through formal schooling at a 12th grade level or above. We generally consider that someone with these educational abilities can do semi-skilled through skilled work.[9]

2. *Limited education.* Limited education means ability in reasoning, arithmetic, and language skills, but not enough to allow a person with these educational qualifications to do most of the more complex job duties needed in semi-skilled or skilled jobs. We generally consider that a 7th grade through the 11th grade level of formal education is a limited education.

3. *Marginal education.* Marginal education means ability in reasoning, arithmetic, and language skills that are needed to do simple, unskilled types of jobs. We generally consider that formal schooling at a 6th grade level or less is a marginal education.

4. *Illiteracy.* Illiteracy means an inability to read or write. We consider someone illiterate if the person cannot read or write a simple message such as instructions or inventory lists even though the person can sign his or her name. Generally, an illiterate person has had little or no formal schooling.

Policy Interpretation

I. Categories of High School Education and Above, Limited Education, and Marginal Education

We generally use the highest numerical grade level of formal education an individual has completed in school regardless of the language used for instruction to determine whether the individual belongs in the education category of high school education and above, limited education, or marginal education. An individual's highest numerical grade level generally reflects the individual's educational abilities, such as reasoning, arithmetic, and communication skills.[10] The highest numerical grade level that the individual completed in school, however, may not represent his or her actual educational abilities.[11] Evidence such as past work experience, the kind of responsibility an individual may have had when working, daily activities, hobbies, results of testing, community projects, or vocational training, may show that an individual's actual educational abilities are higher or lower than his or her formal education level. In such situations, we may assign an individual to a higher or lower education category, as appropriate.

Further, when determining the appropriate education category, we may consider whether an individual received special education. For example, an extensive history of special education may show that the individual's educational abilities are lower than the actual grade he or she completed.

We, however, will not find an individual's education category to be lower than his or her highest level of formal education based solely on an

[1] See 20 CFR 404.1520 and 416.920.

[2] See 20 CFR 404.1545 and 416.945. RFC is the most an individual can do despite his or her limitations.

[3] See 20 CFR 404.1520(g), 404.1560(c), 416.920(g), and 416.960(c).

[4] See 20 CFR 404.1564 and 416.964.

[5] See 20 CFR 404.1564(a) and 416.964(a).

[6] *Id.*

[7] *Id.*

[8] See 20 CFR 404.1564(b)(1)–(4) and 416.964(b)(1)–(4). We no longer have an education category of ''inability to communicate in English'' as of April 27, 2020. We published a final rule ''Removing the Inability to Communicate in English as an Education Category'' that removed this education category on February 25, 2020 (85 FR 10586).

[9] We consider a general educational development (GED) certification as equivalent to high school education.

[10] See 20 CFR 404.1564(b) and 416.964(b).

[11] *Id.*

individual's history of having received special education. In all cases, we determine facts on an individual basis. Therefore, to assign an individual to an education category lower or higher than his or her highest level of formal education, there must be specific evidence supporting the finding in the determination or decision.

When determining the appropriate education category, we will not consider whether an individual attained his or her education in another country or whether the individual lacks English language proficiency. Neither the country in which an individual was educated nor the language an individual speaks informs us about whether the individual's reasoning, arithmetic, and language abilities are commensurate with his or her formal education level.[12]

Generally, when determining the appropriate education category, we will use the information an individual provides. We may request relevant records, such as school or government records, to verify the reported level of formal education and educational abilities.

II. Category of Illiteracy

A. Generally

We consider an individual illiterate if he or she cannot read or write a simple message, such as instructions or inventory lists, even though the individual can sign his or her name.[13] We will assign an individual to the illiteracy category only if the individual is unable to read or write a simple message in *any language.*

B. Formal Education and the Ability To Read and Write a Simple Message

Generally, an individual's educational level is a reliable indicator of the individual's ability to read and write a simple message. A strong correlation exists between formal education and literacy, which under our rules means an ability to read and write a simple message. Most individuals learn to read and write at least a simple message by the time they complete fourth grade, regardless of whether the schooling occurred in the United States or in another country.[14] We will therefore use an individual's formal education level as the starting point to determine whether the individual is illiterate.

If evidence suggests an individual may be illiterate, we will determine whether the illiteracy category is appropriate as follows:

i. Individuals Who Completed at Least a Fourth Grade Education

Most individuals who have completed at least fourth grade can read and write a simple message. We will generally find that an individual who completed fourth grade or more is able to read and write a simple message and is therefore not illiterate.

We may still find, however, that an individual with at least a fourth grade education is illiterate if the individual provides evidence showing that despite having completed fourth grade or more, he or she cannot, in fact, read or write a simple message in any language. Examples of relevant evidence may include whether an individual:

- Has received long-term special education related to difficulty learning to read or write at a basic level;
- lacks work history due to an inability to read or write;
- has valid intelligence test results demonstrating an inability to read or write a simple message;
- has valid reading and writing test results demonstrating an inability to read or write a simple message; and
- has any other evidence demonstrating an inability to read or write a simple message.

We will assign an individual who completed fourth grade education or more to the illiteracy category only if the evidence supports the finding that despite having completed fourth grade education or more, the individual is unable to read or write a simple message in any language. We will not rely on test results alone to determine that illiteracy is the appropriate education category for an individual.

ii. Individuals Who Completed Less Than a Fourth Grade Education

Formal education is not the only way individuals learn to read and write; therefore, we do not make any general finding that illiteracy is the appropriate category for individuals who have not completed a fourth grade education. The mere fact that an individual has little or no formal education does not mean that the individual is unable to read or write. Therefore, we will consider all relevant evidence in the claim to determine whether illiteracy is the appropriate education category. Examples of relevant evidence may include whether an individual:

- Has worked in the past and the responsibilities he or she had when working;
- can read, write, and understand short and simple statements in everyday life, such as shopping lists, short notes, and simple directions;
- can read newspapers or books;
- can read and write simple emails or text messages;
- had any vocational training or certification requiring reading and writing;
- has or ever had a driver's license that required passing a written test; and
- has any other evidence demonstrating an inability to read or write a simple message.

We will assign an individual to the illiteracy category only if the evidence supports a finding that the individual is unable to read or write a simple message in any language. We will not, however, rely on test results alone to determine that illiteracy is the appropriate education category for an individual.

[FR Doc. 2020–04668 Filed 3–6–20; 8:45 am]

BILLING CODE 4191–02–P

[12] Specific to language abilities, if there is a question as to whether an individual's actual language abilities are higher or lower than his or her formal education level, we use the language in which the individual most effectively communicates. For most individuals, this language is the language that they use in most situations, including at home, work, school, and in the community.

[13] See 20 CFR 404.1564(b)(1) and 416.964(b)(1).

[14] Typically, fourth grade is when students transition from a focus on learning to read to a focus on reading to learn. See *Reading Achievement of U.S. Fourth-Grade Students in an International Context, https://nces.ed.gov/pubs2018/2018017.pdf,* p.1. The rate of literacy (defined as an ability to understand, read, and write a short, simple statement on everyday life) increased from 33.4% with one year of primary schooling to 95.3% with four years of primary schooling. *How Was Life?: Global Well-being since 1820,* OECD Publishing, Juan Luitan van Zanden., et al. (eds.) (2014), p. 91, available at *https://read.oecd-ilibrary.org/economics/how-was-life_9789264214262-en#page93.* The Common Core reading and writing standards for primary schools demonstrate that an individual who completed fourth grade education should be able to read and write a simple message. *http://www.corestandards.org/assets/CCSSI_ELA%20Standards.pdf,* pp.10–33. Finally, the Progress in International Reading Literacy Study, an international assessment of student performance in reading at the fourth grade, shows that the majority of countries that participated in the study were able to educate nearly all their students to a basic level of reading achievement. See *http://timssandpirls.bc.edu/pirls2016/international-results/pirls/performance-at-international-benchmarks/* and *https://nces.ed.gov/pubs2018/2018017.pdf,* pp. 4, 9–10.

DEPARTMENT OF STATE

[Public Notice 11064]

Notice of OMB Emergency Approval of Information Collection: Public Charge Questionnaire

ACTION: Notice of OMB emergency approval of information collection.

SUMMARY: The Office of Management and Budget (''OMB'') approved the Department of State's (''Department'')

submission of an information collection described below, the DS–5540, Public Charge Questionnaire (''DS–5540''), following the Department's request for emergency processing.

DATES: OMB approved the Department's request on February 20, 2020. This procedure was conducted in accordance with 5 CFR 1320.1.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice to Taylor Beaumont, Acting Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485–8910, *PRA_BurdenComments@state.gov.*

SUPPLEMENTARY INFORMATION: The Department published a ''Notice of Intent to Request Emergency Processing of Information Collection: Public Charge Questionnaire'' (''DS–5540''), notifying the public of the Department's intent to seek emergency processing of the DS–5540 on February 12, 2020. 85 FR 8087. Consistent with the Paperwork Reduction Act of 1995 (''PRA''), and OMB procedures, the Department requested approval after emergency processing of the DS–5540. On October 24, 2019, the Department had published a Notice of Request for Public Comment for the DS–5540, initiating a 60-day period for the public to submit comments on the information collection 84 FR 5712. The 60-day comment period ended on December 23, 2019, and the Department received 92 comments. On February 12, in the Supporting Statement for the Department's request for OMB emergency processing and approval of the DS–5540, the Department responded to public comments received during the 60-day comment period, as well as comments received pursuant to the emergency notice for the separate DS–5541, Immigrant Health Insurance Coverage (''DS–5541'') (84 FR 58199) that are pertinent to the DS–5540. The health insurance-related questions in the DS–5540 are relevant for making a public charge assessment, so the Department is responding to public comments to the DS–5541 even though the implementation of Presidential Proclamation 9945, whose implementation would have necessitated use of the DS–5541, is currently enjoined by federal court order. The Department plans to complete the ongoing PRA process for three-year approval of the DS–5540 since approval based on emergency processing under the PRA is only granted for a maximum of 180 days, until August 31, 2020.

- *Title of Information Collection:* Public Charge Questionnaire.
- *OMB Control Number:* 1405–0234.
- *Type of Request:* Emergency Processing.
- *Originating Office:* Bureau of Consular Affairs, Visa Office (CA/VO).
- *Form Number:* DS–5540.
- *Respondents:* Immigrant visa applicants, including diversity visa applicants, with exceptions, and certain nonimmigrant visa applicants.
- *Estimated Number of Respondents:* 397,814.
- *Estimated Number of Responses:* 397,814.
- *Average Time per Response:* 4.5 hours.
- *Total Estimated Burden Time:* 1,790,163 hours.
- *Frequency:* Once per respondent application.
- *Obligation to respond:* Required to Obtain or Retain a Benefit.

1. Abstract of Proposed Collection

Aliens who seek a visa, application for admission, or adjustment of status must establish that they are not likely at any time after admission to become a public charge, unless Congress has expressly exempted them from this ground of ineligibility or if the alien obtained a waiver. Consular officers will use the completed forms to assess whether an alien is more likely than not to become a public charge, and is thus ineligible for a visa under section 212(a)(4)(A) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1182(a)(4), and 22 CFR 40.41. This collection is consistent with the burden of proof on aliens under section 291 of the INA, 8 U.S.C. 1361, to establish that they are eligible to receive a visa, including that they are not inadmissible under any provision of the INA. This information collection is consistent with the statutory requirement in section 212(a)(4)(B), 8 U.S.C. 1182(a)(4)(B), and regulatory requirement in 22 CFR 40.41, that consular officers must consider an alien's age; health; family status; assets, resources, and financial status; and education and skills in determining whether a visa applicant is more likely than not to become a public charge.

The DS–5540 collects information relating to the visa applicant's age; health; family status; assets, resources, and financial status; and education and skills. The DS–5540 will require visa applicants to provide information on whether they have received certain specified public benefits from a U.S. federal, state, territorial, or local government entity.

Sponsors of immigrant visa applicants must currently provide information regarding their ability to financially support the sponsored visa applicant on DHS Form I–864, Affidavit of Support, which consular officers consider in evaluating whether a visa applicant is likely to become a public charge, but which alone is not a sufficient basis to evaluate public charge. The I–864 may have some information about a visa applicant's assets, although the primary respondent is the sponsor, not the sponsored visa applicant. The DS–5540 will be used to collect information to assess whether the visa applicant is more likely than not to become a public charge, based on the totality of the circumstances, as set forth in 22 CFR 40.41.

Applicants for an immigrant visa, including a diversity visa, will be required to complete the DS–5540, except for those individuals who are exempt from the public charge ground of inadmissibility. The exempted categories of individuals will be specified in the DS–5540 instructions, including but not limited to visa applicants seeking immigrant visas based on qualified service to the U.S. government as an interpreter in Afghanistan or Iraq, visas based on a self-petition under the Violence Against Women Act, and visas for special immigrant juveniles. Additionally, a consular officer may, in his or her discretion, require a nonimmigrant visa applicant to complete some or all of the DS–5540. A nonimmigrant visa applicant will be required to respond to one or more questions from the DS–5540, orally or in writing, if the consular officer is unable to determine from other applicant-provided documentation whether the visa applicant is more likely than not to become a public charge during his or her stay in the United States.

2. Ongoing PRA Process

On October 24, 2019, the Department published a notice in the **Federal Register** to announce that it was seeking OMB approval of the DS–5540, and invited public comment for a 60-day period. The 60-day comment period ended on December 23, 2019, and the Department received 92 comments. The Department's responses to those comments are in the associated Supporting Statement. Because changed circumstances now require the Department to implement its interim final rule on the public charge ineligibility ground before it can complete the routine process for obtaining approval of an information collection under 5 CFR 1320.10, the

Department was granted emergency OMB approval pursuant to 5 CFR 1320.13 in order for the DS–5540 to be used by consular officers beginning 12:01 a.m. Eastern Standard Time February 24, 2020. It was not possible to complete 30 days of public comment before February 24, 2020. This information collection is intended to align the Department's standards with those of DHS, to avoid situations where a consular officer will evaluate a visa applicant's circumstances and conclude that the visa applicant is not likely at any time to become a public charge, only for a DHS officer to evaluate the same individual when he or she seeks admission to the United States on the visa and finds the individual inadmissible on public charge grounds under the same facts.

3. Methodology

The DS–5540 will be available online in fillable PDF format. Visa applicants will download the completed form and submit the completed DS–5540 to the consular officer, or to the Department with other documentation in advance of the interview.

Carl C. Risch,

Assistant Secretary.

[FR Doc. 2020–04737 Filed 3–6–20; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1296X]; [Docket No. AB 875 (Sub-No. 1X)]

R.J. Corman Railroad Property, LLC—Abandonment Exemption—in Scott, Campbell, and Anderson Counties, Tenn.; R.J. Corman Railroad Company/Bardstown Line—Discontinuance Exemption—in Scott, Campbell, and Anderson Counties, Tenn.

R.J. Corman Railroad Property, LLC (RJC Railroad Property) and R.J. Corman Railroad Company/Bardstown Line (RJCR) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for RJC Railroad Property to abandon, and for RJCR to discontinue service over, a railroad line extending from milepost 0.95 at or near Oneida, Tenn., to the end of the line at milepost 42.0 at or near Devonia, Tenn., a distance of approximately 41.05 miles in Scott, Campbell, and Anderson Counties, Tenn. (the Line). The Line traverses U.S. Postal Service Zip Codes 37841, 37755, 37847, 37756, 37714, and 37710.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is and can be no overhead traffic on the Line that would have to be rerouted over other lines, as the Line is stub-ended; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] these exemptions will be effective on April 8, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 19, 2020.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 30, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative, David R. Irvin, Irvin Rigsby PLC, 110 N. Main St., Nicholasville, KY 40356.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by March 13, 2020. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RJC Rail Property shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by RJC Rail Property's filing of a notice of consummation by March 9, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 4, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2020–04736 Filed 3–6–20; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request to stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in New Hampshire

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. The actions

relate to a proposed interchange on I–93 and a combination of new roadway and existing roadway improvements on a corridor extending 3.2 miles from I–93 in the Town of Londonderry to New Hampshire State Route 102 in the Town of Derry in Rockingham County in the State of New Hampshire. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions that are covered by this notice will be barred unless the claim is filed on or before August 6, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Jamison S. Sikora, Environmental Program Manager, Federal Highway Administration, 53 Pleasant Street, Suite 2200, Concord, NH 03301, Office Hours: 8:00 a.m. to 4:00 p.m., (603) 410–4870, email: *Jamie.Sikora@dot.gov.* For NHDOT: Mr. Keith Cota, Project Manager, New Hampshire Department of Transportation, 7 Hazen Drive, Concord, NH 03302, Office Hours: 8:00 a.m. to 4:00 p.m., (603) 271–1615, email: *Keith.Cota@dot.nh.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Highway Administration has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of New Hampshire: I–93 Exit 4A in the Towns of Londonderry and Derry (IM–0931(201)). The project includes construction of a new interchange with I–93 (known as Exit 4A) and other transportation improvements to reduce congestion and improve safety along State Route 102 (NH 102), from I–93 easterly through downtown Derry, and to promote economic vitality in the Derry/Londonderry area. A 3.2 mile corridor would be improved between the new interchange and NH 102 in Derry. There would be approximately 1 mile of roadway construction on a new alignment and 2.2 miles of existing roadway reconstruction. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Combined Final Environmental Impact Statement/Record of Decision for the project, approved on February 3, 2020, and in other documents in the project records. The FEIS/ROD, and other project records are available by contacting FHWA at the address provided above. The FEIS/ROD can be viewed and downloaded from the project website at *www.i93exit4a.com,* or obtained from the FHWA or NHDOT contacts listed above.

This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671q].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361–1423h]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470aa–470mm]; Archeological and Historic Preservation Act [16 U.S.C. 469–469c]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act, [16 U.S.C. 3901, 3921]; Wetlands Mitigation [23 U.S.C. 119(g) and 133(b)(14)]; Flood Disaster Protection Act, 42 U.S.C. 4012a, 4106].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139*(l)*(1).

Issued on: February 20, 2020.

Patrick A. Bauer,

Division Administrator, Federal Highway Administration, New Hampshire Division, Concord, New Hampshire.

[FR Doc. 2020–04315 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0047]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LUBECK (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0047 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0047 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0047, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you

include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LUBECK is:

—*Intended Commercial Use of Vessel:* ''I would like to take small groups out for private bay cruises on Mission Bay. I will be carrying up to 12 passengers.''

—Geographic Region Including Base of Operations: ''California'' (Base of Operations: Mission Bay, San Diego, CA)

—*Vessel Length and Type:* 52′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2020–0047 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0047 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 3, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–04684 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0046]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PAIRADICE (Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0046 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0046 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0046, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information

provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PAIRADICE is:

—*Intended Commercial Use of Vessel:* ''Sea Base Scuba Program. 6 paying passengers plus 2 crew. Coastline cruising.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Miami, FL).

—*Vessel Length and Type:* 42′ catamaran.

The complete application is available for review identified in the DOT docket as MARAD–2020–0046 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0046 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 3, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–04685 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0048]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FREEDOM (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0048 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0048 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0048, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FREEDOM is:

—*Intended Commercial Use of Vessel:* ''Occasional/limited recreational week-long charters with my family as crew during school breaks to help cover costs of maintaining the vessel.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)

—*Vessel Length and Type:* 55′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2020–0048 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0048 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: March 3, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2020–04683 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0020; Notice 1]

FCA US, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Correction

In notice document 2020–04106, appearing on pages 12059–12062 in the issue of Friday, February 28, 2020, make the following correction:

On page 12059, in the third column, on the tenth line from the top, ''February 28, 2020'' is corrected to read ''March 30, 2020.''

[FR Doc. C1–2020–04106 Filed 3–6–20; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0141]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on proposed revisions to the hazardous liquid accident report form and its associated instructions. Revisions are being proposed to PHMSA F 7000–1 Accident Report—Hazardous Liquid Pipeline Systems under OMB Control No. 2137–0047.

DATES: Interested persons are invited to submit comments on or before May 8, 2020.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2019–0141 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual

submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov,* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov,* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2019–0141.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Angela Hill, DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT: For general information, contact Angela Hill by telephone at 202–366–1246, by email at *Angela.Hill@dot.gov,* by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected entities an opportunity to comment on information collection and recordkeeping requests. This notice identifies changes to information collections that PHMSA will be submitting to OMB.

PHMSA F 7000–1 Accident Report—Hazardous Liquid Pipeline Systems

PHMSA proposes to reorganize the existing questions and add more detailed questions about accident response, accident consequences, operating conditions, cause, and contributing factors.

1. Change Form Name

PHMSA proposes changing the name of the form to ''Accident Report—Hazardous Liquid and Carbon Dioxide Systems''. This change would more accurately describe the types of pipelines for which this form should be used.

2. Time Zone and Daylight Savings

PHMSA proposes adding the time zone and daylight savings status at the location and time of the accident. This data would help PHMSA correlate our accident investigation findings with the form.

3. Operational Status

PHMSA proposes collecting the operational status of the pipeline system at the time the operator identified the failure. On the current form, there is an assumption that the pipeline was in service at the time the operator identified the failure, but this is often not the case. This change would help stakeholders understand the status of the pipeline and clarify the pipeline shutdown data.

4. Part A Reorganization and Detailed Questions About Accident Response

PHMSA proposes reorganizing existing questions to help detail the sequence of operator actions and interactions as the accident proceeds. For example, how the operator first learned of the pipeline failure is currently collected in part E. PHMSA proposes to move this item to Part A. PHMSA also proposes adding new items to build a complete timeline including interactions with emergency responders, spill response resources, and details about ignition. This data would help stakeholders develop a more thorough understanding of the accident.

5. Multiple National Response Center Reports

During response to accidents, pipeline operators often submit multiple reports to the National Response Center (NRC). In these instances, PHMSA proposes to collect each NRC report number. This change would help PHMSA correlate our accident investigation findings with the form.

6. Flow Control and Valve Closures

PHMSA proposes adding questions about initial actions the operator took to control the flow of products to the failure location. When valves are used, PHMSA proposes collecting the date and time of the valve closure. This change would implement a Government Accountability Office (GAO) recommendation from GAO–13–168 ''Pipeline Safety: Better Data and Guidance needed to Improve Pipeline Operator Accident Response.'' This change would allow stakeholders to understand the actions taken by the operator to control the flow of products during accident response and collect data about the elapsed time to valve closure.

7. Area of Accident

PHMSA proposes adding ''exposed due to loss of cover'' as a selection for the area of accident when ''Underground'' is selected. For pipelines installed underground and eventually exposed, the current form is not clear about whether ''Underground'' or ''Aboveground'' should be selected. Adding ''Exposed due to loss of cover'' as an underground option clarifies how to report the accident. This change would improve the consistency of reports.

8. Date of Water Crossing Evaluation

PHMSA proposes adding a question to collect the date of the most recent evaluation of the water crossing. These formal evaluations can provide information critical to protecting the integrity of water crossings. This change would provide stakeholders with visibility of this critical information.

9. Outer Continental Shelf Regions

PHMSA proposes collecting the Outer Continental Shelf (OCS) region when an accident occurs on the OCS. This change would provide stakeholders with a more precise location of the accident.

10. Item Involved and Age of Failed Item

PHMSA proposes modifying the selections for the item that failed. These modifications would reduce the number of times ''Other'' is selected and allow a more meaningful analysis of the data.

PHMSA proposes collecting both the date of manufacture and the date of installation for the failed item. This would allow stakeholders to understand both the age of the failed item and how long it had been in service.

11. Details About Consequences

Departmental guidelines for determining the benefit of proposed regulations (*http://www.transportation.gov/sites/dot.dev/files/docs/VSL%20Guidance%202013.pdf*) include a table of relative values based on the severity of injury. PHMSA's forms currently collect the number of injured persons requiring in-patient overnight hospitalization. PHMSA proposes adding two less severe categories to the forms; injuries treated in a medical facility and injuries treated on-site. This data would enable a more thorough determination of the benefit of proposed regulations.

PHMSA proposes to collect information on the volume of product consumed by fire. PHMSA already collects data about the volume of product released and whether ignition occurred. However, PHMSA cannot identify the volume of product burned. This data would allow PHMSA to more accurately determine the social cost of carbon and benefit of future proposed regulations.

PHMSA proposes to collect data on the number of buildings affected by the accident. On the current forms, the property damage values do not include any details about the type of property damaged. This data would provide more details about the consequences of the accident and enable a more thorough determination of the benefit of future proposed regulations.

12. Establishing Maximum Pressure and Flow Reversals

PHMSA proposes adding the method used by the operator to establish the maximum pressure for the pipeline system and the date the maximum pressure was established. Operators would choose from the six methods listed in 49 CFR 195.406. While each of the methods for establishing the maximum pressure meet the regulatory requirement, safety factors may differ between the methods. This data would help stakeholders identify the pipeline's maximum pressure methods with the specific safety factor.

PHMSA also proposes adding a question about flow reversals. This data would help stakeholders have a better understanding of whether a flow reversal may have impacted the maximum pressure.

13. Length of Segment Isolated

PHMSA proposes modifying the question about the length of pipeline isolated during accident response. In the current form, an assumption is made that valve closures will always be used to initially control flow to the failure location. This change would clarify the length to be reported when valves are not used to initially control flow to the failure location.

14. External Corrosion and Stray Current

PHMSA proposes collecting additional details when stray current is the cause of external corrosion. PHMSA also proposes to clarify the conditions under which external corrosion cathodic protection is expected. This data would help stakeholders better understand the cause of external corrosion.

15. Natural Force Damage Additional Sub-Cause

PHMSA proposes adding tree root damage as a sub-cause in the natural force damage cause category. This addition would reduce the number of accidents reported with a cause of ''Other.''

16. Excavation Details For All Excavation Damage

In the current form, when a third party causes the excavation damage, PHMSA collects details about the excavation work. PHMSA proposes collecting details about the excavation work when the cause of the damage is first, second, or third party. When pipeline operator employees are excavating, and damage their own pipeline, the damage is considered first party. When an excavator is working under contract for the pipeline operator and damages the operator's pipeline, they are considered a second party. First and second party excavation details would allow stakeholders to understand the type of excavation work being performed by any party causing the excavation damage.

The Common Ground Alliance recently changed the data structure for its Damage Information Reporting Tool (DIRT). PHMSA proposes updating the PHMSA accident report to match the revised DIRT data structure.

17. State Damage Prevention Law Exemptions

PHMSA proposes adding information about exemptions from state damage prevention laws when the cause of the accident is excavation damage. This data would help stakeholders identify states in which damage prevention law exemptions may be associated with more frequent excavation damage to pipelines.

18. Material Failure Cause Changes

When material failure of a pipe or weld causes the accident, a sub-cause must be chosen. Errors in the design of pipeline facilities cause some accidents, but currently, design is not included in any sub-cause. PHMSA proposes adding design to the ''Construction-, Installation-, or Fabrication-related'' sub-cause. This change would reduce the number of reports with a cause of ''Other.''

PHMSA proposes adding ''Hard Spot'' as another environmental cracking option. This is another type of environmental cracking that should be available for selection. This change would reduce the number of reports with a cause of ''Other.''

PHMSA proposes adding a question to collect the post-construction pressure test value. When the pipe or a weld fails, the value of the post-construction pressure test is important to determining if the cause of the failure might have been present since original construction. This change would provide additional data to determine the cause of the pipe or weld failure.

19. Additional Integrity Inspection Data

PHMSA proposes collecting two sets of in-line inspection (ILI) results. Under PHMSA regulations, operators conduct multiple rounds of integrity inspections. This change would provide a history of ILIs rather than just the most recent. The additional inspection data may provide insights into the effectiveness of the various types of ILIs.

Also, in the current form, the same set of integrity inspection questions appear in four different cause sections. Only one cause can be selected so three sets of these questions are redundant. PHMSA proposes having the questions appear once. PHMSA would also adjust existing reports to have the questions appear only once. This change would

simplify the form by reducing the number of distinct data fields.

PHMSA proposes collecting the type of direct assessment when this inspection method has been implemented. The additional inspection data may provide insights about the effectiveness of the various types of direct assessments.

20. Contributing Factors

Pipeline operators currently select only one cause on the form. Factors contributing to, but not causing, an accident are often relevant to preventing future accidents. PHMSA proposes collecting data about contributing factors. The proposal is similar to a recommendation made by the National Transportation Safety Board (NTSB) in a January 2015 safety study report which can be viewed at *http://www.ntsb.gov/safety/safety-studies/Documents/SS1501.pdf.* Collection of information on contributing factors in addition to the apparent cause would help stakeholders develop a more thorough understanding of the accident and ways to prevent future accidents.

II. Summary of Impacted Collection

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will submit to OMB for renewal. PHMSA expects many of the new data elements are already known by the operator and no report requires the completion of all fields on the forms. PHMSA has estimated the burdens below by adding 20% to the previous burdens—12 hours instead of 10.

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA will request a three-year term of approval for this information collection activity. PHMSA requests comments on the following information:

1. *Title:* Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

OMB Control Number: 2137–0047.

Current Expiration Date: 01/31/2023.

Type of Request: Revision.

Abstract: This information collection covers recordkeeping and accident reporting by hazardous liquid pipeline operators who are subject to 49 CFR part 195. Section 195.50 specifies the definition of an ''accident'' that must be reported to PHMSA and the reporting criteria for submitting a Hazardous Liquid Accident Report (form PHMSA F 7000–1) is detailed in § 195.54. PHMSA is proposing to revise the form and instructions for PHMSA F 7000–1 for editorial and clarification purposes.

Affected Public: Hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Annual Responses: 1,232.

Annual Burden Hours: 53,229.

Comments are invited on:

(a) The need for the renewal and revision of these collections of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

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

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on March 3, 2020, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–04734 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–0213]

Pipeline Safety: Request for Special Permit; Empire Pipeline, Inc.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request from Empire Pipeline, Inc., to renew a previously issued special permit. The special permit renewal request is seeking continued relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by April 8, 2020.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to entercomments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as

CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit renewal request from Empire Pipeline, Inc. (Empire), owned by National Fuel Gas Company, to continue its operations of the Empire State Pipeline as defined in the original special permit issued on May 20, 2010, and renewed on May 20, 2015. An additional special permit segment was added to the special permit on March 28, 2017. The present special permit term is through May 20, 2020. Empire's special permit renewal request submitted on November 22, 2019, seeks to waive compliance from the requirements of 49 CFR § 192.611, ''Change in class location: Confirmation or revision of maximum allowable operating pressure''. This special permit renewal is being requested in lieu of pipe replacement or pressure reduction for six (6) special permit segments totaling 10,475 feet of 24-inch diameter Empire State Pipeline located in Genesee, Monroe, Niagara, and Wayne Counties, New York. The special permit renewal will allow the continued operation of the original Class 1 pipe in Class 3 locations.

The Empire State Pipeline is comprised of 157 miles of 24-inch diameter pipeline and transports natural gas from the Canadian and United States international border in Niagara County, New York to Oswego County, New York. The Empire State Pipeline was installed in 1993 and has a maximum allowable operating pressure of either 1,440 pounds per square inch gauge (psig) or 1,000 psig in the special permit segments.

The special permit renewal request, existing special permit with conditions, and Environmental Assessment and Finding of No Significant Impact (EA/FONSI) for the Empire State Pipeline is available for review and public comment in Docket No. PHMSA–2008–0213. We invite interested persons to review and submit comments on the special permit renewal request and EA/FONSI in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit renewal is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit renewal request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–04716 Filed 3–6–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Foreign Assets Control Office

Notice of OFAC Sanctions Action(s)

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 applicability date.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On February 26, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals and entities are blocked under the relevant sanctions authority listed below.

Individuals

1. AASI, Sheikh Yusuf (a.k.a. ASI, El Yusuf Abd al-Rida), Majma Ahl al-Bayt, 6 Meqdad Burj al-Barajinah, Beirut, Lebanon; DOB 05 Feb 1962; alt. DOB 1962; POB Beirut, Lebanon (individual) [SDGT] (Linked To: MARTYRS FOUNDATION IN LEBANON).

Designated pursuant to section 1(a)(iii)(E) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism'', 84 FR 48041 (E.O. 13224, as amended), for being a leader or official of MARTYRS FOUNDATION IN LEBANON, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. NUR–AL–DIN, Jawad (a.k.a. NOURREDINE, Jawad; a.k.a. NUR AL–DIN, Shawqi Jawad Mohamad Shafiq; a.k.a. NUR AL–DIN, Shawqi Muhammad Shafiq), Lebanon; DOB 20 Oct 1962; Gender Male; Passport RL2514323 (Lebanon) (individual) [SDGT] (Linked To: MARTYRS FOUNDATION IN LEBANON).

Designated pursuant to section 1(a)(iii)(E) of E.O. 13224, as amended, for being a leader or official of MARTYRS FOUNDATION IN LEBANON, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. BAZZI, Kassem Mohamad Ali (a.k.a. BAZI, Qassem Mohammed Ali; a.k.a. BAZZI, Qasim Mohammed Ali; a.k.a. BAZZI, Qasim Muhammad Ali), Lebanon; DOB 02 Mar 1964; nationality Lebanon; Gender Male (individual) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(E) of E.O. 13224, as amended, for being a leader or official of ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. AL KAWTHAR, Section 20, Property 372, Chiyah, Ghobeiri, Lebanon; Commercial Registry Number 2008349 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. AMANA FUEL CO. (a.k.a. AMANA FOR HYDROCARBONS; a.k.a. ''AL AMANA S.A.R.L.''), Lebanon; Al Ghubairah, Lebanon; Airport Road, Ayn Diblah Junction, Lebanon; Commercial Registry Number 2005606 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. AMANA PLUS S.A.L. (a.k.a. AMANA PLUS CO.), Section 29, Block B, Property 327, Chiyah, Ghobeiri, Lebanon; Commercial Registry Number 2018014 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. AMANA SANITARY AND PAINTS COMPANY L.T.D. (a.k.a. ''APSCO''), second floor, Section 15B, Property 372, Chiyah, Ghobeiri, Lebanon; Commercial Registry Number 2010822 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. ATLAS HOLDING (a.k.a. ATLAS HOLDING SAL), Lebanon; Mount Lebanon Mohafaza, Baabda Casa, MEC Center, Ghobairy, Lebanon; Chiyah, Ghobeiry, Lebanon; Commercial Registry Number 1900656 (Lebanon) [SDGT] (Linked To: MARTYRS FOUNDATION IN LEBANON).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by MARTYRS FOUNDATION IN LEBANON, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. CAPITAL S.A.L., Section 34, Block B, Chiyah, Lebanon; Commercial Registry Number 2051340 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. CITY PHARMA SARL, Section 35, Block B, Property 2433, Borj al Barajneh, Lebanon; Commercial Registry Number 2014987 (Lebanon) [SDGT].

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. GLOBAL TOURISTIC SERVICES SAL, Property 362, Section 8, Block B, Eidi Building, Chiyah, Lebanon; Commercial Registry Number 2012409 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. MEDICAL EQUIPMENT AND DRUGS INTERNATIONAL CORPORATION (a.k.a. MEDICAL EQUIPMENT & DRUGS INTERNATIONAL CORPORATION; a.k.a. ''DRUGS AND MEDICAL SUPPLIES''; a.k.a. ''MEDIC''), Safco Center B1–B2, Airport Road, Beirut, Lebanon; Property 2933, Section 35, Safco Center, Basement, Airport Road, Borj al Barajneh, Lebanon; Lebanon; Commercial Registry Number 2034502 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

10. MIRATH S.A.L., Airport Road, Section 11, Property 5728, Chiyah, Lebanon; Commercial Registry Number 2030248 (Lebanon) [SDGT] (Linked To: NUR AL DIN, Jawad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by JAWAD NUR–AL–DIN, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

11. SANOVERA PHARM COMPANY SARL (a.k.a. SANOVERA; a.k.a. SANOVIRA),

Section 19, Property 372, Chiyah, Lebanon; Commercial Registry Number 2035319 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

12. SHAHED PHARM (a.k.a. SHAHED PHARM DRUGSTORE SARL), Centre Safco, B1, B2, B3, Airport Road, Beirut, Lebanon; Lebanon; Commercial Registry Number 2009847 (Lebanon) [SDGT] (Linked To: ATLAS HOLDING).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by ATLAS HOLDING, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: February 26, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–04403 Filed 3–6–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, March 23, 2020 and Tuesday, March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section

10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Monday, March 23, 2020, from 1:00 p.m. to 5:00 p.m. Central Time and Tuesday, March 24, 2020, from 8:00 a.m. until 5:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04680 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, March 23, 2020 and Tuesday, March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be held Monday, March 23, 2020, from 1:00 p.m. to 5:00 p.m. Central Time and Tuesday, March 24, 2020, from 8:00 a.m. until 5:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04670 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 26, 2020 and Friday, March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Thursday, March 26, 2020, from 8:00 a.m. to 5:00 p.m. Central Time and Friday, March 27, 2020, from 8:00 a.m. until 12:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04671 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, March 23, 2020 and Tuesday, March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Monday, March 23, 2020, from 1:00 p.m. to 5:00 p.m. Central Time and Tuesday, March 24, 2020, from 8:00 a.m. until 5:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04673 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the IRS Taxpayer Burden Surveys

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the 2020, 2021, and 2022 Wage and Investment Strategies and Solutions Behavioral Laboratory Customer Surveys and Support.

DATES: Written comments should be received on or before May 8, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Wage and Investment Strategies and Solutions Behavioral Laboratory Customer Surveys and Support.

OMB Number: 1545–2274.

Regulatory Number: N/A.

Abstract: As outlined in the Internal Revenue Service (IRS) Strategic Plan, the Agency is working towards allocating IRS resources strategically to address the evolving scope and increasing complexity of tax administration. In order to do this, IRS must realize their operational efficiencies and effectively manage costs by improving enterprise-wide resource allocation and streamlining processes using feedback from various behavioral research techniques. To assist the Agency is accomplishing the goal outlined in the Strategic Plan, the Wage and Investment Division continuously maintains a ''customer-first'' focus through routinely soliciting information concerning the needs and characteristics of its customers and implementing programs based on the information received. W&I Strategies and Solutions (WISS), is developing the implementation of a Behavioral Laboratory to identify, plan and deliver business improvement processes that support fulfillment of the IRS strategic goals. The collection of information through the Behavioral Laboratory is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with the commitment to improving taxpayer service delivery. Improving agency programs requires ongoing assessment of service delivery. WISS, through the Behavioral Laboratory, will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback provided by taxpayers and employees of the Internal Revenue Service.

Current Actions: The IRS will be revising and replacing various surveys. The survey scope is expanded to include burden for surveys associated with all taxpayer segments. This effort represents a continuation of the IRS's strategy to gather taxpayer burden data for all types of tax returns and information reporting documents in order to support Wage and Investment's OMB Improvement Strategy to transition burden estimates for all taxpayers to the preferred RAAS burden estimation methodology. These surveys will allow RAAS to update and validate the IRS Taxpayer Burden Model which will be used to provide estimates for consolidated taxpayer segments, like what is currently done for OMB numbers 1545–0074, 1545–0123, and 1545–0047.

Data Collections Covered Under This Clearance Request: Customer Call Back Programming (CCB).

Type of Review: Extension of a currently approved collection.

Affected Public: Individual, Business, or other for-profit organizations.

Estimated Number of Respondents: 150,000.

Estimated Time per Respondent: 1 hours.

Estimated Total Annual Burden Hours: 150,000 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 2020.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2020–04733 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 26, 2020 and Friday, March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Cedric Jeans at 1–888–912–1227 or 901–707–3935.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, March 26, 2020, from

8:00 a.m. to 5:00 p.m. Central Time and Friday, March 27, 2020, from 8:00 a.m. until 12:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Cedric Jeans. For more information please contact Cedric Jeans at 1–888–912–1227 or 901–707–3935, or write TAP Office, 5333 Getwell Road, Memphis, TN 38118 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04674 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 26, 2020 and Friday, March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Thursday, March 26, 2020, from 8:00 a.m. to 5:00 p.m. Central Time and Friday, March 27, 2020, from 8:00 a.m. until 12:00 p.m. Central Time, in Oklahoma City, OK. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 3, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–04672 Filed 3–6–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Treasury (''Treasury'' or the ''Department''), Departmental Offices proposes to modify a current Treasury system of records titled, ''Department of the Treasury/Departmental Offices—.216 Treasury Security Access Control and Certificates Systems System of Records.''

DATES: Submit comments on or before April 8, 2020. The new routine uses will be applicable on April 8, 2020 unless Treasury receives comments and determines that changes to the system of records notice are necessary.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at *http://www.regulations.gov.* Comments can also be sent to the Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, Departmental Offices, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Attention: Revisions to Privacy Act Systems of Records. All comments received, including attachments and other supporting documents, are part of the public record and subject to public disclosure. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Deputy Assistant Secretary for Privacy, Transparency, and Records (202–622–5710), Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Department of the Treasury (''Treasury'') Departmental Offices (DO) proposes to modify a current Treasury system of records titled, ''Treasury/Departmental Offices .216—Treasury Security Access Control and Certificates Systems.'' This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of system of records maintained by the agency (5 U.S.C. 552a(e)(4)).

The Treasury Security Access Control and Certificates System improves security for both Treasury and DO physical and cyber assets by: Maintaining records concerning the security/access badges Treasury issues; risk assessments (including background checks) to validate the decision to grant access (or not) to Treasury facilities and cyber assets; restricting entry to installations and activities; ensuring positive identification of personnel and others authorized to access restricted areas; maintaining accountability for issuance and disposition of security/access badges; maintaining an electronic system to facilitate secure on-line communication between federal automated systems, federal employees or contractors, and/or the public, using digital signature technologies to authenticate and verify identity; providing a means of access to Treasury cyber assets including the DO network, local area network (LAN), desktop and laptops; and to provide mechanisms for non-repudiation of personal identification and access to DO sensitive cyber systems; including, but not limited to human resource, financial, procurement, travel and property systems as well as tax, econometric and other mission critical systems. The system also maintains records relating to the issuance of digital certificates using public key cryptography to employees and contractors for the purpose of transmission of sensitive electronic material that requires protection. Treasury is authorized to collect and share this information for the above purposes under the following statutes and Executive Orders: 5 U.S.C. 301; 31 U.S.C. 321; 18 U.S.C. 3056A(3) and E.O. 9397 (SSN).

The purpose of this report is to give notice of a modified system of records notice—Treasury/Departmental Offices .216 Treasury Security Access Control and Certificates Systems. Treasury is modifying this existing SORN to: (1) Add a new authority; (2) add a new category of records (and data elements); (2) clarify and make more explicit disclosures that are currently the subject

of existing routine uses; and (3) add two routine uses to replace an existing routine use on the same subject (as required by OMB).

(1) Additional Authority

Treasury is modifying this existing SORN to add an authority. This new authority, 18 U.S.C. 3056A(3), establishes a ''permanent police force,'' under the USSS Uniformed Division, and the USSS authority to protect the Treasury Buildings and grounds. The EOP requires prospective Main Treasury and Freedman's Bank Building visitors (including new Treasury employees who have not yet been badged) to provide records necessary for the Executive Office of the President (EOP) and USSS to conduct risk assessments (including background investigations) to determine suitability for access to Main Treasury and the Freedman's Bank Building because of the proximity of these facilities to the White House. This authority, permits sharing between Treasury and USSS for the purposes of protecting the Main Treasury, the Freedman's Bank Building, and their occupants.

(2) Adding a New Category of Records/ Data Elements

Treasury is also modifying this SORN to include a new category of records the Executive Office of the President (EOP) requires from all visitors to the White House Complex to assist the EOP in conducting risk assessments before prospective visitors are allowed to enter Main Treasury and/or the Freedman's Bank Building. The new category of records will allow the collection of the names of countries/locations a prospective visitor has visited in the last 30 days before completing the form (including the dates reflecting when they entered and left each country/ location visited). The EOP added these new data elements to enhance its risk assessments when considering visitor requests. The collection of these new records will improve personnel and visitor health and safety in accordance with EOP requirements. These purposes are consistent with the overall purpose of this system of records.

Treasury is also modifying the SORN to add a data element (personal email address) to the category of records that is incidentally collected via an existing data field. The current SORN identifies ''work email address'' as a data element collected in this system of records. The data field in one of the forms in which data in this system is collected requires ''Email.'' Experience has shown that some visitors are entering personal email addresses. Treasury is making this modification for the purpose of clarifying data collected in this field.

Treasury is also modifying the SORN to make explicit data elements collected that are already encompassed in another existing category of records in the existing SORN. The existing categories of records includes ''home address.'' In some instances, when collecting records for inclusion in this system of records, the entire home address is not required and only components of the address (City and State of Residence) are collected. For purposes of clarification, City of Residence and State of Residence are added as separate data elements in the Categories of Records to avoid confusion.

(3) Clarifying and Making More Explicit Disclosures That Are Currently the Subject of Existing Routine Uses

This is more of a clarification than a new routine use, but Treasury is also adding a new routine use (routine use 11) to make more explicit the disclosure of records to EOP and USSS that are pertinent to risk assessments (including background investigations). These disclosures are already covered under routine uses 1 and 5, but the new routine use language will make clear that the EOP and USSS are recipients of disclosures of records from this system of records.

Treasury is also adding two modified routine uses (new routine uses 9 & 10) to replace existing routine use 9 which covers the same subject (breach mitigation). The term ''modified'' is used because these new routine uses replace an existing routine use on the same subject. These modifications were required by Office of Management and Budget (OMB) Memorandum 17–12, ''Preparing for and Responding to a Breach of Personally Identifiable Information,'' dated January 3, 2017.

Other changes throughout the document are editorial in nature and consist primarily of correction of citations, updates to addresses, authorities, notification procedure, and clarification to the storage and safeguards. Other changes throughout the document are editorial in nature and consist primarily of correction of citations, updates to addresses, and clarification to the storage and safeguards.

Treasury has evaluated the effect of these modified systems on individual privacy and determined that the impact on individual privacy is outweighed by the risks associated with securing Treasury's physical and cyber assets and the physical safety and health of Treasury visitors, personnel, and facilities.

Treasury will include this modified system in its inventory of record systems. Below is the description of the modified Treasury/Departmental Offices .216—Treasury Security Access Control and Certificates Systems System of Records.

Treasury has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and OMB, pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016.

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Treasury/DO .216—Treasury Security Access Control and Certificates Systems.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

a. Physical records are maintained at Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

b. Visitor records are maintained at Department of the Treasury, Departmental Offices, Chief Information Officer, 1750 Pennsylvania Avenue NW, Washington, DC 20220.

SYSTEM MANAGER(S):

Departmental Offices:

a. Director, Office of Security Programs, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

b. Chief Information Officer, 1750 Pennsylvania Avenue NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 321; 18 U.S.C. 3056A(3) and E.O. 9397 (SSN).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to: Improve the security of Treasury Departmental Offices (DO) physical and cyber assets as well as the physical safety of Treasury visitors, personnel and facilities; issue security/access badges; restrict entry to installations and activities; ensure positive identification of personnel authorized access to restricted areas; conduct background checks to validate the decision to grant access (or not); maintain accountability for issuance and disposition of security/ access badges; maintain an electronic system to facilitate secure, on-line

communication between Federal automated systems, and between Federal employees or contractors, and the public, using digital signature technologies to authenticate and verify identity; provide a means of access to Treasury cyber assets including the DO network, local area network (LAN), desktop and laptops; and to provide mechanisms for non-repudiation of personal identification and access to DO sensitive cyber systems including but not limited to human resource, financial, procurement, travel and property systems as well as tax, econometric and other mission critical systems. The system also maintains records relating to the issuance of digital certificates utilizing public key cryptography to employees and contractors for the purpose of transmission of sensitive electronic material that requires protection.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Treasury employees, contractors, media representatives, and other individuals requiring access to Treasury facilities or government property, and those who need to gain access to a Treasury DO cyber asset including the network, LAN, desktops and notebooks.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Individual's application for security/access badge or access to Main Treasury or the Freedman's Bank Building;
- Personal device identifier/Serial numbers certificate details;
- Individual's photograph;
- Fingerprint records;
- Special credentials;
- Treaty or agreement papers;
- Registers;
- Logs reflecting sequential numbering of security/access badges;
- Travel history information.

The system also contains information needed to establish accountability and audit control of digital certificates that have been assigned to personnel who require visitor access, access to Treasury DO cyber assets including DO network and LAN as well as those who transmit electronic data that requires protection by enabling the use of public key cryptography. It also contains records that are needed to authorize an individual's access to a Treasury network, and Treasury facilities.

Records may include the individual's:

- Name (first, middle, last);
- Gender;
- Organization;
- Work/personal telephone number;
- Social Security Number;
- Date of birth;
- Electronic Identification Number;
- Work/personal email address;
- Username and password;
- Country of birth;
- Citizenship;
- City of Residence;
- State of Residence;
- Names of countries/locations visited in the past 30 days (including travel start and end date(s));
- Clearance and status;
- Title;
- Work/home address and phone number;
- Biometric data including fingerprint minutia;
- Audit logs and security monitoring information such as Appointment ID number, Appointment Date and time, Appointment type, Location, Room number, salesforce ID;
- Specific aids or services for the disabled;
- Alias names; and
- Records on the creation, renewal, replacement or revocation of electronic access, ingress/egress rights, digital certificates including evidence provided by applicants for proof of identity, sources used to verify an applicant's identity and authority, the certificates, and electronic access and ingress/egress rights issued, denied, and revoked, including reasons for denial and revocation.

RECORD SOURCE CATEGORIES:

The information contained in these records is provided by or verified by the subject individual of the record, supervisors, other personnel documents, and non-Federal sources such as private employers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act of 1974, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To appropriate federal, state, local, and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal law relating to the hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit;

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a court order where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) To a contractor for the purpose of compiling, organizing, analyzing, programming, or otherwise refining records to accomplish an agency function subject to the same limitations applicable to U.S. Department of the Treasury officers and employees under the Privacy Act;

(4) To a congressional office from the record of an individual in response to an inquiry from that congressional office made pursuant to a written Privacy Act waiver at the request of the individual to whom the record pertains;

(5) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(6) To the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, Federal Labor Relations Authority, and the Office of Special Counsel for the purpose of properly administering Federal personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and regulations;

(7) To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(8) To other Federal agencies or entities when the disclosure of the existence of the individual's security clearance is needed for the conduct of government business;

(9) To appropriate agencies, entities, and person when (1) the Department of the Treasury and/or Departmental Offices suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury and/or Departmental Offices has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury and/or Departmental Offices (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's and/or Departmental Offices' efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(10) To another Federal agency or Federal entity when the Department of

the Treasury and/or Departmental Offices determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; and

(11) To the Executive Office of the President and the United States Secret Service to allow risk assessments (including background investigations) to determine if prospective visitors to Main Treasury and the Freedman's Bank Building should be granted or denied access to Department of the Treasury areas secured by USSS, or to areas in proximity to persons protected by USSS.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, social security number, email address, electronic identification number and/or access/security badge number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with National Archives and Records Administration General Records Schedule 5.2 item 20, records are maintained on government employees and contractor employees for the duration of their employment at the Treasury Department. Records on separated employees are destroyed or sent to the Federal Records Center. Records on members of the public seeking access to a Treasury facility protected by USSS are temporary records and are destroyed after USSS makes Treasury facility access determinations.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances.

Entrance to data centers and support organization offices is restricted to those employees whose work requires them to be there for the system to operate. Identification (ID) cards are verified to ensure that only authorized personnel are present. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols which are periodically changed. Reports produced from the remote printers are in the custody of personnel and financial management officers and are subject to the same privacy controls as other documents of similar sensitivity. Access is limited to authorized employees. Paper records are maintained in locked safes and/or file cabinets. Electronic records are password-protected. During non-work hours, records are stored in locked safes and/or cabinets in a locked room.

Protection and control of any sensitive but unclassified (SBU) records are in accordance with TD P 71–10, Department of the Treasury Security Manual. Access to the records is available only to employees responsible for the management of the system and/or employees of program offices who have a need for such information.

Temporary records are collected by Treasury on behalf of the USSS so they can determine whether members of the public will be granted or denied access to Department of the Treasury areas secured by the USSS. Those temporary records are only available to Treasury and authorized employees, and are maintained in password protected systems or locked containers until transmitted to the USSS.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendix A.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Notice of this system of records was last published in full in the **Federal Register** on November 7, 2016 (81 FR 78298) as the Department of the Treasury/Departmental Offices .216—Treasury Security Access Control and Certificates Systems.

[FR Doc. 2020–04669 Filed 3–6–20; 8:45 am]

BILLING CODE 4810–25–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board of Directors Meeting

TIME AND DATE: March 12, 2020, from Noon to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and screen sharing. Any interested person may call 1–866–210–1669, passcode 5253902# to participate in the meeting.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Agenda

Open to the Public

I. Welcome and Call To Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and in the **Federal Register.**

III. Review and Approval of Board Agenda and Setting of Ground Rules—UCR Board Chair

For Discussion and Possible Action

Agenda will be reviewed and the Board will consider adoption.

Ground Rules

—Board action only to be taken in designated areas on agenda

—Please MUTE your phone

—Please do NOT place the call on HOLD

IV. Approval of Minutes of the January 28, 2020 UCR Board Meeting—UCR Board Chair

For Discussion and Possible Action

- Minutes of the January 28, 2020 Board meeting will be reviewed. The Board will consider action to approve.

V. Report of FMCSA—FMCSA Representative

FMCSA will provide a report on any relevant activity or rulemaking, including any pending appointments.

VI. Ratify Extension of Recommended 2020 Enforcement Date—UCR Chief Legal Officer

For Discussion and Possible Ratification

The UCR Chief Legal Officer will lead a discussion on the proposed ratification of the decision by the UCR Board Chair and the UCR Executive Director to extend the recommended 2020 enforcement date to June 1, 2020. The Board may act to ratify the action of the UCR Board Chair and the UCR Executive Director to extend the recommended enforcement date.

VII. UCR Board Nominations—UCR Executive Director

For Discussion and Possible Action

The Board will consider and may possibly act to adopt a recommendation to the Secretary of the United States Department of Transportation of four nominations to the UCR Board from the FMCSA's four service areas (as those service areas were defined by the FMCSA on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement for terms scheduled to begin June 1, 2020.

VIII. Proposed Adjustments to UCR 2020 Meetings Schedule—UCR Executive Director

For Discussion and Possible Action

The UCR Executive Director will present proposed modifications to the 2020 UCR calendar of meetings, and the Board may act to adopt.

IX. Data Event Update—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update to the Board on the action items approved at its August 1, 2019 meeting related to the March 2019 data event.

X. Updates Concerning UCR Legislation—UCR Board Chair

The UCR Board Chair will call for any updates regarding UCR legislation since the last Board meeting.

XI. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Update on 2020 State Compliance Reviews—UCR Depository Manager

The UCR Depository Manager will provide an update on the plans for the 2020 state compliance review, including a discussion of the planned schedule, so states can expect and plan for the review.

B. 2020 Solicitation Campaigns—Seikosoft

Seikosoft will report on percentage of new entrant motor carrier campaigns managed by the National Registration System (''NRS''), percentage of new entrant motor carrier campaigns managed by the states, percentage of unregistered motor carrier campaigns managed by the NRS, and percentage of unregistered motor carrier campaigns managed by the states.

C. Non-Universe Motor Carrier Solicitation Campaigns—Seikosoft

Seikosoft will report on the solicitation campaign targeting motor carriers identified through roadside inspections to be operating in interstate commerce, but identified in MCMIS as either intrastate or inactive.

D. State Audit Activity to Date—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will report on state audit activity to date, including percentage of closed Focused Anomalies Reviews (''FARs'') for 2019 and 2020, closed MCS–150 retreats for 2019 and 2020, as well as closed inspections/unregistered carriers for 2019 and 2020.

E. Annual State Reports—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will report on the need for states to perform their MCS–150 retreat audits in the NRS, review and close their FARs, as well as reporting requirements in the NRS. The UCR Audit Subcommittee Chair will also lead a discussion on the need for states to collect UCR registrations and adjustments for both 2019 and 2020 registration periods as part of their audit investigations through December 31, 2020.

Finance Subcommittee—UCR Finance Subcommittee Chair

A. Proposed Cash Advance Policy—UCR Depository Manager

For Discussion and Possible Action

The Board will review a proposed policy for cash advances from the UCR Depository to state personnel and other applicable stakeholders who are requested to travel for UCR training and other sanctioned events, but who will incur financial hardship if they have to finance the advanced travel costs with their own personal funds. Travelers that have state credit cards or receive advanced funding from their state should not request an advancement of funds from UCR.

B. Certificates of Deposit—UCR Depository Manager

The UCR Depository Manager will provide an update on the reinvestment of funds in CDs based on the previous direction from the Board at the January 2020 meeting.

C. Status of 2020 Registration Year Fee Collections—UCR Depository Manager

The UCR Depository Manager will provide an update on the status of collections for the 2020 registration year and reaffirm the dates for month-end cut-offs, as well as when participating states should expect to receive registration funds from the Depository, when appropriate.

D. January 2020 Operating Costs—UCR Depository Manager

The UCR Depository Manager will provide an update on the year-to-date costs of operating the UCR plan and provide insights into how costs compare with the operating budget.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

A. Update on Plans To Launch Training Modules—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on plans to launch an initial wave of training modules by June 2020.

B. Training Plans for NCSTS Summer Conference—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will report on plans to conduct in-person UCR training on June 8, 2020 in Portland, Oregon.

XII. Contractor Reports—UCR Executive Director

- UCR Executive Director

The UCR Executive Director will provide a report covering recent activity for the UCR Program.

- DSL Transportation Services, Inc.

DSL will report on the latest data on state collections based on reporting from the FAR program.

- Seikosoft

Seikosoft will provide an update on recent/new activity related to the NRS.

- UCR Administrator (Kellen)

The UCR Administrator will provide its management report covering recent activity for the Depository, Operations, and Communications.

XIII. Other Business—UCR Board Chair

The UCR Board Chair will call for any business, old or new, from the floor.

XIV. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern time, March 4, 2020 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2020–04881 Filed 3–5–20; 4:15 pm]

BILLING CODE 4910–YL–P

FEDERAL REGISTER

Vol. 85 Monday,
No. 46 March 9, 2020

Part II

The President

Memorandum of February 21, 2020—Delegation of Certain Functions and Authorities Under the National Defense Authorization Act for Fiscal Year 2020

Federal Register
Vol. 85, No. 46
Monday, March 9, 2020

Presidential Documents

Title 3—

The President

Memorandum of February 21, 2020

Delegation of Certain Functions and Authorities Under the National Defense Authorization Act for Fiscal Year 2020

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Secretary of Commerce[, and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

Section 1. (a) I hereby delegate to the Secretary of State, in consultation with the Secretary of the Treasury, the functions and authorities vested in the President by the following provisions of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) (the ''Act''):

(i) section 7503(d);

(ii) section 7503(f);

(iii) section 7503(h);

(iv) section 7124, with respect to section 73 of the Bretton Woods Agreements Act (22 U.S.C. 286 *et seq.*), as amended by the Act;

(v) section 7131; and

(vi) section 7143, with respect to section 208 of the North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114–122) (NKSPEA), as amended by the Act.

(b) I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by the following provisions of the Act:

(i) section 7503(c);

(ii) section 7503(g);

(iii) section 7121, with respect to section 201B of NKSPEA, as amended by the Act; and

(iv) section 7122, with respect to section 104(g) of NKSPEA, as amended by the Act.

(c) I hereby delegate to the Secretary of the Treasury and the Secretary of Commerce the functions and authorities vested in the President by section 7132 of the Act.

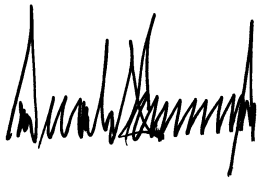
(d) I hereby delegate to the Secretary of the Treasury the functions and authorities vested in the President by section 7141 of the Act.

(e) I hereby delegate to the Director of National Intelligence, in consultation with the Secretary of State and the Secretary of the Treasury, the functions and authorities vested in the President by section 7133 of the Act.

(f) I hereby delegate to the Secretary of State, in consultation with the Secretary of Defense, the functions and authorities vested in the President by section 1227 of the Act.

Sec. 2. The delegations in this memorandum shall apply to any provisions of any future public laws that are the same or substantially the same as those provisions referenced in this memorandum.

Sec. 3. The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, February 21, 2020

[FR Doc. 2020–04926
Filed 3–6–20; 11:15 am]
Billing code 4710–10–P

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