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FEDERAL REGISTER

Vol. 85 Thursday,
No. 74 April 16, 2020

Pages 21073–21310

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0906; Project Identifier 2019–NE–31–AD; Amendment 39–21111; AD 2020–08–04]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines LLC, Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain International Aero Engines, LLC (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1129G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM model turbofan engines. This AD was prompted by reports of failures of certain low-pressure turbine (LPT) 3rd-stage blades. This AD requires replacement of the affected LPT 3rd-stage blades. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 21, 2020.

ADDRESSES: For service information identified in this final rule, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT, 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *https://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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–2019–0906; 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: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain International Aero Engines, LLC (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1129G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM model turbofan engines. The NPRM published in the **Federal Register** on November 22, 2019 (84 FR 64441). The NPRM was prompted by reports of failures of certain LPT 3rd-stage blades. The NPRM proposed to require replacement of the affected LPT 3rd-stage blades. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Clarify AD Applicability

An Air Macau commenter asked how the affected engine serial numbers (ESNs) were selected. The commenter also asked what the criteria was for compliance times of 90, 180, 270, and 360 days. The commenter asked how airlines could have confidence in an ESN that is very close to an ESN affected by this AD, but not incorporated into this AD.

The FAA interprets this comment as being applicable to a different published AD; AD 2019–25–01 (84 FR 65666, November 29, 2019). AD 2019–25–01 references IAE engines by ESN while this AD does not. The FAA will fully address this comment in our comment disposition to AD 2019–25–01, which will be posted in Docket No. FAA–2019–0995. In addition, to clarify that the applicability of this AD does not overlap the applicability of AD 2019–25–01, the FAA added a note to the applicability section of this AD to clarify the exclusion of engines affected by AD 2019–25–01.

Request To Revise Compliance

An individual commenter requested that the FAA, to control the risk effectively, incorporate the following requirements in the AD: (1) At a specific calendar time, and next shop visit, whichever occurs first, complete the replacement of affected LPT 3rd-stage blades; and (2) Perform inspection on specific areas of the LPT 3rd-stage blades at specific time, and repeat the inspection in a specific interval. If any defects are found that exceed the limitation, then replace the LPT 3rd-stage blades before the next flight.

The FAA disagrees. The FAA has not revised this AD because we have mandated actions for operators that have experienced a greater number of LPT 3rd-stage blades failures in AD 2019–25–01. The FAA has not incorporated the use of calendar time for performance of the required actions on the entire fleet or for general inspections of the LPT 3rd-stage blades because, based on the current failure rate for the entire fleet, this action is not required to maintain safety in accordance with FAA's risk assessment policies. Also, incorporating a general inspection of the LPT 3rd-stage blades without targeting a specific root cause will not improve safety and may generate more mistakes and unnecessary damage to the LPT 3rd-stage blades.

Request To Clarify Compliance Time

An individual commenter noted that all the PW1100G–JM series engines with LPT 3rd-stage blades are made from the same material alloy. The commenter requested that the FAA provide the technical analysis to clarify why the other engines affected by this AD have a different compliance time than those affected by FAA AD 2019–25–01.

The FAA agrees that affected IAE engines will have the same material alloy unless the engine has either incorporated the new LPT 3rd-stage blades as identified in Pratt & Whitney (PW) Service Bulletin (SB) PW1000G–C–72–00–0111–00A–930A–D or the engine was produced since March 2019. IAE engines affected by AD 2019–25–01 are operated by operators who have experienced the majority of these LPT 3rd-stage blade failures. This demonstrates that the operation of the affected IAE engines can have an effect on the frequency of the LPT 3rd-stage blade failures. However, the entire airplane fleet will still have a risk of engine failure until the new blade design is incorporated into the engine. The required action to remove the affected LPT 3rd-stage blades from service at the next engine shop visit will address the unsafe condition for the remaining engines affected by this AD.

Request for Clarification of Definition

All Nippon Airways (ANA) commented that the definition of engine shop visit in this AD does not include a definition of ''major mating engine flange.'' On the other hand, PW SB PW1000G–C–72–00–0111–00A–930A–D, (''the PW SB'') indicates that flanges ''E through P'' are considered ''major mating engine flanges.'' ANA would like to confirm this AD applies when the engine is inducted into the shop for maintenance and only major mating engine flanges B or C are separated.

The definition of ''engine shop visit'' in this AD is accurate. The term ''major mating engine flanges,'' as used in this AD, is consistent with the PW SB. The term ''major mating engine flanges'' are flanges E through P. If only mating engine flanges B or C are separated, then this is not considered an engine shop visit, per the definition provided in this AD.

Support for the AD

The Air Line Pilots Association, an individual commenter, and anonymous commenters supported the NPRM as written.

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.

Related Service Information

The FAA reviewed Pratt & Whitney SB PW1000G–C–72–00–0111–00A–930A–D, Issue No. 002, dated October 18, 2019. The service information describes procedures for removal of the affected LPT 3rd-stage blades and their replacement with parts eligible for installation.

Costs of Compliance

The FAA estimates that this AD affects 65 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace set of LPC 3rd-stage blades.	0 work-hours × $85 per hour = $0	$750,000 per blade set	$750,000	$48,750,000

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):

2020–08–04 International Aero Engines LLC: Amendment 39–21111; Docket No. FAA–2019–0906; Project Identifier 2019–NE–31–AD.

(a) Effective Date

This AD is effective May 21, 2020.

(b) Affected ADs

None.

(c) Applicability

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

Note to paragraph (c): This AD does not apply to IAE PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1129G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM model turbofan engines with engine serial numbers

listed in paragraph (g) of AD 2019–25–01 (84 FR 65666, November 29, 2019).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of failure of certain LPT 3rd-stage blades. The FAA is issuing this AD to prevent failure of these LPT 3rd-stage blades. The unsafe condition, if not addressed, could result in uncontained release of the LPT 3rd-stage blades, failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

At the next engine shop visit after the effective date of this AD, remove from service any LPT 3rd-stage blade, P/N 5387343, 5387493, 5387473, or 5387503, and replace with a part eligible for installation.

(h) Definitions

(1) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation of the engine without subsequent engine maintenance does not constitute an engine shop visit.

(2) For the purpose of this AD, a ''part eligible for installation'' is any LPT 3rd-stage blade that does not have a P/N 5387343, 5387493, 5387473, or 5387503.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

None.

Issued on April 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08002 Filed 4–15–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0954; Airspace Docket No. 19–ANM–6]

RIN 2120–AA66

Establishment of Class E Airspace; Hardin, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Big Horn County Airport, Hardin, MT. The airspace extends upward from 700 feet above the surface and contains arriving and departing IFR aircraft operating to/from the airport.

DATES: Effective 0901 UTC, July 16, 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 Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Big Horn County Airport, Hardin, MT, to ensure the safety and management of Instrument Flight Rules (IFR) operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 2330; January 15, 2020) for Docket No. FAA–2019–0954 to establish Class E airspace at Big Horn County Airport, Hardin, MT. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E5 airspace designations are published in paragraph 6005 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 Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, 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

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet or more above the surface at the Big Horn County Airport, Hardin, MT. The Class E airspace area supports the airport's transition from VFR to IFR operations. It contains IFR departures until reaching 1,200 feet above the surface and IFR arrivals descending below 1,500 feet above the surface.

The airspace area is described as follows: That airspace extending

upward from 700 feet above the surface within a 6.4-mile radius of the airport, and within 2 miles each side of the 090° bearing from the airport, extending from the 6.4-mile radius to 10.4 miles east of the Big Horn County Airport.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM MT E5—Hardin, MT

Big Horn County Airport, Hardin, MT
(Lat. 45°44′40″ N, long. 107°39′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the airport, and within 2.0 miles each side of the 090° bearing from the airport, extending from the 6.4-mile radius to 10.4 miles east Big Horn County Airport.

Issued in Seattle, Washington, on April 10, 2020.

Shawn M. Kozica,

Group Manager,Western Service Center, Operations Support Group.

[FR Doc. 2020–08028 Filed 4–15–20; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MB Docket Nos. 17–105 and 14–127, MM Docket No. 00–168; FCC 20–32; FRS 16600]

Modernization of Media Regulation Initiative; Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees; Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission makes non-substantive, editorial revisions to the Commission's rules to eliminate regulations that have become unnecessary because they no longer have any applicability. These relevant provisions are now without legal effect and therefore obsolete due to the completion of the transition from local hard copy public inspection files to online public inspection files.

DATES: This rule is effective April 16, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 20–32, adopted on March 17, 2020 and released on March 18, 2020, which is the subject of this rulemaking. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Order, we make non-substantive, editorial revisions to parts 73 and 76 of the Commission's rules to eliminate rules that have become unnecessary because they no longer have any applicability. Specifically, we delete certain rule provisions regarding the maintenance of local public inspection files by commercial broadcast stations, noncommercial educational (NCE) broadcast stations, and cable system operators. These provisions are, or as of the effective date of this Order will be, without legal effect and therefore obsolete due to the completion of the transition from local hard copy public inspection files to online public inspection files. Eliminating this obsolete language will ease review and clarity of the current public file requirements and streamline our rules.

2. In 2012, the Commission first adopted online public inspection file rules for television broadcasters, requiring them to post public file documents to a central, Commission-hosted online database rather than maintaining files locally at their main studios.[1] In 2016, the Commission expanded the online public inspection file requirements to additional entities, including cable operators and broadcast radio licensees.[2] To ease compliance

[1] The public inspection file rules apply to full power and Class A television stations, and not to low power television or television translators.

[2] The online file requirements also were expanded to satellite TV (also referred to as ''Direct Broadcast Satellite'' or ''DBS'') providers and

burdens for smaller entities with limited financial resources, the Commission delayed for two years, until March 1, 2018, online file obligations for radio stations outside the top 50 markets, radio stations within the top 50 markets with fewer than five fulltime employees, NCE radio stations, and smaller cable operators.[3] In addition, television stations, radio stations, and cable system operators were not required to upload existing political file material, but only new political file material on a going-forward basis. This phased approach was intended to further smooth the transition for regulated entities and the Commission and to allow smaller entities additional time to begin posting their political files online. Since the last hard copy political file material would have been placed in the file by March 1, 2018, and since all political file material is subject to a two-year retention period, as of March 1, 2020 the transition to the online public file will be complete and the rule revisions adopted herein will be effective as of that date or as of the date of **Federal Register** publication, whichever is later.[4]

3. With the transition complete, we adopt this Order to remove the transitional requirements from the public file rules. Specifically, we delete portions of the public file rules that pertain to radio licensees being temporarily exempt from the online public file, since such licensees were no longer exempt as of March 1, 2018. We also delete portions of the rules that pertain to retention of the existing political files in hard copy, which are no longer relevant as of March 1, 2020. In addition, we delete portions of the rules that currently explain what is meant by references to the ''local public inspection file,'' since such references will not appear in the revised rules.[5] We add language to the cable public file rules to clarify that only those cable systems that are exempt from the online public file requirement, *i.e.,* those with fewer than 1,000 subscribers, will continue to be permitted to retain public file material at their system.[6] We also delete other obsolete language in the public file rules.[7]

4. We make certain additional minor revisions to the rules to reflect the completion of the transition to the online public inspection file. Specifically, we change the word ''local'' in the current title of §§ 73.3526 (Local public inspection file of commercial stations) and 73.3527 (Local public inspection file of noncommercial educational stations) to ''online.''[8] In addition, we revise the political file rule (§ 73.1943) to delete language pertaining to retention of the political file at the station and to clarify that the records must be placed in the online political file.[9] Finally, we change the word ''locally'' in § 73.3615 to ''in the online public inspection file.''

5. The rule revisions adopted in this Order are non-substantive, editorial revisions. Because these revisions merely eliminate provisions that are no longer effective and thus obsolete as of March 1, 2020, and make other related non-substantive edits, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose. As explained above, these revisions will be effective on the latter of March 1, 2020 or the **Federal Register** publication date, by which time the transition to the online public file will be complete.[10]

6. Because these rule changes do not require notice and comment, the Regulatory Flexibility Act does not apply.

7. This Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

8. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

9. Accordingly, IT IS ORDERED that, effective on the latter of March 1, 2020 or the **Federal Register** publication date, parts 73 and 76 of the Commission's rules ARE AMENDED, as set forth in the attached Final Rules, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and in sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act, 5 U.S.C 553(b)(3)(B), 553(d)(3).

10. IT IS FURTHER ORDERED that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 14–127 and MM Docket No. 00–168 SHALL BE TERMINATED and their dockets closed.

List of Subjects

47 CFR Part 73

Cable television, Radio, Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications

satellite radio (also referred to as ''Satellite Digital Audio Radio Services'' or ''SDARS'') in the 2016 Order.

[3] The Commission exempted cable systems with fewer than 1,000 subscribers from all online public file requirements and applied the March 1, 2018 timeframe to cable systems with between 1,000 and 5,000 subscribers. Accordingly, cable systems with fewer than 1,000 subscribers may continue to retain public file material at their system.

[4] Upon completion of the transition to the online public file, we expect that all entities subject to the online public inspection file requirements will be fully compliant. Broadcast stations that are not in full compliance will be required to self-disclose any non-compliance in their renewal application during the current renewal cycle, and we anticipate that the Media Bureau will initiate enforcement action when necessary as part of the renewal review.

[5] We will retain references to the ''local public inspection file'' in the cable public file rule, because cable television systems with fewer than 1,000 subscribers are exempt from the online public file requirements.

[6] Specifically, we revise § 76.1700(e) to clarify that its provisions involving the location of public file material that continues to be retained at the system apply to cable television systems that are exempt from the online public file requirement pursuant to § 76.1700(d). Similarly we revise § 76.1700(f) to clarify that those systems required to include in the online public file the address of the system's local public file will be systems that are exempt from the online public file requirement pursuant to § 76.1700(d) but opt to use it partially while retaining certain other documents in the local file.

[7] Specifically, we delete from these rules obsolete language referencing the Commission's main studio rules, which were eliminated in 2017. We also revise §§ 73.3526(c)(1) and 73.3527(c)(1) to pertain only to applicants described in paragraph (b)(1) of those rules (''[a]n applicant for a new station or change of community''), and not permittees or licensees, since the described applicants are the only entities subject to these rules that will not have fully converted to the online public inspection file.

[8] We note that the Commission has previously proposed revisions to §§ 73.3526(e)(13) and 73.3527(e)(10), covering local public notice announcements, and we thus do not implement any further revisions to those rules here. These proposed revisions will be considered in an upcoming order.

[9] Specifically, we revise this rule by adding the word ''online'' to ''online political file'' in paragraph (c) and by removing paragraph (d) in its entirety.

[10] Because the rules being revised are, as of March 1, 2020, without legal effect and therefore obsolete due to the completion of the transition from local hard copy public inspection files to online public inspection files, there is ''good cause'' under 5 U.S.C. 553(d) to make the rules effective prior to 30 days after publication in the **Federal Register**.

Commission amends 47 CFR parts 73 and 76 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.1943 by revising paragraph (c) and removing paragraph (d) as follows:

§ 73.1943 Political file.

* * * * *

(c) All records required by this paragraph shall be placed in the online political file as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

■ 3. Amend § 73.3526 by

■ a. Revising the section heading and paragraphs (b)(1) and (2);

■ b. Removing paragraph (b)(3);

■ c. Redesignating paragraph (b)(4) as paragraph (b)(3);

■ d. Revising paragraph (c).

The revisions read as follows:

§ 73.3526 Online public inspection file of commercial stations.

* * * * *

(b) * * *

(1) An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

(2)(i) A television or radio station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission.

(ii) A station must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the station has a website, and provide contact information on its website for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's address and telephone number, and the email address of the station's designated contact for questions about the public file.

* * * * *

(c) *Access to material in the file.* For any applicant described in paragraph (b)(1) of this section that does not include all material described in paragraph (e) of this section in the online public file hosted by the Commission, the portion of the file that is not included in the online public file shall be available for public inspection at any time during regular business hours at an accessible place in the community of license. The applicant must provide information regarding the location of the file, or the applicable portion of the file, within one business day of a request for such information. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.,* by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

* * * * *

■ 4. Amend § 73.3527 by

■ a. Revising the section heading and paragraphs (b)(1) and (b)(2)(i);

■ b. Removing paragraph (b)(2)(ii);

■ c. Redesignating paragraph (b)(2)(iii) as paragraph (b)(2)(ii) and revising newly redesignated paragraph (b)(2)(ii); and

■ d. Revising paragraph (c).

The revisions read as follows.

§ 73.3527 Online public inspection file of noncommercial educational stations.

* * * * *

(b) * * *

(1) An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license.

(2)(i) A noncommercial educational television or radio station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission.

(ii) A station must provide a link to the online public inspection file hosted by the Commission from the home page of its own website, if the station has a website, and provide contact information for a station representative on its website that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file hosted by the Commission the station's address and telephone number, and the email address of the station's designated contact for questions about the public file.

* * * * *

(c) *Access to material in the file.* For any applicant described in paragraph (b)(1) of this section that does not include all material described in paragraph (e) of this section in the online public file hosted by the Commission, the portion of the file that is not included in the online public file shall be available for public inspection at any time during regular business hours at an accessible place in the community of license. The applicant must provide information regarding the location of the file, or the applicable portion of the file, within one business day of a request for such information. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.,* by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

* * * * *

■ 5. Amend § 73.3615 by revising paragraph (g) to read as follows:

§ 73.3615 Ownership reports.

* * * * *

(g) A copy of all ownership and supplemental ownership reports and related materials filed pursuant to this section shall be maintained and made available for public inspection in the online public inspection file as required by §§ 73.3526 and 73.3527.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 6. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 7. Amend § 76.1700 by revising paragraph (a) introductory text, paragraphs (e) and (f) to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a) *Public inspection file.* The following records must be placed in the online public file hosted by the Commission, except as indicated in paragraph (d) of this section.

* * * * *

(e) *Location of records.* For cable television systems exempt from the online public file requirement pursuant to paragraph (d) of this section, public file material that continues to be retained at the system shall be retained in a public inspection file maintained at the office in the community served by the system that the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business and, if the system operator does not maintain such an office in the community, at any accessible place in the communities served by the system (such as a public registry for documents or an attorney's office). Public file locations will be open at least during normal business hours and will be conveniently located. The public inspection file shall be available for public inspection at any time during regular business hours for the facility where they are kept. All or part of the public inspection file may be maintained in a computer database, as long as a computer terminal capable of accessing the database is made available, at the location of the file, to members of the public who wish to review the file.

(f) *Links and contact and geographic information.* A system must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the system has a website, and provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system is exempt from the online public file requirement pursuant to paragraph (d) of this section but opts to use it in part while retaining certain documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system. To the extent this section refers to the local public inspection file, it refers to the public file of a physical system, which is either maintained at the location described in paragraph (e) of this section or on the Commission's website, depending upon where the documents are required to be maintained under the Commission's rules.

* * * * *

[FR Doc. 2020–06927 Filed 4–15–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 200327–0090]

RIN 0648–BI76

List of Fisheries for 2020

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its final List of Fisheries (LOF) for 2020, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2020 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements.

DATES: The effective date of this final rule is May 18, 2020.

ADDRESSES: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jaclyn Taylor, Office of Protected Resources, 301–427–8402; Allison Rosner, Greater Atlantic Region, 978–281–9328; Jessica Powell, Southeast Region, 727–824–5312; Dan Lawson, West Coast Region, 562–980–3209; Suzie Teerlink, Alaska Region, 907–586–7240; Kevin Brindock, Pacific Islands Region, 808–725–5146. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental mortality and serious injury of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SARs) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387(c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362(20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (OSP). This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock. If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10

percent of the PBR level of the stock, all fisheries interacting with the stock will be placed in Category III (unless those fisheries interact with other stock(s) for which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2: Tier 2 considers fishery-specific mortality and serious injury for a particular stock.

Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (*i.e.,* frequent incidental mortality and serious injury of marine mammals).

Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (*i.e.,* occasional incidental mortality and serious injury of marine mammals).

Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (*i.e.,* a remote likelihood of or no known incidental mortality and serious injury of marine mammals).

Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one category for one marine mammal stock and another category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (*e.g.,* a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II). Stocks driving a fishery's classification are denoted with a superscript ''1'' in Tables 1 and 2.

Other Criteria That May Be Considered

The tier analysis requires a minimum amount of data, and NMFS does not have sufficient data to perform a tier analysis on certain fisheries. Therefore, NMFS has classified certain fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995) and listed in the regulatory definition of a Category II fishery. In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is ''frequent,'' ''occasional,'' or ''remote'' by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes ''serious'' and ''non-serious'' documented injuries as described later in the List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean and the Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. SARs are brief reports summarizing the status of each stock of marine mammals occurring in waters under U.S. jurisdiction, including information on the identity and geographic range of the stock, population statistics related to abundance, trend, and annual productivity, notable habitat concerns, and estimates of human-caused M/SI by source. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs and reviewed for the 2020 LOF generally summarizes data from 2012–2016. NMFS also reviews other sources of new information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.,* MMPA mortality/injury reports), and anecdotal reports from that time period. In some cases, more recent information may be available and used in the LOF.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the 5-year timeframe summarized in that year's LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.,* fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than 5 years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

Where does NMFS obtain information on the level of observer coverage in a fishery on the LOF?

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each Pacific and Alaska SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. For Atlantic fisheries, this information can be found in the LOF Fishery Fact Sheets. The SARs do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices and other resources referenced during the tier analysis may include: Level of observer coverage; target species; levels of fishing effort; spatial and temporal distribution of fishing effort; characteristics of fishing gear and operations; management and regulations; and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources website at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-*

region. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources' website: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables.* Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's website: *https://www.fisheries.noaa.gov/national/fisheries-observers/national-observer-program.*

How do I find out if a specific fishery is in Category I, II, or III?

The LOF includes three tables that list all U.S. commercial fisheries by Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S. authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable TRPs or take reduction teams (TRT).

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.,* trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a ''*'' after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for 5 years, during which time Fishery Management Plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at *https://www.fisheries.noaa.gov/permit/high-seas-fishing-permits.*

Where can I find specific information on fisheries listed on the LOF?

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: When the fishery was added to the LOF; the basis for the fishery's initial classification; classification changes to the fishery; changes to the list of species and/or stocks incidentally killed or injured in the fishery; fishery gear and methods used; observer coverage levels; fishery management and regulation; and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under ''How Do I Find Out if a Specific Fishery is in Category I, II, or III?'' on the NMFS Office of Protected Resources' website: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries,* linked to the ''List of Fisheries Summary'' table. NMFS is developing similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of accessible and detailed information on many of these fisheries, the development of these fishery fact sheets is taking significant time to complete. NMFS began posting Category III fishery fact sheets online with the LOF for 2016.

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register, renew and receive my Marine Mammal Authorization Program authorization certificate?

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials.

In the Pacific Islands, West Coast, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail or with their state or Federal license or permit at the time of issuance or renewal. In the Greater Atlantic and Southeast Regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year.

Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by the beginning of the calendar year, or with renewed fishing licenses, must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION CONTACT**). Authorization certificates may also be obtained by visiting the MMAP website *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate.*

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal license or permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries.

Individuals fishing in Category I and II fisheries for which no state or Federal license or permit is required must register with NMFS by contacting their appropriate Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Am I required to submit reports when I kill or injure a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip or, in the case of non-vessel fisheries, fishing activity. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported.

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#reporting-a-death-or-injury-of-a-marine-mammal-during-commercial-fishing-operations* or by contacting the appropriate regional office (see **FOR FURTHER INFORMATION CONTACT**). Forms may be submitted via any of the following means: (1) Online using the electronic form; (2) emailed as an attachment to *nmfs.mireport@noaa.gov;* (3) faxed to the NMFS Office of Protected Resources at 301–713–0376; or (4) mailed to the NMFS Office of Protected Resources (mailing address is provided on the postage-paid form that can be printed from the web address listed above). Reporting requirements and procedures are found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that the Secretary is not required to place an observer on a vessel if the facilities for quartering an observer or performing observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; thereby authorizing the exemption of vessels too small to safely accommodate an observer from this requirement. However, U.S. Atlantic Ocean, Caribbean, or Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)) will not be exempted from observer requirements, regardless of their size. Observer requirements are found in 50 CFR 229.7.

Am I required to comply with any marine mammal TRP regulations?

Table 4 provides a list of fisheries affected by TRPs and TRTs. TRP regulations are found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams.* It is the responsibility of fishery participants to comply with applicable take reduction regulations.

Where can I find more information about the LOF and the MMAP?

Information regarding the LOF and the MMAP, including registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries,* or from any NMFS Regional Office at the addresses listed below:

NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Jessica Powell;

NMFS, West Coast Region, Long Beach Office, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Dan Lawson;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Suzie Teerlink; or

NMFS, Pacific Islands Regional Office, Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818, Attn: Kevin Brindock.

Sources of Information Reviewed for the 2020 LOF

NMFS reviewed the marine mammal incidental mortality and serious injury information presented in the SARs for all fisheries to determine whether changes in fishery classification are warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of mortality and serious injury of marine mammals that occurs incidental to commercial fishery operations and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were established by the MMPA to review the science that informs the SARs, and to advise NMFS on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding and entanglement data, observer program data, fishermen self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The LOF for 2020 was based on, among other things, stranding data; fishermen self-reports; and SARs, primarily the 2018 SARs, which are based on data from 2012–2016. The SARs referenced in this LOF include: 2016 (82 FR 29039; June 27, 2017), 2017 (83 FR 32093; July 11, 2018) and 2018 (84 FR 28489; June 19, 2019). The SARs are available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.*

Comments and Responses

NMFS received six comment letters on the proposed LOF for 2020 (84 FR 54543; October 10, 2019). Comments were received from the Center for Biological Diversity (CBD), Hawaii Longline Association (HLA), Maine Lobstermen's Association (MLA), Marine Mammal Commission (Commission), Western Pacific Regional Fishery Management Council (WPRFMC) and a joint letter from Lund's Fisheries and The Town Dock. Responses to substantive comments are below; comments on actions not related to the LOF are not included.

General Comments

Comment 1: CBD expresses concern regarding the diminishing quality,

quantity and timeliness of marine mammal and commercial fisheries interactions public data. As noted in the Commission's 2018 report (MMC 2018), current resources do not allow NMFS to meet its obligations under MMPA section 117 (16 U.S.C. 1386). The lack of accurate and up-to-date stock assessment reports compromises the integrity of fishery regulations and undermines public oversight. The LOF is the conduit for information in the stock assessment reports to be used in the regulation of fisheries. The lack of recent Scientific Review Group meeting minutes and recommendations hinders the public's ability to review new science that should be incorporated into the LOF for 2020.

Response: When NMFS reviews the LOF annually, we use the best available scientific information, including the SARs. The SARs generally provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations; there may also be more recent reports that include bycatch estimates. The MMPA requires NMFS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every three years for non-strategic stocks. NMFS publishes a notice of availability and solicits public comments on the draft SARs annually. We strive to distribute the SRG meeting recommendations, minutes and correspondence in a timely manner, but the timeline this year was residually affected by the 2018–2019 partial government shutdown.

Comments on Commercial Fisheries in the Pacific Ocean

Comment 2: The Commission recommends NMFS reclassify both the Category II Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries as Category I fisheries. The Commission notes that NMFS reported a new abundance estimate for the Southeast Alaska (SEAK) stock of harbor porpoise in the 2016 SAR. That SAR also reported a population-size estimate of 975 porpoises and an estimated minimum population size (Nmin) of 896, which produced a PBR of 8.9 porpoises.

The Commission states that low levels of observer coverage of the Yakutat salmon set gillnet fishery in 2007 and 2008 (5.3 and 7.6 percent, respectively) documented four harbor porpoise mortalities, which, when extrapolated, yielded an estimated mean annual M/SI of 22 animals. Similarly, observations of portions of the SE Alaska salmon drift gillnet fishery in 2012 and 2013 (6.4 and 6.6 percent observer coverage, respectively) documented two harbor porpoise mortalities, which, when extrapolated, yielded an estimated mean annual M/SI of 12 animals. Therefore, the total M/SI estimate was 34 harbor porpoises annually. The Commission notes that these estimates have not changed in subsequent SARs. The M/SI for the SEAK harbor porpoise stock is nearly four times larger than its PBR, and the M/SI for each fishery exceeds PBR individually.

Despite the uncertainty in the stock-size and M/SI estimates, the data reported in the SAR are the best available estimates for this stock, and clearly meet the criteria for a Category I classification for the Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries.

Response: As stated in the **Federal Register** notice for the final 2018 SARs (see 84 FR 28489, June 19, 2019, comment 17), the PBR level of 8.9 for the SEAK harbor porpoise stock was estimated based on a survey that covered only a portion of the currently-recognized distribution of this stock, and it included commercial fishery mortalities or serious injuries that occurred far north of the surveyed areas. We are concerned about the SEAK harbor porpoise stock, and we are collecting additional information on stock structure and abundance to reduce uncertainties in the data available to manage this stock, and we have prioritized the Southeast Alaska drift gillnet fishery for additional observer coverage, should resources become available. From these studies, we anticipate being able to better evaluate management concerns related to the AK Southeast Alaska salmon drift gillnet and AK Yakutat salmon set gillnet fisheries, including their classification on the future LOF. For the 2020 LOF, NMFS retains the Category II classification for the Yakutat salmon set gillnet and SE Alaska salmon drift gillnet fisheries.

Comment 3: CBD acknowledges NMFS proposed to add the Western U.S. stock of Steller sea lion, which is listed as endangered under the ESA, to the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands Pacific cod longline fishery. They note that the LOF includes many fisheries that take endangered and threatened marine mammals, but no U.S. fishery currently has a valid MMPA authorization under section 101(a)(5)(E) to take ESA-listed marine mammals (16 U.S.C. 1371(a)(5)(E)). CBD recommends NMFS monitor, analyze and mitigate fisheries' interactions with endangered marine mammals in compliance with Federal statutes.

Response: The AK Bering Sea Aleutian Islands Pacific cod longline fishery, along with other federally-managed fisheries, are monitored for marine mammal bycatch through the North Pacific Observer Program, and these data are then considered in the LOF. Publication of the LOF does not authorize take of threatened or endangered marine mammals incidental to commercial fishing. Under section 101(a)(5)(E) of the MMPA, NMFS issues permits for the incidental taking of threatened or endangered species listed under the ESA, if it can be determined that (1) mortality and serious injury incidental to commercial fisheries would have a negligible impact on the affected species or stock, (2) a recovery plan for that species or stock has been developed or is being developed, and (3) where required under section 118, a monitoring program has been established, vessels are registered, and a TRP has been developed or is being developed. Further, classifications made under the LOF are based on the best available science, and are not dependent on, or related to, the current status of other regulatory processes, including the issuance of authorizations under section 101(a)(5)(E) of the MMPA.

Comment 4: CBD supports reclassifying the CA coonstripe shrimp fishery from a Category III to a Category II fishery based on an entangled humpback whale that would have been classified as a serious injury if the whale had not been subsequently disentangled.

Response: NMFS has reclassified the CA coonstripe shrimp fishery from a Category III to a Category II fishery.

Comment 5: CBD recommends NMFS reclassify the Category III WA/OR/CA groundfish, bottomfish longline/set line fishery as a Category II fishery based on observed injuries and mortalities of sperm whales reported in Jannot *et al.* 2018. CBD states the CA/OR/WA stock of sperm whales has a PBR of 2.5 animals per year, and the total annual fishery-related M/SI of sperm whales is above 10 percent of PBR.

Response: For the proposed 2020 LOF, NMFS reviewed Jannot *et al.* 2018 and considered the estimates of sperm whale bycatch presented. Upon further investigation, the estimates provided in Jannot *et al.* 2018 were based on an observed vessel collision in 2007 that was characterized as a non-serious injury. This non-serious injury was evaluated and reported in the most recent SAR for CA/OR/WA sperm whales (Carretta *et al.* 2019). Given that this information does not suggest that

mortality or serious injury of CA/OR/WA sperm whales has been occurring as a result of the WA/OR/CA groundfish, bottomfish longline/set line fishery, NMFS will not reclassify the Category III WA/OR/CA groundfish, bottomfish longline/set line fishery at this time.

Comment 6: CBD recommends NMFS add the AT1 transient stock of killer whales to the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery, based on an entanglement in 2015 (NMFS–WCR 2018).

Response: As stated in the **Federal Register** notice for the final 2018 SARs (see 84 FR 28489, June 19, 2019, comment 24), based on genetic analysis, the killer whale that became entangled in commercial California Dungeness crab pot gear in 2015 was identified as a transient killer whale with a mitochondrial DNA (mtDNA) haplotype that has been found in transient killer whales in the Pribilof Islands and western Aleutian Islands. However, the whale cannot be assigned to a specific stock because mtDNA haplotypes are unique to ecotypes of killer whales (*e.g.,* resident, transient, offshore) but not to populations. Therefore, we will assign this mortality to both the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient killer whale stock and the West Coast Transient killer whale stock in the next revisions of these SARs and in the NOAA Technical Memorandum that contains information on human-caused mortality and injury of NMFS-managed Alaska marine mammal stocks in 2013–2017 (Delean *et al.* in press). Therefore, NMFS will not add the AT1 transient stock of killer whales to the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery in the 2020 LOF. NMFS will use this information in future LOFs when reviewing and updating the list of species/stocks incidentally killed or injured in the Category II CA Dungeness crab pot fishery.

Comment 7: CBD does not support NMFS' proposal to remove the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery because observer coverage is only 20 percent. CBD notes the lack of observed mortalities or injuries does not mean injuries and mortalities are not occurring.

Response: The 2020 LOF is based on the 2018 SARs, which report fishery interactions from 2012–2016; this is the best scientific and commercial information available for the time period examined. There were no sperm whale mortalities or injuries in the Hawaii deep-set longline fishery during the 2012–2016 time period reported in the SARs. NMFS has removed the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Comment 8: The HLA recommends NMFS remove the MHI Insular stock of false killer whale from the list species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery as proposed in the 2019 LOF. NMFS retained this stock in the final 2019 LOF, and HLA expresses concern that this was contrary to the best available science.

HLA notes that (a) the False Killer Whale Take Reduction Plan (FKWTRP) closed the deep-set longline fishery for almost the entire range of the MHI Insular and NWHI stocks, (b) since this change was made in 2013 there have been no interactions between the fishery and an animal from either stock, and (c) there has never been a deep-set longline fishery interaction in the very small area of the stocks' respective ranges that are not closed to longline fishing. The commenter also states that no information has been presented to the False Killer Whale TRT or the Pacific Scientific Review Group suggesting any of the 2018 and 2019 false killer whale interactions referenced by NMFS in the 2019 final rule (84 FR 22051) have been or will be attributed to the MHI Insular stock of false killer whale. HLA requests that NMFS remove the MHI Insular stock of false killer whales from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Response: As noted in the 2019 LOF (84 FR 22051, June 17, 2019), for fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.,* fishery has evidence of fisheries interactions that cannot be attributed to a specific fishery, and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery), stocks may be retained on the LOF for longer than five years. For these fisheries, NMFS will review the other sources of relevant information to determine when it is appropriate to remove a species or stock from the LOF.

As described in the 2019 LOF (84 FR 22051, June 17, 2019), six false killer whale mortalities and serious injuries incidental to the deep-set longline fishery were observed inside the EEZ around Hawaii, including three mortalities and serious injuries that occurred close to the outer boundary of the Main Hawaiian Islands Longline Fishing Prohibited Area, in close proximity to the outer boundary of the MHI Insular false killer whale stocks' range. These interactions have not yet been evaluated for assignment to insular or pelagic stocks in the SAR. Additionally, the MHI Insular false killer whale range overlaps with areas that are open to deep-set longline fishing and MHI Insular false killer whales have been documented with injuries consistent with fisheries interactions that have not been attributed to a specific fishery (Baird *et al.,* 2014). For the above reasons, NMFS retains the MHI Insular false killer whale stock on the list of species and/or stocks killed or injured incidental to the Category I HI deep-set longline fishery.

Comment 9: HLA restates a previous comment and recommends NMFS reclassify the Hawaii shallow-set longline fishery as a Category III fishery. HLA notes that the Hawaii shallow-set longline fishery has 100 percent observer coverage, and only one serious injury has been observed in the EEZ since 2008. HLA states the 2017 SAR attributes a 0.1 M/SI to the shallow-set longline fishery for the pelagic stock of false killer whales in the U.S. EEZ. However, the 0.1 M/SI rate is derived entirely from a 2012 interaction on which NMFS was unable to make a serious injury determination, and which was given a ''cannot-be-determined'' determination. This determination was then prorated as 0.3 M/SI because, in the previous five years, there were three interactions between the shallow-set longline fishery and the pelagic false killer whale stock in the EEZ. HLA believes if the ''cannot-be-determined'' determination for the 2012 interaction is prorated based upon the five-year look-back period used in the 2017 SAR (2011–2015), then the M/SI rate would be 0.0, because there were only two other interactions from 2011–2015, both of which were determined to be non-serious. Therefore, HLA recommends the shallow-set longline fishery should be reclassified as a Category III fishery.

Response: This comment has been addressed previously (see 84 FR 22051, June 17, 2019, comment 13; 83 FR 5349, February 7, 2018, comment 26). NMFS uses the classification criteria described in the preamble to classify fisheries as Category I, Category II, or Category III. A fishery is classified under Category II if the annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the stock's PBR level. Additional details regarding categorization of fisheries is provided in

the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995). The false killer whale interaction in 2012 that resulted in a ''cannot be determined'' determination was prorated following the methods described in the 2017 SAR (Carretta *et al.,* 2018), which prorates serious versus non-serious injuries using the historic rate of serious injury, while accounting for changes in gear following implementation of the FKWTRP in 2013. This proration resulted in a 0.3 M/SI for the pelagic false killer whale stock as reported in the 2017 SAR, which is 1.07 percent of PBR and within the range of 1–50 percent of PBR, requiring NMFS to classify the fishery as a Category II fishery, consistent with section 118 of the MMPA.

Comment 10: HLA supports removing the Hawaii stock of sperm whale from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Response: NMFS has removed the Hawaii stock of sperm whale from the list of species and/or stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

Comment 11: HLA supports removing the Hawaii stock of short-finned pilot whale from the list of species and/or stocks incidentally killed or injured in the Category II Hawaii shallow-set longline fishery.

Response: NMFS has removed the Hawaii stock of short-finned pilot whale from the list of species and/or stocks incidentally killed or injured in the Category II Hawaii shallow-set longline fishery.

Comment 12: WPRFMC provides clarification on the source of information used to revise the number of vessels/persons for the American Samoa bottomfish handline fishery in the proposed rule from 1,092 to 2,095. NMFS began citing the Council's Annual Stock Assessment and Fishery Evaluation (SAFE) report for the fishery participation data in the 2019 LOF, which resulted in the number of vessels/persons revised from 17 in the previous LOF to 1,092 in the 2019 LOF; and the subsequent revision to 2,095 in the proposed 2020 LOF. WPRFMC notes the method used in the Annual SAFE Report estimates participation for the American Samoa bottomfish fishery by multiplying the average number of fishers per trip by the number of trips per day, and then by the number of dates in the calendar year by gear type. The commenter also states this method does not generate a count of unique fishermen in the fishery, but rather an estimation of the cumulative number of fishermen participating in the bottomfish fishery in a calendar year, representing duplicate counts of fishermen throughout the year. The method also results in an overestimation of fishery participation, as it does not account for days without bottomfish fishing effort and consequently assumes that bottomfish fishing occurs every day in the calendar year.

The WPRFMC Plan Team determined this method to be an inappropriate approach for tracking fishery participation trends and removed the metric from the 2018 Annual SAFE Report (published in July 2019). The Plan Team also noted that the fishery participation metric estimate of 2,095 reported in the 2017 Annual SAFE Report was likely an estimation error, rather than a true doubling of effort from 2016 to 2017. WPRFMC recommends NMFS use information from the Environmental Assessment for the Specification of the 2016–2017 Annual Catch Limits for the American Samoa bottomfish fishery for the 2020 LOF, which describes the fishery as a small scale fishery consisting of fewer than 30 part-time, relatively small commercial vessels landing between 6,000–35,000 pounds (2,722–15,876 kilograms) annually.

Response: Following review of the 2018 Annual SAFE Report and the 2017 Environmental Assessment, NMFS updates the estimated number of vessels/persons in the American Samoa bottomfish handline fishery as being fewer than 30 vessels in the LOF for 2020.

Comments on Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Comment 13: CBD does not support NMFS' proposal to remove the WNA stocks of hooded seal and long-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery. The commenter states observer coverage from 2012–2016 was low (15, 11, 18, 14 and 10 percent each year, respectively) and interactions with these stocks may be unobserved.

Response: No hooded seal or long-finned pilot whale mortalities or injuries were observed or reported in the Northeast sink gillnet fishery from 2012–2016 (Hayes *et al.,* 2019). The last observed M/SI of these stocks in the Northeast sink gillnet fishery was in 2004 and 2010. In general, we list species/stocks incidentally killed or injured in a particular fishery based on data observed from the last 5 years. The list contained in the LOF is not intended to serve as a historical overview of mortalities and injuries, as that data is available in individual species SARs, as well as in Appendix III of the SAR.

From 2012–2016, observer coverage for the Northeast sink gillnet fishery was 2, 3, 5, 6 and 8 percent each year, respectively. Additionally, while some strandings did occur during this timeframe in Massachusetts, none of the stranded animals (live or dead) showed evidence of human interaction.

NMFS has removed the Western North Atlantic stocks of hooded seals and long-finned pilot whales from the list of species and/or stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery. NMFS will annually monitor bycatch of marine mammals in the Northeast sink gillnet fishery and will make adjustments to Table 2, should takes be observed in the future.

Comment 14: The MLA recommends NMFS reclassify the Maine lobster fishery as a stand-alone fishery, instead of including the fishery as part of the broader Category I Northeast/mid-Atlantic American lobster pot fishery.

The commenter requests that NMFS categorize Maine's exempted waters lobster fishery as a Category III fishery, due to the rarity of whale sightings and lack of documented M/SI with this sector of the American lobster fishery. MLA notes Maine's exempt waters lobster fishery is a small boat fishery which uses smaller ropes and lighter gear, compared to other segments of the Northeast lobster fishery.

MLA also requests that NMFS categorize Maine's non-exempt waters lobster fishery as a Category II fishery, based on the decline in right whale sightings, lack of documented right whale entanglements, lack of observed interactions from the Federal observer program, and the efficacy of TRP measures implemented in 2009 and 2014.

The commenter states that multiple data sources, including acoustic surveys, right whale sightings data, and low copepod concentrations, document that right whales are extremely rare in Maine's exempt waters, are not found in large numbers in Maine's non-exempt waters, and are unlikely to feed in these areas. In addition, MLA notes, there has been only one right whale entangled in Maine gear in April 2002, and the entanglement was determined to be a non-serious injury. There are two additional non-serious injury entanglement cases that involved Maine lobster gear. However, Maine lobster gear was not the primary entangling gear in these cases.

Response: The information provided by the commenter is insufficient for splitting the Northeast/Mid-Atlantic American lobster trap/pot into multiple fisheries. Fisheries are categorized based on the gear types used, how the gear is fished, and the behavior of the fishery related to the risk to marine mammals. Multiple states participate in the American lobster trap/pot fisheries, using a wide variety of gear and gear configurations throughout a large portion of coastal waters. While we recognize this variety within the fishery at large, there are no clear boundaries to divide gear use across the wider area, as suggested by this comment. Importantly, the state of Maine does not use unique gear configurations, compared to gear configurations used in other states, and gear configurations within Maine's waters are not uniform or divided across the geographic boundaries (*i.e.,* exemption lines) that MLA has identified. Further, gear marking and right whale monitoring efforts throughout Maine waters are insufficient to determine that the gear or area presents a different risk to large whales.

MLA suggests that differences in rope diameter used by the inshore fishery (*i.e.* fisheries exempted under the Atlantic Large Whale TRP management requirements) are sufficient to reduce any risk to large whales, and thereby make it a distinct fishery. The commenter indicates that coastal lobster fisheries in Maine state waters utilize 3/8th diameter line and fish doubles and, therefore, pose less of a risk to right whales than other fisheries. While this may characterize a portion of the inshore fishery, this information is based on a small sample size from self-reported surveys conducted by Maine's Department of Marine Fisheries and does not take into account varying breaking strength or other variability within this fishery. In this same study, high variability in line diameter used and number of pots trawled in the coastal fishery was also shown. According to Summers *et al.* 2019 (Assessment of Vertical Line Use in Gulf of Maine Region Fixed Gear Fisheries presentation to Atlantic Large Whale TRT), of the 647 responses received from Maine permitted lobster fishermen (approximately 15 percent of the total of actively fishing permitted Maine vessels), less than 60 percent of that sample included those who fish between 0–3 nautical miles from shore. While the majority of this small sample size responded that they primarily fish single and double pots, some voluntary respondents answered that they fish a range between 5–30+ pot trawls. While there were fewer responses citing these higher trawl numbers, it shows the variability of the Maine state lobster fishery. The 3/8th line diameter and limited trap/pots justification is not uniform throughout the inshore area and is not unique to Maine waters; therefore, these areas are not representative of a unique fishery compared to the rest of the lobster fishery.

MLA also cites a lack of right whale sightings in Maine state waters as justification for reclassifying the Maine lobster fisheries. However, it is important to recognize that whale sighting information is related to monitoring efforts, which are largely a reflection of survey resource prioritization. Until this point, right whale surveys have focused on areas where high abundance and social/feeding aggregations are known to occur, due to resource constraints. As noted at the October 2018 TRT meeting, this is an artifact of prioritizing the monitoring of population and health assessments through mark recapture methods that require maximizing photo-identification opportunities, rather than prioritizing coverage of the entire range of right whales. Despite the lack of directed survey efforts, from 2014–2018, there were at least six right whale opportunistic sightings reported and documented in Maine waters in the North Atlantic Right Whale Consortium's sightings database (Industrial Economics Inc., personal communication). Also, bioacoustic gliders implemented between December 2018 and April 2019 had several potential detections of right whales in the Maine inshore waters (Baumgartner, in review). This shows that the right whales are present in Maine state waters, even those overlapping exempted areas. Given the population distribution shifts and critical status of the population, we are allocating resources towards broader surveys that will provide further insight into the habitat use and distribution of these whales; these broader surveys will include regular aerial and acoustic surveys of Maine waters throughout the upcoming year.

As the commenter stated, there are three right whale entanglement cases (E11–11, E43–12, and E36–16) where gear has been recovered with red tracers, which is the gear marking scheme required in the Northern Inshore Trap/Pot fishery management area, a management area that overlaps Maine, New Hampshire, and Massachusetts state waters. In two of these cases, the specific trap/pot fishery was not identified. Therefore, it cannot be ruled out that the entanglements (one of which resulted in a mortality) may have occurred off the coast of Maine in non-exempt waters. The commenter referenced Case E36–16 (which was confirmed to be Massachusetts lobster gear from the Northern Inshore Trap/Pot management area) as an example of why the Maine state fisheries should have a separate designation compared to other lobster fisheries. However, we consider this example as evidence as to why all lobster fisheries should remain classified together. Given that there are limited differences between the gear used in the waters throughout the current management areas, this example shows that lobster gear poses a potential risk to right whales in any area where right whale and lobster fishery distributions overlap.

With this request, the commenter is also not taking into consideration the high percentage of multiple sightings of unidentified entanglements, with first sightings in either the U.S. or in Canada. Over the past 5 years, there have been 4.15 M/SI entanglements documented annually where the origin of the entanglement is unknown (Hayes *et al.,* in review). NMFS has proposed two ways to include these M/SI in risk assessment reduction measure metrics: By taking the total unknown entanglements and dividing them in half to allocate 50 percent of the unknown entanglements to U.S. fisheries and 50 percent to Canadian fisheries, or by assigning the incident to the country the entanglement was first sighted in as the country of origin. Both options produced similar results; the range of entanglements for U.S. fisheries is 0.2–2.45 (2.075 if the risk is divided by 50 percent). The median M/SI entanglement potential is 1.325 animals per year, or 165 percent of PBR.

The sample size of recovered gear from entanglements is small, and much of the retrieved gear is unmarked and cannot be attributed to a particular location. Currently, gear marking is not required in exempted areas. The lack of marks on retrieved gear may indicate that the current marking scheme is inadequate, or that entanglements are occurring in areas where gear is not currently marked, such as international waters or current exempted areas. The state of Maine is currently pursuing a gear marking regime in these exempted waters that will provide additional data about entanglement risk in these areas. The MLA states that there are ''zero instances'' in any data set of Maine of lobster gear associated with a right whale serious injury or mortality, and that the only known entanglement in

which Maine lobster gear was the primary entangling gear occurred in 2002 and resulted in a non-serious injury determination. We recognize that there has only been one confirmed mortality (in 2012) in American lobster gear in the past decade. All other documented lobster interactions were determined to result in non-serious injuries. However, there have been a number of entanglements for which interventions occurred because these entanglements were determined to be resulting in serious injuries (Henry *et al.,* 2019). According to NMFS' ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals (NMFS 2015, 02–238–01),'' cases that would have been serious injuries prior to disentanglement are not counted against PBR in the SAR, but they are included in the recorded takes for the LOF and associated management measures. Aerial surveys, whale watching boats, the presence of other fisheries, and the presence of, and associated outreach by, a disentanglement team contribute to the higher reporting of entanglement sightings in certain areas (*i.e.* Massachusetts) than in Maine state waters and offshore waters. However, that does not mean the risk is nonexistent in other areas where entanglements are not observed. With 85 percent of all right whales exhibiting entanglement scars, it is reasonable and prudent to assume that entanglements are indeed occurring in areas where observations have not yet been reported.

As stated above, we find that there is insufficient information to suggest that Maine's fisheries should be split from the American lobster trap/pot fisheries, because the gear used in Maine waters are not unique from other states. Further, we maintain that entanglement data indicates that the gear used across this fishery remains a risk to right whales. Should Maine fisheries make significant changes to their gear configurations that differentiate these fisheries from other lobster trap/pot fisheries, such as eliminating vertical lines, we will reconsider this decision.

Comment 15: Lund's Fisheries and The Town Dock restate a previous comment requesting that NMFS conduct a tier analysis of long-finned pilot whale M/SI in the small mesh and large mesh bottom trawl fisheries, and that NMFS consider classifying the small mesh and large mesh bottom trawl fisheries as separate fisheries on the LOF. The commenters note the small mesh bottom trawl longfin squid fishery is included on the LOF in both of the Category II Northeast and mid-Atlantic bottom trawl fisheries. In 2018, the Marine Stewardship Council determined that the U.S. Northeastern Longfin Inshore Squid Small Mesh Bottom Trawl Fishery, harvested by small mesh bottom trawls in U.S. waters between the Gulf of Maine and Cape Hatteras, NC, was certified as a sustainable fishery.

Response: Separating the small mesh and large mesh trawl fisheries is not appropriate with respect to evaluating the risk posed to marine mammals by the fisheries. Further, given that the fisheries operate in similar manners, in similar locations, and given that many small mesh trawl fisheries go between coastal and offshore waters, it would be difficult to distinguish between fisheries for such an analysis.

As previously stated (see 84 FR 22051, June 17, 2019, comment 15), we did not reclassify any of the trawl fisheries based on upcoming draft population assessments for the long finned pilot whale. The 2019 draft SARs (84 FR 65353, November 27, 2019) combines the U.S. and Canadian population assessments from 2016 survey efforts for long-finned pilot whales throughout their range, from central Virginia north to Labrador. This estimate is larger than that previously reported in the SAR, because the updated estimate is derived from a survey area extending from Newfoundland to Florida, which is about 1,300,000 km^2 larger than the 2011 survey area used in the previous SAR. In addition, the newer survey estimates in U.S. waters were corrected for availability bias (due to diving behavior), whereas the earlier estimates were not corrected.

The new minimum population estimate for this stock is 30,627 animals, with a PBR of 306. The Northeast bottom trawl fishery has a mean combined annual mortality of 15 pilot whales (4.9 percent of PBR). Therefore, the Category II classification for this fishery remains appropriate.

Comment 16: CBD does not support NMFS' proposal to remove the Florida stock of West Indian manatee from the list species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery. CBD notes that while it may be true that, from 2008 to 2012, there were no documented fishery related injuries or mortalities in shrimp trawl fisheries (USFWS 2014), it is unknown whether the fishery monitoring was adequate to estimate unobserved or undocumented interactions.

Response: In general, we list species/stocks incidentally killed or injured in a particular fishery based on data collected from the last 5 years. The list contained in the LOF is not intended to serve as a historical overview of mortalities and injuries, as that data is available in individual species SARs. Observer programs provide data that is included in the SARs. All manatee deaths and injuries are monitored extensively through the Florida Fish and Wildlife Conservation Commission's Marine Mammal Pathobiology Laboratory carcass recovery and necropsy program, as well as their accessory field labs around the State of Florida. There has been no additional evidence from this effort to suggest mortality or injury from the shrimp trawl fishery. Following consultation with the U.S. Fish and Wildlife Service (USFWS), and as included in the proposed rule, in this 2020 LOF NMFS has removed the Florida stock of West Indian manatee from the list of species and/or stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Summary of Changes From the Proposed Rule

NMFS updates the estimated number of vessels/persons in the Category III American Samoa bottomfish handline fishery from 1,092 vessels/persons to fewer than 30 vessels/persons.

Summary of Changes to the LOF for 2020

The following summarizes changes to the LOF for 2020, including the classification of fisheries, the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. NMFS re-classifies one fishery in the LOF for 2020. The classifications and definitions of U.S. commercial fisheries for 2020 are identical to those provided in the LOF for 2019, except for the changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), GMX (Gulf of Mexico), HI (Hawaii), NC (North Carolina), OR (Oregon), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Classification of Fisheries

NMFS renames the Category III CA/OR coonstripe shrimp fishery to the CA coonstripe shrimp fishery and clarifies that the OR coonstripe shrimp pot fishery is a component of the Category III WA/OR shrimp pot/trap fishery. NMFS also reclassifies the CA

coonstripe shrimp fishery from a Category III to a Category II fishery.

Fishery Name and Organizational Changes and Clarification

NMFS clarifies that the Category II AK Southeast salmon drift gillnet fishery and Category III AK Southeast salmon purse seine fishery include both the AK Metlakatla salmon drift gillnet fishery and the AK Metlakatla salmon purse seine fishery. Based on this clarification, NMFS also removes the Category III AK Metlakatla salmon purse seine fishery from the LOF.

Number of Vessels/Persons

NMFS updates the estimated number of vessels/persons in the Pacific Ocean (Table 1) as follows:

Category I

- HI deep-set longline fishery from 142 to 145 vessels/persons;

Category II

- HI shallow-set longline fishery from 13 to 18 vessels/persons;
- American Samoa longline fishery from 20 to 15 vessels/persons;
- CA thresher shark/swordfish drift gillnet (≥14 inch (in) mesh) fishery from 18 to 14 vessels/persons;
- CA halibut/white seabass and other species set gillnet (>3.5 in mesh) fishery from 50 to 37 vessels/persons;
- CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) fishery from 30 to 22 vessels/persons;
- WA Puget Sound Region salmon drift gillnet fishery from 210 to 154 vessels/persons;
- CA coonstripe shrimp pot fishery from 36 to 14 vessels/persons;
- CA spiny lobster fishery from 194 to 186 vessels/persons;
- CA spot prawn pot fishery from 25 to 23 vessels/persons;
- CA Dungeness crab pot fishery from 570 to 501 vessels/persons;
- OR Dungeness crab pot fishery from 433 to 342 vessels/persons;
- WA/OR/CA sablefish pot fishery from 309 to 155 vessels/persons;
- WA coastal Dungeness crab pot fishery from 228 to 197 vessels/persons;

List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean

NMFS adds the Eastern North Pacific stock of gray whale to the list of species/stocks incidentally killed or injured in the Category II CA thresher shark/swordfish drift gillnet (≥14 in mesh) fishery.

NMFS adds the Eastern North Pacific stock of gray whale to the list of species/stocks incidentally killed or injured in the Category II CA halibut/white seabass and other species set gillnet (>3.5 in mesh) fishery.

NMFS adds the Alaska stock of ribbon seal to the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands rockfish trawl fishery.

NMFS adds CA/OR/WA stock of humpback whale to the list of species/stocks incidentally killed or injured in the Category II CA coonstripe shrimp pot fishery.

NMFS adds the California stock of long-beaked common dolphin to the list of species/stocks incidentally killed or injured in the Category II CA spot prawn pot fishery.

NMFS adds the Western U.S. stock of Steller sea lion to, and removes the Alaska stock of Dall's porpoise from, the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea Aleutian Islands Pacific cod longline fishery.

NMFS adds the Eastern U.S. stock of Steller sea lion to the list of species/stocks incidentally killed or injured in the Category II AK Gulf of Alaska sablefish longline fishery.

NMFS adds four stocks to the list of species/stocks incidentally killed or injured in the Category III to WA/OR/CA groundfish, bottomfish longline/set line fishery: (1) U.S. stock of California sea lion; (2) California breeding stock of Northern elephant seal; (3) CA/OR/WA stock of sperm whale; and (4) Eastern U.S. stock of Steller sea lion.

NMFS adds the Alaska stock of Dall's porpoise to the list of species/stocks incidentally killed or injured in the Category III AK Kodiak salmon purse seine.

NMFS adds the Eastern U.S. stock of Steller sea lion to the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska halibut longline fishery.

NMFS adds two stocks to the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea Aleutian Islands Pacific cod trawl fishery: (1) Alaska stock of ribbon seal; and (2) Alaska stock of bearded seal.

NMFS removes the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS removes the Alaska stock of Dall's porpoise from the list of species/stocks incidentally killed or injured in the Category II AK Aleutian Islands pollock trawl fishery.

NMFS removes the Hawaii stock of short-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery.

NMFS removes two stocks from the list of species/stocks incidentally killed or injured in the Category II American Samoa longline fishery including: (1) Unknown stock of Cuvier's beaked whale; and (2) unknown stock of bottlenose dolphin.

NMFS removes the Alaska stock of ribbon seal from the list of species/stocks incidentally killed or injured in the Category III AK Aleutian Islands Atka mackerel trawl fishery.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Name and Organizational Changes and Clarification

NMFS adds a superscript ''1'' to the Western North Atlantic stock of gray seals to indicate it is driving the Category I classification of the Northeast sink gillnet fishery.

NMFS adds a superscript ''1'' to the Central Georgia estuarine stock of bottlenose dolphins to indicate it is driving the Category II classification of the Atlantic blue crab trap/pot fishery.

NMFS adds a superscript ''1'' to the Western North Atlantic stock of gray seals to indicate it is driving the Category II classification of the mid-Atlantic bottom trawl fishery.

NMFS removes the superscript ''1'' from the Western North Atlantic stock of long-finned pilot whales to indicate the stock is no longer driving the Category I classification of the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery.

Number of Vessels/Persons

NMFS updates the estimated number of vessels/persons in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2) as follows:

Category I

- Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery from 280 to 201 vessels/persons;

Category II

- NC inshore gillnet fishery from 2,850 to 2,676 vessels/persons;
- Southeastern U.S. Atlantic shark gillnet fishery from 23 to 21 vessels/persons;
- Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery from 1,384 to 1,101 vessels/persons;
- Atlantic blue crab trap/pot fishery from 7,714 to 6,679 vessels/persons;
- NC long haul seine fishery from 30 to 22 vessels/persons.

List of Species and/or Stocks Incidentally Killed or Injured in the Atlantic Ocean, Gulf of Mexico, and Caribbean

NMFS adds the Western North Atlantic stock of hooded seal to the list of species/stocks incidentally killed or injured in the Category I Mid-Atlantic gillnet fishery.

NMFS adds the Sarasota Bay, Little Sarasota Bay stock of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot fishery.

NMFS adds the Mississippi River Delta stock of bottlenose dolphin to the list species/stocks incidentally killed or injured in the Category II Gulf of Mexico menhaden purse seine fishery.

NMFS adds the Mobile Bay, Bonsecour Bay stock of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category III Gulf of Mexico blue crab trap/pot fishery.

NMFS removes two stocks from the list of species/stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery: (1) Western North Atlantic stock of hooded seal; and (2) Western North Atlantic long-finned pilot whale.

Following consultation with the USFWS, NMFS removes the Florida stock of West Indian manatee from the list of species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Commercial Fisheries on the High Seas

Number of Vessels/Persons

NMFS updates the estimated number of HSFCA permits for high seas fisheries (Table 3) as follows:

Category I

- Atlantic highly migratory species longline fishery from 67 to 53 HSFCA permits;
- Western Pacific pelagic longline (HI deep-set component) fishery from 142 to 145 HSFCA permits;

Category II

- Pacific highly migratory species drift gillnet fishery from 6 to 5 HSFCA permits;
- South Pacific tuna purse seine fishery from 38 to 33 HSFCA permits;
- South Pacific albacore troll longline fishery from 11 to 6 HSFCA permits;
- South Pacific tuna longline fishery from 3 to 2 HSFCA permits;
- Western Pacific pelagic longline (HI shallow-set component) fishery from 13 to 18 HSFCA permits;
- Pacific highly migratory species handline/pole and line fishery from 48 to 41 HSFCA permits;
- South Pacific albacore troll handline/pole and line fishery from 15 to 11 HSFCA permits;
- Western Pacific pelagic handline/pole and line fishery from 6 to 5 HSFCA permits;
- Atlantic highly migratory species troll fishery from 1 to 0 HSFCA permits;
- South Pacific albacore troll fishery from 24 to 17 HSFCA permits;
- South Pacific tuna troll fishery from 3 to 1 HSFCA permits;
- Western Pacific pelagic troll fishery from 6 to 5 HSFCA permits;

Category III

- Northwest Atlantic bottom longline fishery from 2 to 3 HSFCA permits;
- Pacific highly migratory species longline fishery from 128 to 108 HSFCA permits;
- Pacific highly migratory species purse seine fishery from 10 to 5 HSFCA permits;
- Pacific highly migratory species troll fishery from 150 to 119 HSFCA permits.

List of Species and/or Stocks Incidentally Killed or Injured on the High Seas

NMFS removes the Hawaii stock of sperm whale from the list of species/stocks incidentally killed or injured in the Category I Hawaii deep-set longline fishery.

NMFS removes the Hawaii stock of short-finned pilot whale from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery.

List of Fisheries

The following tables set forth the list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska), Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean, Table 3 lists commercial fisheries on the high seas, and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant is counted the same whether the fisherman used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of valid HSFCA permits currently held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time. As noted previously in this LOF, the number of HSFCA permits listed in Table 3 for the high seas components of fisheries that also operate within U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.,* MMAP

reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2016. This list includes all species and/or stocks known to be killed or injured in a given fishery, but also includes species and/or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.,* MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.,* the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 50 percent (Category I), or greater than 1 percent and less than 50 percent (Category II), of a stock's PBR) by a ''1'' after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995), and according to factors listed in the definition of a ''Category II fishery'' in 50 CFR 229.2 (*i.e.,* fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by adding a ''2'' after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the exclusive economic zone (EEZ) boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately on Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a ''*'' after the fishery's name.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
Longline/Set Line Fisheries:		
HI deep-set longline * ^	145	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic.[1] False killer whale, MHI Insular.[1] False killer whale, NWHI. Humpback whale. Central North Pacific. Kogia *spp.* (Pygmy or dwarf sperm whale), HI. Pygmy killer whale, HI. Risso's dolphin, HI. Rough-toothed dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
CATEGORY II		
Gillnet Fisheries:		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	14	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Dall's porpoise, CA/OR/WA. Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA. Long-beaked common dolphin, CA. Minke whale, CA/OR/WA. Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA. Short-finned pilot whale, CA/OR/WA.[1] Sperm Whale, CA/OR/WA.[1]
CA halibut/white seabass and other species set gillnet (>3.5 in mesh).	37	California sea lion, U.S. Gray whale, Eastern North Pacific. Harbor seal, CA. Humpback whale, CA/OR/WA.[1] Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Sea otter, CA. Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) [2].	22	California sea lion, U.S. Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bristol Bay salmon drift gillnet [2]	1,862	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Spotted seal, AK. Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet [2]	979	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific. Spotted seal, AK.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA.[1] Harbor seal, GOA. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Sea otter, Southwest AK. Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	736	Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, GOA. Humpback whale, Central North Pacific.[1] Sea otter, South central AK. Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA.[1] Harbor seal, GOA. Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet [2]	162	Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, GOA. Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet [2]	113	Harbor porpoise, Bering Sea. Northern sea otter, Southwest AK. Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK. Harbor porpoise, GOA.[1] Harbor seal, GOA. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Sea otter, South central AK. Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	474	Dall's porpoise, AK. Harbor porpoise, Southeast AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific.[1] Pacific white-sided dolphin, North Pacific. Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet [2]	168	Gray whale, Eastern North Pacific. Harbor Porpoise, Southeastern AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific (Southeast AK).
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded).	154	Dall's porpoise, CA/OR/WA. Harbor porpoise, inland WA.[1] Harbor seal, WA inland.
Trawl Fisheries:		
AK Bering Sea, Aleutian Islands flatfish trawl	32	Bearded seal, AK. Gray whale, Eastern North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bering Sea. Humpback whale, Western North Pacific.[1] Killer whale, AK resident.[1]

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
		Killer whale, GOA, AI, BS transient.[1]
		Northern fur seal, Eastern Pacific.
		Ringed seal, AK.
		Ribbon seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
		Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	102	Bearded Seal, AK.
		Beluga whale, Bristol Bay.
		Beluga whale, Eastern Bering Sea.
		Beluga whale, Eastern Chukchi Sea.
		Harbor seal, AK.
		Humpback whale, Central North Pacific.
		Humpback whale, Western North Pacific.
		Northern fur seal, Eastern Pacific.
		Ribbon seal, AK.
		Ringed seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
AK Bering Sea, Aleutian Islands rockfish trawl	17	Killer whale, ENP AK resident.[1]
		Killer whale, GOA, AI, BS transient.[1]
		Ribbon seal, AK.
Pot, Ring Net, And Trap Fisheries:		
CA coonstripe shrimp pot	14	Gray whale, Eastern North Pacific.
		Harbor seal, CA.
		Humpback whale, CA/OR/WA.
CA spiny lobster	186	Bottlenose dolphin, CA/OR/WA offshore.
		Humpback whale, CA/OR/WA2.[1]
		Gray whale, Eastern North Pacific.
		Southern sea otter.
CA spot prawn pot	23	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
		Long-beaked common dolphin, CA.
CA Dungeness crab pot	501	Blue whale, Eastern North Pacific.[1]
		Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
OR Dungeness crab pot	342	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
WA/OR/CA sablefish pot	155	Humpback whale, CA/OR/WA.[1]
WA coastal Dungeness crab pot	197	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
Longline/Set Line Fisheries:		
AK Bering Sea, Aleutian Islands Pacific cod longline	45	Killer whale, Eastern North Pacific AK resident.
		Killer whale, GOA, BSAI transient.[1]
		Northern fur seal, Eastern Pacific.
		Ringed seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.
AK Gulf of Alaska sablefish longline	295	Sperm whale, North Pacific.
		Steller sea lion, Eastern U.S.
		Steller sea lion, Western U.S.
HI shallow-set longline * ^	18	Blainville's beaked whale, HI.
		Bottlenose dolphin, HI Pelagic.
		False killer whale, HI Pelagic.[1]
		Humpback whale, Central North Pacific.
		Risso's dolphin, HI.
		Rough-toothed dolphin, HI.
		Striped dolphin, HI.
American Samoa longline[2]	15	False killer whale, American Samoa.
		Rough-toothed dolphin, American Samoa.
		Short-finned pilot whale, unknown.
HI shortline[2]	9	None documented.
CATEGORY III		
Gillnet Fisheries:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,778	Harbor porpoise, Bering Sea.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
AK Prince William Sound salmon set gillnet	29	Harbor seal, GOA. Humpback whale, Central North Pacific. Sea otter, South central AK. Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	920	None documented.
CA set gillnet (mesh size <3.5 in)	296	None documented.
HI inshore gillnet	36	Bottlenose dolphin, HI. Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA/OR Mainstem Columbia River eulachon gillnet	15	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
Miscellaneous Net Fisheries:		
AK Cook Inlet salmon purse seine	83	Humpback whale, Central North Pacific.
AK Kodiak salmon purse seine	376	Dall's porpoise, AK. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific.
AK Southeast salmon purse seine	315	Humpback whale, Central North Pacific.
AK roe herring and food/bait herring beach seine	10	None documented.
AK roe herring and food/bait herring purse seine	356	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula).	936	Harbor seal, GOA. Harbor seal, Prince William Sound.
WA/OR sardine purse seine	42	None documented.
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	80	Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine*	10	None documented.
WA/OR Lower Columbia River salmon seine	10	None documented.
WA/OR herring, smelt, squid purse seine or lampara	130	None documented.
WA salmon purse seine	75	None documented.
WA salmon reef net	11	None documented.
HI lift net	17	None documented.
HI inshore purse seine	<3	None documented.
HI throw net, cast net	23	None documented.
HI seine net	24	None documented.
Dip Net Fisheries:		
CA squid dip net	115	None documented.
Marine Aquaculture Fisheries:		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented.
WA salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
WA/OR shellfish aquaculture	23	None documented.
Troll Fisheries:		
WA/OR/CA albacore surface hook and line/troll	705	None documented.
CA halibut hook and line/handline	unknown	None documented.
CA white seabass hook and line/handline	unknown	None documented.
AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll.	unknown	None documented.
AK Gulf of Alaska groundfish hand troll and dinglebar troll.	unknown	None documented.
AK salmon troll	1,908	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	13	None documented.
CA/OR/WA salmon troll	4,300	None documented.
HI troll	2,117	Pantropical spotted dolphin, HI.
HI rod and reel	322	None documented.
Commonwealth of the Northern Mariana Islands tuna troll.	40	None documented.
Guam tuna troll	432	None documented.
Longline/Set Line Fisheries:		
AK Bering Sea, Aleutian Islands Greenland turbot longline.	4	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands sablefish longline	22	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands halibut longline	127	Northern fur seal, Eastern Pacific. Sperm whale, North Pacific.
AK Gulf of Alaska halibut longline	855	Steller sea lion, Eastern U.S.
AK Gulf of Alaska Pacific cod longline	92	Steller sea lion, Western U.S.
AK octopus/squid longline	3	None documented.
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	464	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Northern elephant seal, California breeding. Sperm whale, CA/OR/WA. Steller sea lion, Eastern U.S.
WA/OR Pacific halibut longline	350	None documented.
CA pelagic longline	1	None documented in the most recent five years of data.
HI kaka line	15	None documented.
HI vertical line	3	None documented.
Trawl Fisheries:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	13	Bearded seal, AK. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	72	Bearded seal, AK. Ribbon seal, AK. Ringed seal, AK. Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl	36	Harbor seal, AK. Northern elephant seal, North Pacific. Steller sea lion, Western U.S.
AK Gulf of Alaska Pacific cod trawl	55	Harbor seal, AK. Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	67	Dall's porpoise, AK. Fin whale, Northeast Pacific. Northern elephant seal, North Pacific. Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	43	Steller sea lion, Western U.S.
AK Kodiak food/bait herring otter trawl	4	None documented.
AK shrimp otter trawl and beam trawl	38	None documented.
AK state-managed waters of Prince William Sound groundfish trawl.	2	None documented.
CA halibut bottom trawl	47	California sea lion, U.S. Harbor porpoise, unknown. Harbor seal, unknown. Northern elephant seal, CA breeding. Steller sea lion, unknown.
CA sea cucumber trawl	16	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
Pot, Ring Net, And Trap Fisheries:		
AK Bering Sea, Aleutian Islands sablefish pot	6	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	59	None documented.
AK Bering Sea, Aleutian Islands crab pot	540	Bowhead whale, Western Arctic. Gray whale, Eastern North Pacific.
AK Gulf of Alaska crab pot	271	None documented.
AK Gulf of Alaska Pacific cod pot	116	Harbor seal, GOA.
AK Gulf of Alaska sablefish pot	248	None documented.
AK Southeast Alaska crab pot	375	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	99	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	141	None documented.
AK octopus/squid pot	15	None documented.
CA rock crab pot	124	Gray whale, Eastern North Pacific. Harbor seal, CA.
WA/OR/CA hagfish pot	54	None documented.
WA/OR shrimp pot/trap	254	None documented.
WA Puget Sound Dungeness crab pot/trap	249	None documented.
HI crab trap	5	Humpback whale, Central North Pacific.
HI fish trap	9	None documented.
HI lobster trap	<3	None documented in recent years.
HI shrimp trap	10	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
HI crab net	4	None documented.
HI Kona crab loop net	33	None documented.
Hook-and-Line, Handline, and Jig Fisheries:		
AK Bering Sea, Aleutian Islands groundfish jig	2	None documented.
AK Gulf of Alaska groundfish jig	214	Fin whale, Northeast Pacific.
AK halibut jig	71	None documented.
American Samoa bottomfish	fewer than 30	None documented.
Commonwealth of the Northern Mariana Islands bottomfish.	28	None documented.
Guam bottomfish	>300	None documented.
HI aku boat, pole, and line	<3	None documented.
HI bottomfish handline	578	None documented in recent years.
HI inshore handline	357	None documented.
HI pelagic handline	534	None documented.
WA groundfish, bottomfish jig	679	None documented.
Western Pacific squid jig	0	None documented.
Harpoon Fisheries:		
CA swordfish harpoon	6	None documented.
Pound Net/Weir Fisheries:		
AK herring spawn on kelp pound net	291	None documented.
AK Southeast herring roe/food/bait pound net	2	None documented.
HI bullpen trap	3	None documented.
Bait Pens:		
WA/OR/CA bait pens	13	California sea lion, U.S.
Dredge Fisheries:		
AK scallop dredge	108 (5 AK)	None documented.
Dive, Hand/Mechanical Collection Fisheries:		
AK clam	130	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	266	None documented.
AK miscellaneous invertebrates handpick	214	None documented.
HI black coral diving	<3	None documented.
HI fish pond	5	None documented.
HI handpick	46	None documented.
HI lobster diving	19	None documented.
HI spearfishing	163	None documented.
WA/CA kelp	4	None documented.
WA/OR bait shrimp, clam hand, dive, or mechanical collection.	201	None documented.
OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection.	10	None documented.
Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (1,006 AK)	Killer whale, unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
Live Finfish/Shellfish Fisheries:		
CA nearshore finfish live trap/hook-and-line	93	None documented.
HI aquarium collecting	90	None documented.

List of Abbreviations and Symbols Used in Table 1:

AI—Aleutian Islands; AK—Alaska; BS—Bering Sea; CA—California; ENP—Eastern North Pacific; GOA—Gulf of Alaska; HI—Hawaii; MHI—Main Hawaiian Islands; OR—Oregon; WA—Washington;

[1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

[2] Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3;

^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of species and/or stocks killed or injured in high seas component of the fishery, minus species and/or stocks that have geographic ranges exclusively on the high seas. The species and/or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
Gillnet Fisheries:		
Mid-Atlantic gillnet	3,950	Bottlenose dolphin, Northern Migratory coastal. Bottlenose dolphin, Southern Migratory coastal.[1]

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
Northeast sink gillnet	3,163	Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1] Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA.[1] Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA. Risso's dolphin, WNA. White-sided dolphin, WNA.
Trap/Pot Fisheries:		
Northeast/Mid-Atlantic American lobster trap/pot	8,485	Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA.[1]
Longline Fisheries:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline *.	201	Atlantic spotted dolphin, Northern GMX. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. False killer whale, WNA. Harbor porpoise, GME, BF. Kogia *spp.* (Pygmy or dwarf sperm whale), WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Minke whale, Canadian East coast. Pantropical spotted dolphin, Northern GMX. Pygmy sperm whale, GMX. Risso's dolphin, Northern GMX. Risso's dolphin, WNA. Rough-toothed dolphin, Northern GMX. Short-finned pilot whale, Northern GMX. Short-finned pilot whale, WNA.[1] Sperm whale, Northern GMX.
CATEGORY II		
Gillnet Fisheries:		
Chesapeake Bay inshore gillnet[2]	248	Bottlenose dolphin, unknown (Northern migratory coastal or Southern migratory coastal).
Gulf of Mexico gillnet[2]	248	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, and estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal.
NC inshore gillnet	2,676	Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1]
Northeast anchored float gillnet[2]	852	Harbor seal, WNA. Humpback whale, Gulf of Maine. White-sided dolphin, WNA.
Northeast drift gillnet[2]	1,036	None documented.
Southeast Atlantic gillnet[2]	273	Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Southern migratory coastal.
Southeastern U.S. Atlantic shark gillnet	21	Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal). North Atlantic right whale, WNA.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
Trawl Fisheries:		
Mid-Atlantic mid-water trawl (including pair trawl)	320	Harbor seal, WNA.
Mid-Atlantic bottom trawl	633	Bottlenose dolphin, WNA offshore.[1]
		Common dolphin, WNA.[1]
		Gray seal, WNA.[1]
		Harbor seal, WNA.
		Risso's dolphin, WNA.[1]
		White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl)	542	Common dolphin, WNA.
		Gray seal, WNA.
		Harbor seal, WNA.
		Long-finned pilot whale, WNA.[1]
Northeast bottom trawl	2,238	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Gray seal, WNA.
		Harbor porpoise, GME/BF.
		Harbor seal, WNA.
		Harp seal, WNA.
		Long-finned pilot whale, WNA.
		Risso's dolphin, WNA.
		White-sided dolphin, WNA.[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, Northern Gulf of Mexico.
		Bottlenose dolphin, Charleston estuarine system.
		Bottlenose dolphin, Eastern GMX coastal.[1]
		Bottlenose dolphin, GMX bay, sound, estuarine.[1]
		Bottlenose dolphin, GMX continental shelf.
		Bottlenose dolphin, Mississippi River Delta.
		Bottlenose dolphin, Mobile Bay, Bonsecour Bay.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, SC/GA coastal.[1]
		Bottlenose dolphin, Southern migratory coastal.
		Bottlenose dolphin, Western GMX coastal.[1]
Trap/Pot Fisheries:		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot[2].	1,101	Bottlenose dolphin, Biscayne Bay estuarine.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, FL Bay.
		Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion).
		Bottlenose dolphin, Indian River Lagoon estuarine system.
		Bottlenose dolphin, Jacksonville estuarine system.
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, Sarasota Bay, Little Sarasota Bay.
Atlantic mixed species trap/pot[2]	3,332	Fin whale, WNA;
		Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot	6,679	Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Central GA estuarine system.[1]
		Bottlenose dolphin, Charleston estuarine system.[1]
		Bottlenose dolphin, Indian River Lagoon estuarine system.
		Bottlenose dolphin, Jacksonville estuarine system.
		Bottlenose dolphin, Northern FL coastal.[1]
		Bottlenose dolphin, Northern GA/Southern SC estuarine system.
		Bottlenose dolphin, Northern Migratory coastal.
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Northern SC estuarine system.
		Bottlenose dolphin, SC/GA coastal.
		Bottlenose dolphin, Southern GA estuarine system.
		Bottlenose dolphin, Southern Migratory coastal.[1]
		Bottlenose dolphin, Southern NC estuarine system.
		West Indian manatee, FL.
Purse Seine Fisheries:		
Gulf of Mexico menhaden purse seine	40–42	Bottlenose dolphin, GMX bay, sound, estuarine.
		Bottlenose dolphin, Mississippi River Delta.
		Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
Mid-Atlantic menhaden purse seine [2]	19	Bottlenose dolphin, Northern Migratory coastal. Bottlenose dolphin, Southern Migratory coastal.
Haul/Beach Seine Fisheries:		
Mid-Atlantic haul/beach seine	359	Bottlenose dolphin, Northern Migratory coastal.[1] Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern Migratory coastal.[1]
NC long haul seine	22	Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.
Stop Net Fisheries:		
NC roe mullet stop net	1	Bottlenose dolphin, Northern NC estuarine system. Bottlenose dolphin, unknown (Southern migratory coastal or Southern NC estuarine system).
Pound Net Fisheries:		
VA pound net	26	Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Northern NC estuarine system. Bottlenose dolphin, Southern Migratory coastal.[1]
CATEGORY III		
Gillnet Fisheries:		
Caribbean gillnet	>991	None documented. in the most recent five years of data.
DE River inshore gillnet	unknown	None documented. in the most recent five years of data.
Long Island Sound inshore gillnet	unknown	None documented. in the most recent five years of data.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	unknown	None documented. in the most recent five years of data.
Southeast Atlantic inshore gillnet	unknown	Bottlenose dolphin, Northern SC estuarine system.
Trawl Fisheries:		
Atlantic shellfish bottom trawl	>58	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	Bottlenose dolphin, SC/GA coastal.
Marine Aquaculture Fisheries:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.
Purse Seine Fisheries:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine *	5	None documented in most recent five years of data.
Longline/Hook-and-Line Fisheries:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon.	2,846	Bottlenose dolphin, WNA offshore. Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line.	>5,000	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	39	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	680	None documented.
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented.
Trap/Pot Fisheries:		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay estuarine. Bottlenose dolphin, FL Keys.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Barataria Bay. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau. Bottlenose dolphin, Mobile Bay, Bonsecour Bay. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	unknown	None documented.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and/or stocks incidentally killed or injured
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot.	10	None documented.
U.S. Mid-Atlantic eel trap/pot	unknown	None documented.
Stop Seine/Weir/Pound Net/Floating Trap/Fyke Net Fisheries:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir.	>1	Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian east coast. Atlantic white-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net).	unknown	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap	9	None documented.
Northeast and Mid-Atlantic fyke net	unknown	None documented.
Dredge Fisheries:		
Gulf of Maine sea urchin dredge	unknown	None documented.
Gulf of Maine mussel dredge	unknown	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented.
Mid-Atlantic blue crab dredge	unknown	None documented.
Mid-Atlantic soft-shell clam dredge	unknown	None documented.
Mid-Atlantic whelk dredge	unknown	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
New England and Mid-Atlantic offshore surf clam/quahog dredge.	unknown	None documented.
Haul/Beach Seine Fisheries:		
Caribbean haul/beach seine	15	None documented in the most recent five years of data.
Gulf of Mexico haul/beach seine	unknown	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
Dive, Hand/Mechanical Collection Fisheries:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	unknown	None documented.
Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	Bottlenose dolphin, Barataria Bay estuarine system. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Choctawhatchee Bay. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Jacksonville estuarine system. Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, Northern GA/Southern SC estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Northern NC estuarine. Bottlenose dolphin, Southern migratory coastal. Bottlenose dolphin, Southern NC estuarine system. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Western GMX coastal. Short-finned pilot whale, WNA.

List of Abbreviations and Symbols Used in Table 2:

DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; NY—New York; RI—Rhode Island; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic;

[1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

[2] Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS

Fishery description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category I		
Longline Fisheries:		
Atlantic Highly Migratory Species *	53	Atlantic spotted dolphin, WNA.
		Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Cuvier's beaked whale, WNA.
		False killer whale, WNA.
		Killer whale, GMX oceanic.
		Kogia *spp.* whale (Pygmy or dwarf sperm whale), WNA.
		Long-finned pilot whale, WNA.
		Mesoplodon beaked whale, WNA.
		Minke whale, Canadian East coast.
		Pantropical spotted dolphin, WNA.
		Risso's dolphin, GMX.
		Risso's dolphin, WNA.
		Short-finned pilot whale, WNA.
Western Pacific Pelagic (HI Deep-set component) * ∧	145	Bottlenose dolphin, HI Pelagic.
		False killer whale, HI Pelagic.
		Humpback whale, Central North Pacific.
		Kogia *spp.* (Pygmy or dwarf sperm whale), HI.
		Pygmy killer whale, HI.
		Risso's dolphin, HI.
		Short-finned pilot whale, HI.
		Striped dolphin, HI.
Category II		
Drift Gillnet Fisheries:		
Pacific Highly Migratory Species * ∧	5	Long-beaked common dolphin, CA.
		Humpback whale, CA/OR/WA.
		Northern right-whale dolphin, CA/OR/WA.
		Pacific white-sided dolphin, CA/OR/WA.
		Risso's dolphin, CA/OR/WA.
		Short-beaked common dolphin, CA/OR/WA.
Trawl Fisheries:		
Atlantic Highly Migratory Species **	1	No information.
CCAMLR	0	Antarctic fur seal.
Purse Seine Fisheries:		
South Pacific Tuna Fisheries	33	No information.
Western Pacific Pelagic	1	No information.
Longline Fisheries:		
CCAMLR	0	None documented.
South Pacific Albacore Troll	6	No information.
South Pacific Tuna Fisheries **	2	No information.
Western Pacific Pelagic (HI Shallow-set component) * ∧	18	Blainville's beaked whale, HI.
		Bottlenose dolphin, HI Pelagic.
		False killer whale, HI Pelagic.
		Fin whale, HI.
		Guadalupe fur seal.
		Humpback whale, Central North Pacific.
		Mesoplodon sp., unknown.
		Northern elephant seal, CA breeding.
		Risso's dolphin, HI.
		Rough-toothed dolphin, HI.
		Short-beaked common dolphin, CA/OR/WA.
		Striped dolphin, HI.
Handline/Pole And Line Fisheries:		
Atlantic Highly Migratory Species	2	No information.
Pacific Highly Migratory Species	41	No information.
South Pacific Albacore Troll	11	No information.
Western Pacific Pelagic	5	No information.
Troll Fisheries:		
Atlantic Highly Migratory Species	0	No information.
South Pacific Albacore Troll	17	No information.
South Pacific Tuna Fisheries **	1	No information.
Western Pacific Pelagic	5	No information.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

Fishery description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category III		
Longline Fisheries:		
Northwest Atlantic Bottom Longline	3	None documented.
Pacific Highly Migratory Species	108	None documented. in the most recent 5 years of data.
Purse Seine Fisheries:		
Pacific Highly Migratory Species * ∧	5	None documented.
Trawl Fisheries:		
Northwest Atlantic	4	None documented.
Troll Fisheries:		
Pacific Highly Migratory Species *	119	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3:

CA—California; GMX—Gulf of Mexico; HI—Hawaii; OR—Oregon; WA—Washington; WNA—Western North Atlantic.

* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.

** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for 5 years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

∧ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of marine mammal species and/or stocks killed or injured in U.S. waters component of the fishery, minus species and/or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species and/or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS

Take reduction plans	Affected fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP)—50 CFR 229.32	*Category I* Mid-Atlantic gillnet. Northeast/Mid-Atlantic American lobster trap/pot. Northeast sink gillnet. *Category II* Atlantic blue crab trap/pot. Atlantic mixed species trap/pot. Northeast anchored float gillnet. Northeast drift gillnet. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet.* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.∧
Bottlenose Dolphin Take Reduction Plan. (BDTRP)—50 CFR 229.35	*Category I* Mid-Atlantic gillnet. *Category II* Atlantic blue crab trap/pot. Chesapeake Bay inshore gillnet fishery. Mid-Atlantic haul/beach seine. Mid-Atlantic menhaden purse seine. NC inshore gillnet. NC long haul seine. NC roe mullet stop net. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet. Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.∧ Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.∧ VA pound net.
False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37	*Category I* HI deep-set longline. *Category II* HI shallow-set longline.
Harbor Porpoise Take Reduction Plan. (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic)	*Category I* Mid-Atlantic gillnet. Northeast sink gillnet.
Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36	*Category I* Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.
Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31.	*Category II* CA thresher shark/swordfish drift gillnet (≥14 in mesh).

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS—Continued

Take reduction plans	Affected fisheries
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	*Category II* Mid-Atlantic bottom trawl. Mid-Atlantic mid-water trawl (including pair trawl). Northeast bottom trawl. Northeast mid-water trawl (including pair trawl).

* Only applicable to the portion of the fishery operating in U.S. waters; ∧ Only applicable to the portion of the fishery operating in the Atlantic Ocean.

Classification

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on that certification, and no new information has been discovered to change that conclusion. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

This rule contains existing collection-of-information (COI) requirements subject to the Paperwork Reduction Act and would not impose additional or new COI requirements. The COI for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants). The requirement for reporting marine mammal mortalities or injuries has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the COI. Send comments regarding these reporting burden estimates or any other aspect of the COI, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a COI, subject to the requirements of the Paperwork Reduction Act, unless that COI displays a currently valid OMB control number.

This rule has been determined to be not significant for the purposes of Executive Orders 12866 and 13563.

This rule is not expected to be an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

In accordance with the Companion Manual for NOAA Administrative Order (NAO) 216–6A, NMFS determined that publishing this LOF qualifies to be categorically excluded from further NEPA review, consistent with categories of activities identified in Categorical Exclusion G7 (''Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis'') of the Companion Manual for NAO 216–6A, and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual that would preclude application of this categorical exclusion. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an Environmental Impact Statement or Environmental Assessment, as required under NEPA, specific to that action.

This rule would not affect species listed as threatened or endangered under the ESA or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would consult under ESA section 7 on that action.

This rule would have no adverse impacts on marine mammals, and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals, through information collected from observer programs, stranding and sighting data, or take reduction teams.

This rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

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Authority: MMPA, 16 U.S.C. 1361 *et seq.*

Dated: March 30, 2020.

Samuel D. Rauch, III,

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

[FR Doc. 2020–06908 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 85, No. 74

Thursday, April 16, 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 ENERGY

10 CFR Part 430 and 431

[EERE–2019–BT–TP–0032]

RIN 1904–AE77

Energy Conservation Program: Test Procedures for Consumer Water Heaters and Residential-Duty Commercial Water Heaters

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) is initiating a data collection process through this request for information (RFI) to consider whether to amend DOE's test procedure for consumer water heaters and residential-duty commercial water heaters. Specifically, DOE seeks data and information pertinent to whether amended test procedures would more accurately or fully comply with the requirement that the test procedure produces results that measure energy use during a representative average use cycle for the product, and not be unduly burdensome to conduct. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI), as well as the submission of data and other relevant information.

DATES: Written comments and information are requested and will be accepted on or before June 1, 2020

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–TP–0032 and/or RIN 1904–AE77, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *WaterHeaters2019TP0032@ee.doe.gov.* Include docket number EERE–2019–BT–TP–0032 and/or RIN 1904–AE77 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at: *https://www.regulations.gov/docket?D=EERE–2019–BT–TP–0032.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Rivest, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7335. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

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For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

Consumer water heaters are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(4)) DOE's test procedures for consumer water heaters are prescribed at Title 10 of the Code of Federal Regulations (CFR) Part 430, Subpart B, Appendix E (Appendix E). As discussed below, residential-duty commercial water heaters, for which DOE is also authorized to establish and amend energy conservation standards and test procedures (42 U.S.C. 6311(k)), also must be tested according to Appendix E. (*See* 42 U.S.C. 6295(e)(6)(H)) The following sections discuss DOE's authority to establish and amend test procedures for consumer water heaters and residential-duty commercial water heaters, as well as relevant background information regarding DOE's consideration of test procedures for this product and equipment.

A. Authority and Background

The Energy Policy and Conservation Act, as amended (EPCA),[1] among other

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA, Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include consumer water heaters, the subject of this RFI. (42 U.S.C. 6292(a)(4)) Title III, Part C [3] of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which again sets forth a variety of provisions designed to improve energy efficiency. This equipment includes commercial water heaters, which are also the subject of this RFI. (42 U.S.C. 6311(1)(k))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6313), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6296; 42 U.S.C. 6316).

Federal energy efficiency requirements for covered products and covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c); 42 U.S.C. 6316(a) and (b)) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b)(2)(D))

The Federal testing requirements consist of test procedures that manufacturers of covered products and commercial equipment must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6296; 42 U.S.C. 6316(a)–(b)), and (2) making representations about the efficiency of those products (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, the statute sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. Specifically, EPCA requires that any test procedures prescribed or amended shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) Under 42 U.S.C. 6314, the statute sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment, reciting similar requirements at 42 U.S.C. 6314(a)(2).

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures in the **Federal Register** and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2); 42 U.S.C. 6314(b))

In addition, the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that DOE amend its test procedures for all covered consumer products to integrate measures of standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission (IEC), unless the current test procedure already incorporates the standby mode and off mode energy consumption, or if such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)) If an integrated test procedure is technically infeasible, DOE must prescribe separate standby mode and off mode energy use test procedures for the covered product, if a separate test is technically feasible. (*Id.*)

The American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210, further amended EPCA to require that DOE establish a uniform efficiency descriptor and accompanying test methods to replace the energy factor (EF) metric for covered consumer water heaters and the thermal efficiency (TE) and standby loss (SL) metrics for commercial water-heating equipment [4] within one year of the enactment of AEMTCA. (42 U.S.C. 6295(e)(6)(B)-(C)) The uniform efficiency descriptor and accompanying test method were required to apply, to the maximum extent practicable, to all water-heating technologies in use at the time and to future water-heating technologies, but could exclude specific categories of covered water heaters that do not have residential uses, can be clearly described, and are effectively rated using the TE and SL descriptors. (42 U.S.C. 6295(e)(6)(F) and (H)) In addition, beginning one year after the date of publication of DOE's final rule establishing the uniform descriptor, the efficiency standards for covered water heaters were required to be denominated according to the uniform efficiency descriptor established in the final rule (42 U.S.C. 6295(e)(6)(D)); and for affected covered water heaters tested prior to the effective date of the test procedure final rule, DOE was required to develop a mathematical factor for converting the measurement of their energy efficiency from the EF, TE, and SL metrics to the new uniform energy descriptor. (42 U.S.C. 6295(e)(6)(E)(i)–(ii))

The Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11, was enacted on April 30, 2015. The EEIA 2015 amended EPCA, in relevant part, by adding definitions for ''grid-enabled water heater'' and ''activation lock'' at 42 U.S.C. 6295(e)(5)(A). These products are intended for use as part of an electric thermal storage or demand response program. Among the criteria that define ''grid-enabled water heaters'' is an energy-related performance standard that is either an EF specified by a formula set forth in the statute, or an equivalent alternative standard that DOE may prescribe. (42 U.S.C.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[4] The initial thermal efficiency and standby loss test procedures for commercial water heating equipment (including residential-duty commercial water heaters) were added to EPCA by the Energy Policy Act of 1992 (EPACT 1992), Public Law 102–486, and corresponded to those referenced in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and Illuminating Engineering Society of North America (IESNA) Standard 90.1–1989 (*i.e.,* ASHRAE Standard 90.1–1989). (42 U.S.C. 6314(a)(4)(A)) DOE subsequently updated the commercial water heating equipment test procedures on two separate occasions—once in a direct final rule published on October 21, 2004, and again in a final rule published on May 16, 2012 (77 FR 28928). These rules incorporated by reference certain sections of the latest versions of American National Standards Institute (ANSI) Standard Z21.10.3, *Gas Water Heaters, Volume III, Storage Water Heaters with Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous,* available at the time (*i.e.,* ANSI Z21.10.3–1998 and ANSI Z21.10.3–2011, respectively). 69 FR 61974, 61983 (Oct. 21, 2004) and 77 FR 28928, 28996 (May 16, 2012).

6295(e)(5)(A)(III)(aa) and (bb)) In addition, the EEIA 2015 amendments to EPCA also directed DOE to require reporting on shipments and activations of grid-enabled water heaters and to establish procedures, if appropriate, to prevent product diversion for non-program purposes. (42 U.S.C. 6295(e)(5)(C)-(D))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product and covered equipment, including consumer water heaters and the commercial water heaters that are the subject of this RFI, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle (or additionally, period of use for consumer products). (42 U.S.C. 6293(b)(1)(A); 42 U.S.C. 6314(a)) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure for consumer products shall be at least 60 days [5] and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish in the **Federal Register** its determination not to amend the test procedures. (42 U.S.C. 6293(b)(1)(A); 42 U.S.C. 6314(a)(1)(A)(ii)) DOE is publishing this RFI to collect data and information to inform its decision in satisfaction of the 7-year-lookback review requirement specified in EPCA.

[5] For covered equipment, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register**, and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b))

B. Rulemaking History

As stated, DOE's current test procedure for consumer water heaters appears at Appendix E.

DOE first established consumer water heater test procedures in a final rule published in the **Federal Register** on October 4, 1977. 42 FR 54110. These original procedures coupled laboratory tests with calculations to obtain estimates of energy efficiency for storage-type electric, gas-fired, and oil-fired water heaters. The laboratory tests consisted of a cold start ''recovery efficiency test,'' which measured the ability of a water heater to heat cold water, and a ''standby loss test,'' which measured the energy loss of a water heater when not providing heated water. *Id.* at 54118. Recovery efficiency and percent standby loss were mathematically combined to obtain an energy factor (EF), the overall measure of water heater efficiency. *Id.* at 54116. The original procedures also included calculations for determining the average daily energy consumption and annual operating costs. *Id.* at 54116, 54119.

On October 19, 1978, DOE published a final rule to amend the consumer water heater test procedures to correct for an error in the derivation of EF. The correction specified that the useful output (*i.e.,* the numerator in EF equation) shall be the ''daily hot water energy consumption,'' a new term which was defined in this rule. 43 FR 48986.

DOE amended the consumer water heater test procedures in a final rule published on September 7, 1979, to prescribe a measure of a water heater's useful capacity, which DOE called first-hour rating (FHR). The FHR was defined as the maximum hourly demand which could be met by the water heater. 44 FR 52632.

On October 17, 1990, DOE published a final rule further updating the consumer water heater test procedure. 55 FR 42162. This final rule extended coverage to heat pump water heaters and instantaneous-type water heaters; revised the test procedure to allow for a single test for all types of water heaters, establishing a simulated-use test that included a six-hour draw test; and revised the FHR test from a calculated estimate to a direct measurement to more accurately determine a water heater's ability to supply hot water.

DOE further amended the consumer water heater test procedure by final rules published in the **Federal Register** on May 11, 1998 (May 1998 final rule), July 20, 1998 (July 1998 final rule), and January 17, 2001 (January 2001 final rule). 63 FR 25996; 63 FR 38737; 66 FR 4474. The May 1998 final rule revised the FHR test to more accurately test large storage-type water heaters and updated the testing for electric and gas-fired instantaneous water heaters from the FHR test to the maximum gallons per minute (max GPM) test. The July 1998 final rule was a technical correction that added figures to the test procedure, and the January 2001 final rule added a definition for ''tabletop water heater'' to the test procedure.

As discussed, the EISA 2007 amendments to EPCA required DOE to amend its test procedures for all covered consumer products to include the measurement of standby mode and off mode energy consumption, unless the current test procedure already incorporates the standby mode and off mode energy consumption, or if such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)) On December 17, 2012, DOE published a final rule that concluded that no modifications were needed to the consumer water heater test procedure to account for standby mode and off mode energy consumption, as the existing test procedure already accounted for those modes of energy consumption. 77 FR 74559.

Pursuant to the requirements of the AEMTCA amendments to EPCA discussed previously, DOE updated the consumer water heater test procedure through a final rule published on July 11, 2014 (July 2014 final rule). 79 FR 40542. The July 2014 final rule established a uniform energy descriptor (*i.e.,* UEF) for all consumer water heaters and for commercial water heaters with consumer applications (*i.e.,* those commercial water heaters that met the newly established definition of a ''residential-duty commercial water heater''; extended coverage to eliminate certain gaps in the previous version of the consumer water heater test procedure including small-volume storage water heaters (*i.e.,* with storage volumes between 2 and 20 gallons), large volume water heaters (*i.e.,* greater than 100 gallons for gas-fired and oil-fired storage water heaters and greater than 120 gallons for electric storage water heaters), and electric instantaneous water heaters; updated the simulated-use test draw pattern to be a function of equipment capacity as measured by the FHR or max GPM test; and updated the outlet water temperature test condition requirement.

As indicated, the uniform energy descriptor and the consumer water heater test procedure apply to ''residential-duty commercial water heaters,'' which were initially defined

in the July 2014 final rule and include commercial water heaters with consumer applications. 79 FR 40542, 40586; 10 CFR 431.106(b)(1) and 10 CFR 431.110(b). DOE later amended the definition of a ''residential-duty commercial water heater'' in a final rule published on November 10, 2016, to define such equipment as any gas-fired storage, oil-fired storage, or electric instantaneous commercial water heater that meets the following conditions: (1) For models requiring electricity, uses single-phase external power supply; (2) Is not designed to provide outlet hot water at temperatures greater than 180 °F; and (3) Does not meet any of the following criteria:

Water heater type	Indicator of non-residential application
Gas-fired Storage.	Rated input >105 kBtu/h; Rated storage volume >120 gallons.
Oil-fired Storage.	Rated input >140 kBtu/h; Rated storage volume >120 gallons.
Electric Instantaneous.	Rated input >58.6 kW; Rated storage volume >2 gallons.

81 FR 79261, 79321–79322 (Nov. 10, 2016); 10 CFR 431.102.

Pursuant to EEIA 2015, DOE published a final rule on August 11, 2015 (August 2015 final rule), which codified the changes required by EEIA 2015. 80 FR 48004. These changes included adding definitions for ''grid-enabled water heater'' and ''activation lock'' to 10 CFR 430.2 and adding energy conservation standards with levels set in terms of the EF metric, to 10 CFR 430.32(d). *Id.* at 48009–48010.

On December 29, 2016, DOE published a final rule (December 2016 final rule) that denominated the efficiency standards in terms of the uniform efficiency descriptor (*i.e.,* the UEF metric) and established mathematical conversion factors to translate the EF, TE, and SL metrics to the UEF metric. 81 FR 96204. The published conversion factors were only applicable for converting test results for one year after the publication of the December 2016 final rule as required by EPCA, as amended by AEMTCA. *Id.* at 96204, 96204. Therefore, the conversion factors published to translate previously tested EF, TE, and SL values to converted UEF values were removed from 10 CFR 429.17 on December 29, 2017, at which time all rated UEF values were to be based on actual testing to the test procedure published in the July 2014 final rule (*i.e.,* to the UEF test procedure).

II. Request for Information

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended test procedures for consumer water heaters and residential-duty commercial water heaters are warranted so as to more accurately or fully comply with the requirements in EPCA that test procedures: (1) Be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost during a representative average use cycle or period of use, and (2) not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2)) Specifically, DOE is requesting comment on any opportunities to streamline and simplify testing requirements for consumer water heaters and residential-duty commercial water heaters.

Further, the Department recently published an RFI regarding test procedures across the full range of consumer products and commercial equipment that fall under its regulatory authority pursuant to EPCA. In that RFI, DOE noted that over time, many of DOE's test procedures have been amended to account for products' and equipment's increased functionality and modes of operation. DOE's intent in issuing that RFI was to gather information to ensure that the inclusion of measurement provisions in its test procedures associated with such increased functionality has not inadvertently compromised the measurement of representative average use cycles or periods of use, and made some test procedures unnecessarily burdensome. 84 FR 9721 (March 18, 2019). Although the comment period on the March 2019 RFI has since closed, DOE seeks comment on this issue as it specifically pertains to the test procedure for the consumer water heaters and residential-duty commercial water heaters that are the subject of this current RFI.

DOE seeks comment on whether there have been changes in product testing methodology or new products on the market since the last test procedure update that may create the need to make amendments to the test procedure for consumer water heaters and residential-duty commercial water heaters. Specifically, DOE seeks data and information that could enable the agency to propose that the current test procedure produces results that are representative of an average use cycle for the product and is not unduly burdensome to conduct, and, therefore, does not need amendment. DOE also seeks information on whether an existing private-sector-developed test procedure would produce such results and should be adopted by DOE rather than DOE establishing its own test procedure, either entirely or by adopting only certain provisions of one or more private-sector-developed tests.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not specifically be identified elsewhere in this document. In particular, DOE notes that under section 1 of Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. *See* 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its test procedure regulations applicable to consumer water heaters and residential-duty commercial water heaters consistent with the requirements of EPCA.

A. Scope and Definitions

This RFI covers those products that meet the definitions for consumer ''water heater,'' in the statute at 42 U.S.C. 6291(27), as codified at 10 CFR 430.2. This RFI also covers commercial water heating equipment with residential applications meeting the definition of a ''residential-duty commercial water heater,'' as codified at 10 CFR 431.102.

In the context of covered consumer products, EPCA defines ''water heater'' as a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(a) Storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(b) Instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(c) Heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products

designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(42 U.S.C. 6291(27); 10 CFR 430.2)

In addition, at 10 CFR 430.2, DOE further defines several specific categories of consumer water heaters, as follows:

(1) ''Electric instantaneous water heater'' means a water heater that uses electricity as the energy source, has a nameplate input rating of 12 kW or less, and contains no more than one gallon of water per 4,000 Btu per hour of input.

(2) ''Electric storage water heater'' means a water heater that uses electricity as the energy source, has a nameplate input rating of 12 kW or less, and contains more than one gallon of water per 4,000 Btu per hour of input.

(3) ''Gas-fired instantaneous water heater'' means a water heater that uses gas as the main energy source, has a nameplate input rating less than 200,000 Btu/h, and contains no more than one gallon of water per 4,000 Btu per hour of input.

(4) ''Gas-fired storage water heater'' means a water heater that uses gas as the main energy source, has a nameplate input rating of 75,000 Btu/h or less, and contains more than one gallon of water per 4,000 Btu per hour of input.

(5) ''Grid-enabled water heater'' means an electric resistance water heater that—

(a) Has a rated storage tank volume of more than 75 gallons;

(b) Is manufactured on or after April 16, 2015;

(c) Is equipped at the point of manufacture with an activation lock and;

(d) Bears a permanent label applied by the manufacturer that—

(i) Is made of material not adversely affected by water;

(ii) Is attached by means of non-water-soluble adhesive; and

(iii) Advises purchasers and end-users of the intended and appropriate use of the product with the following notice printed in 16.5 point Arial Narrow Bold font: ''IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.''

(6) ''Oil-fired instantaneous water heater'' means a water heater that uses oil as the main energy source, has a nameplate input rating of 210,000 Btu/h or less, and contains no more than one gallon of water per 4,000 Btu per hour of input.

(7) ''Oil-fired storage water heater'' means a water heater that uses oil as the main energy source, has a nameplate input rating of 105,000 Btu/h or less, and contains more than one gallon of water per 4,000 Btu per hour of input.

The definition for ''grid-enabled water heater'' includes the term ''activation lock,'' which is defined to mean a control mechanism (either by a physical device directly on the water heater or a control system integrated into the water heater) that is locked by default and contains a physical, software, or digital communication that must be activated with an activation key to enable the product to operate at its designed specifications and capabilities and without which the activation of the product will provide not greater than 50 percent of the rated first-hour delivery of hot water certified by the manufacturer. 10 CFR 430.2.

Issue A.1: DOE requests comment on the definitions currently applicable to consumer water heaters and whether any of the definitions should be revised, and if so, how. Please provide a rationale for any suggested change.

DOE had previously established a separate product class and definition for ''tabletop water heater,'' which was defined in Appendix E as a water heater in a rectangular box enclosure designed to slide into a kitchen countertop space with typical dimensions of 36 inches high, 25 inches deep, and 24 inches wide. 66 FR 4474, 4497 (Jan. 17, 2001). The definition for ''tabletop water heater'' was removed from Appendix E as part of the July 2014 final rule, and was inadvertently not added to 10 CFR 430.2. 79 FR 40542, 40567–40568 (July 11, 2014). However, energy conservation standards for tabletop water heaters are still specified at 10 CFR 430.32(d). DOE tentatively plans to consider such products in any rulemaking that would result from this RFI, including adding the definition for these products to 10 CFR 430.2.

Issue A.2: DOE requests feedback on whether the previous definition for ''tabletop water heater'' is still appropriate, and whether such products should continue to be considered separately from other classes of consumer water heaters.

As stated previously, Appendix E covers certain commercial water heating equipment defined as ''residential-duty commercial water heaters'' as defined at 10 CFR 431.102. As noted, ''residential-duty commercial water heater'' is defined as any gas-fired storage, oil-fired storage, or electric instantaneous commercial water heater that meets the following conditions: (1) For models requiring electricity, uses single-phase external power supply; (2) Is not designed to provide outlet hot water at temperatures greater than 180 °F; and (3) Does not meet any of the following criteria:

Water heater type	Indicator of non-residential application
Gas-fired Storage.	Rated input >105 kBtu/h; Rated storage volume >120 gallons.
Oil-fired Storage.	Rated input >140 kBtu/h; Rated storage volume >120 gallons.
Electric Instantaneous.	Rated input >58.6 kW; Rated storage volume >2 gallons.

10 CFR 431.102.

Issue A.3: DOE requests comment on the definition for ''residential-duty water heater,'' which are subject to the Appendix E test method for consumer water heaters. Please provide the rationale for any suggested changes.

B. Test Procedure

DOE's current test procedure for consumer water heaters and residential-duty commercial water heaters includes a storage volume test (if the rated storage volume of the water heater is above 2 gallons), a delivery capacity test (either the FHR or max GPM tests), and a 24-hour simulated-use test. *See* sections 5.2.1, 5.3, and 5.4 of Appendix E, respectively. The FHR test is conducted on non-flow-activated water heaters and provides an estimate of the maximum volume of hot water that a water heater can supply within an hour. The max GPM test is conducted on flow-activated water heaters and represents the maximum flow rate of hot water that can be supplied by the water heater while maintaining a nominal temperature rise during steady-state operation. The 24-hour simulated-use test approximates an actual day of use for a typical consumer, and it is conducted at one of four possible draw patterns (very small, low, medium, and high) which are determined from the results of the delivery capacity test (*i.e.,* either the FHR or max GPM test). Draw patterns are a specified series of draws for which the draw start time, volume removed, and flow rate are specified. The sections below address specific test procedure issues on which DOE seeks comment and information.

1. Updates to Industry Standards

ASHRAE maintains a published water heater test procedure titled, ''ANSI/ASHRAE Standard 118.2–2006 (RA 2015), Method of Testing for Rating Residential Water Heaters.'' The ANSI/ASHRAE 118.2–2006 (RA 2015) test procedure is similar to the DOE test procedure that was in effect prior to the July 2014 final rule, although there is no direct relationship between the ANSI/ASHRAE and DOE test method (*i.e.,* neither the former nor the current DOE

consumer water heater test procedure include any reference to ANSI/ASHRAE Standard 118.2). In March 2019, ASHRAE published the second public review draft of Board of Standards Review (BSR) ANSI/ASHRAE Standard 118.2–2006R, ''Method of Testing for Rating Residential Water Heaters and Residential-Duty Commercial Water Heaters'' (ASHRAE Draft 118.2). ASHRAE Draft 118.2 is very similar to the DOE consumer water heater test procedure but includes some differences throughout, some of which would result in test procedure results different from the DOE test procedure. While DOE would only consider incorporation by reference (IBR) of a finalized version of ASHRAE Draft 118.2, DOE is interested in receiving comments on the merits of the draft in anticipation of such a possibility, or to consider incorporating aspects of the draft into a revised DOE test procedure. The differences between ASHRAE Draft 118.2 and the DOE test procedure are discussed in the paragraphs that follow.

a. Temperature and Humidity Test Conditions

ASHRAE Draft 118.2 replaces the use of specified values for inlet water temperature, outlet water temperature, ambient temperature, and relative humidity with variables used as placeholders. This approach generalizes the test method to be applicable to any set of test conditions for these four parameters. Consequently, for each individual test, the testing laboratory must decide which specific values to use for each parameter. The test conditions corresponding to DOE's consumer water heater test procedure are provided in an appendix to ASHRAE Draft 118.2 for reference only. As such, if DOE were to incorporate a finalized version of ASHRAE Draft 118.2, the Department would need to specify the test conditions at which to perform the test.

ASHRAE Draft 118.2 includes additional criteria to the start of the FHR test, as compared to DOE's test procedure. Section 5.3.3.3 of Appendix E of the current DOE test procedure states that prior to the start of the FHR test, if the water heater is not operating (heating water), initiate a draw until cut-in (*i.e.,* when the water heater begins heating water). The draw is then terminated any time after cut-in, and the water heater is allowed to operate until cut-out (*i.e.,* when the water heater stops heating water). When the maximum mean tank temperature is observed after cut-out, the initial draw of the FHR test begins. ASHRAE Draft 118.2 specifies that the draw preceding the initial draw of the FHR test must proceed until the outlet temperature drops 15 °F below the maximum outlet temperature observed, or until a cut-in occurs, whichever is longer. Requiring the outlet temperature to drop 15 °F below the maximum outlet temperature may provide a more consistent starting condition for the FHR test compared to the pre-conditioning method specified in the current DOE test procedure since draws of varying lengths can create different internal tank temperature profiles. Thus, the additional requirement to end the pre-conditioning draw, which in some cases would extend the draw length as compared to the current DOE test procedure, could increase the repeatability of the FHR test. However, DOE has found that there are models on the market with low storage volumes and high input rates that would be required to be tested to the FHR test but that are capable of delivering hot water indefinitely at the conditions specified in the FHR test. Such water heaters would never deliver an outlet temperature 15 °F below the maximum outlet temperature observed. Therefore, the FHR test could not start since this criterion of a 15 °F drop below the outlet temperature, which would require a longer period than the cut-in, would never be met.

Issue B.1: DOE requests feedback on whether the addition of an outlet temperature drop criterion for terminating the water draw prior to the start of the FHR test is appropriate and/or necessary. If an outlet temperature drop criterion is appropriate, DOE requests comment and data on whether 15 °F is sufficiently representative, given consumer expectation, or whether a different threshold should be considered. DOE also requests information on any potential impact to the testing burden that would result from an outlet temperature drop criterion. Further, DOE requests comment on how to address water heaters that would not meet both initiation criteria (*i.e.,* both a cut-in and an outlet temperature drop) due to the ability to continuously deliver hot water at the prescribed test conditions.

ASHRAE Draft 118.2 includes additional criteria regarding water draws during the FHR test, as compared to DOE's test procedure. The FHR test required in section 5.3.3 of Appendix E of the current test procedure specifies a series of water draws over the course of one hour. After each water draw is initiated, the draw is terminated when the outlet water temperature decreases 15 °F from the maximum outlet water temperature measured during the draw. (For example, if after initiating a water draw, the outlet water temperature reaches a maximum temperature of 125 °F, the water draw would continue until the outlet water temperature drops to 110 °F, at which time the water draw would be terminated.) ASHRAE Draft 118.2 specifies that water draws during the FHR test terminate if either: (1) The outlet water temperature decreases 15 °F from the maximum outlet water temperature measured during the draw, or (2) the outlet water temperature decreases to 105 °F, regardless of the maximum outlet water temperature measured during the draw. Setting a minimum temperature threshold of 105 °F may contribute to a more representative result by ensuring that the unit provides sufficiently ''hot'' water (*i.e.,* representative of what a consumer would expect from a water heater) throughout the duration of the test. DOE could similarly consider implementing a minimum delivery temperature as a criterion for terminating water draws during the FHR test.

Issue B.2: DOE requests feedback on whether the addition of a minimum delivery temperature as a criterion for terminating draws during the FHR test is appropriate and/or necessary. If a minimum delivery temperature criterion is appropriate, DOE requests comment and data on whether 105 °F is sufficiently representative given consumer expectation, or whether a different threshold should be considered. DOE also requests information on any potential impact to the testing burden that would result from a minimum delivery temperature criterion.

b. Definitions, Symbols, and Figures

ASHRAE Draft 118.2 defines ''gas-fired heat pump storage water heaters,'' as water heaters that:

(a) use gas as the main energy source,

(b) have a nameplate input rating of 20,000 Btu/h (26.4 MJ/h) or less,

(c) have a maximum current rating of 24 amperes (including all auxiliary equipment such as fans, pumps, controls, and, if on the same circuit, any resistive elements) at an input voltage of no greater than 250 volts,

(d) have a rated storage volume not more than 120 gallons (450 liters), and

(e) are designed to transfer thermal energy from one temperature level to a higher temperature level to deliver water at a thermostatically controlled temperature less than or equal to 180 °F (82 °C).

The current DOE test method does not define the term ''gas-fired heat pump storage water heater.''

Issue B.3: DOE requests feedback on the need for creating a separate definition for ''gas-fired heat pump storage water heater,'' or whether the current DOE definitions in 10 CFR 430.2 for ''gas-fired storage water heater'' and ''water heater,'' which includes ''heat pump type units,'' would adequately cover such products for the purpose of performing the DOE test procedure.

ASHRAE Draft 118.2 also defines ''electric heat pump storage water heaters,'' as water heaters that:

(a) use electricity as the energy source,

(b) have a nameplate input rating of 12 kW (40,956 Btu/h) or less,

(c) have a rated storage capacity of 120 gallons (450 L) or less,

(d) are designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, and

(e) are designed to heat and store water at a thermostatically-controlled temperature less than or equal to 180 °F (82°C).

Issue B.4: DOE requests feedback on the need for creating a separate definition for ''electric heat pump storage water heater,'' or whether the current DOE definitions in 10 CFR 430.2 for ''electric storage water heater'' and ''water heater,'' which includes ''heat pump type units,'' would adequately cover such products for the purpose of performing the DOE test procedure.

DOE also notes that several definitions in ASHRAE Draft 118.2 limit the scope of products covered by the standard more narrowly than the definitions for consumer water heaters and relevant commercial water heater definitions contained in EPCA. (42 U.S.C. 6291(27) and 42 U.S.C. 6311(12)(A)–(B)) For example, ASHRAE Draft 118.2 limits the storage volume for storage-type water heaters to 120 gallons or less and limits the maximum delivery temperature to 180 °F (82 °C) (whereas EPCA does not define limits on storage volume or maximum delivery temperature).

Issue B.5: DOE requests comment on whether the ASHRAE Draft 118.2 test method could be applied to water heaters beyond the scope defined in ASHRAE Draft 118.2 to cover all water heaters included within the scope of DOE's definitions for consumer water heaters and residential-duty commercial water heaters. If modifications to ASHRAE Draft 118.2 would be required to address testing of water heaters not within the scope of that draft, DOE requests comment on what those modifications would be.

ASHRAE Draft 118.2 includes new figures that provide greater detail illustrating how to set up a water heater for test. For example, a purge (by-pass) loop is added to the inlet water line in all figures. Additional figures include a test set-up for an instantaneous water heater with connections on the top, a figure describing the placement of a thermal break[6] in the inlet water line, and two figures showing configurations for the thermocouple tree, if it needs to be installed through the outlet water line. The thermal break is added to the test set-up to prevent heat from travelling up the inlet piping into the purge loop section. When purging before a draw, any heat that is transferred from the water heater through the inlet piping to the purge loop section would be lost, as the purge loop is replenished with cold supply water. The thermal break helps to prevent this heat loss.

Issue B.6: DOE requests feedback on whether the figures in Appendix E should be updated to include additional detail, including the detail provided in the figures in ASHRAE Draft 118.2. If so, please address whether the additional specificity provided in the figures could be too restrictive for the purpose of the DOE test procedure, or whether such specificity would be justified by improving reproducibility of test results.

Issue B.7: DOE requests feedback on whether a definition of ''thermal break'' should be added to DOE's consumer water heater test procedure.

Issue B.8: DOE requests feedback on the necessity of a thermal break if no by-pass or purge loop is included in the test set-up.

Issue B.9: DOE requests feedback on whether the maximum temperature the thermal break must be able to withstand would appropriately be set at 150 °F. If another threshold would be more appropriate, please provide a rationale for the alternate value.

c. Standby Loss Test

The DOE test method includes a standby period measured between draw clusters one and two, during which data is recorded that is used to calculate the standby heat loss coefficient. *See* section 5.4.2 of Appendix E. ASHRAE Draft 118.2 adds a condition that the standby period data can only be recorded between the first and second draw clusters if the time between the observed maximum mean tank temperatures after cut-out[7] following the first draw cluster to the start of the second draw cluster is greater than or equal to 6 hours. Otherwise, ASHRAE Draft 118.2 states that the standby period data would be recorded after the last draw of the test. This condition is intended to ensure that a sufficiently long standby period is used to determine standby loss, which might make this calculation more repeatable and the results more representative of standby losses experienced in an average period of use. However, this might also cause the test to extend beyond a 24-hour duration. DOE could consider implementing a similar minimum standby period within the DOE test procedure.

Issue B.10: DOE requests feedback on whether it should consider the addition of a minimum standby period length of 6 hours for use in the standby loss calculations, and on the appropriateness of recording this data after the final draw cluster when less than 6 hours of standby time occur between draw clusters one and two.

For instances where the standby period occurs after the last draw of the test, ASHRAE Draft 118.2 includes a different method to end the 24-hour simulated-use test, as compared to the method specified in the DOE test procedure at Appendix E. In section 5.4.2 of Appendix E, power to the main burner, heating element, or compressor is disabled during the last hour of the test. In ASHRAE Draft 118.2, power is not disabled, but, if a recovery occurs between an elapsed time of 23 hours following the start of the test (hour 23) and 24 hours following the start of the test (hour 24), the following alternate approach is applied to determine the energy consumed during the 24-hour test: The time, total energy used, and mean tank temperature are recorded at 1 minute prior to the start of the recovery occurring between hour 23 and hour 24, along with the average ambient temperature from 1 minute prior to the start of the recovery occurring between hour 23 and hour 24 to hour 24 of the simulated-use test. These values are used to determine the total energy used by the water heater during the 24-hour simulated-use test. This alternate calculation combines the total energy used 1 minute prior to the start of the recovery occurring between hours 23 and 24 and the standby loss experienced by the tank during the time between the minute prior to the recovery start and

[6] A ''thermal break'' is defined in ASHRAE Draft 118.2 as a nipple made of material that has thermal insulation properties (*e.g.,* plastics) to insulate the by-pass loop from the inlet piping. It should be able to withstand a pressure of 150 psi and a temperature of 150 °F.

[7] Section 1.2 of Appendix E defines ''cut-out'' as the time when or water temperature at which a water heater control or thermostat acts to reduce to a minimum the energy or fuel input to the heating elements, compressor, or burner.

hour 24. This change is included in ASHRAE Draft 118.2 so as not to artificially de-energize a water heater during the standby period. The modification should reduce the burden on test laboratories by eliminating the need to ensure that the unit is switched off for this one hour.

Issue B.11: DOE requests feedback on whether it should consider an alternate procedure, similar to that in ASHRAE Draft 118.2, for the last hour of the 24-hour simulated-use test.

Issue B.12: DOE requests feedback on whether the addition of standby loss in the total energy use calculation adequately represents the auxiliary energy use that is not measured between the minute prior to the start of the recovery occurring between hours 23 and 24, and hour 24 of the 24-hour simulated-use test.

d. Calculations

The DOE test method includes a provision for the FHR test requiring that, if a draw is not in progress at one hour from the start of the test and, therefore, a final draw is imposed at the elapsed time of one hour, calculations are used to scale the volume drawn during the final draw. Sections 5.3.3.3 and 6.1 of Appendix E, respectively. The scaling of the final draw is based on the temperature of the water delivered during the final draw as compared to the temperature of the water delivered during the previous draw. The scaled final draw volume is then added to the total volume drawn during other draws to determine the FHR. ASHRAE Draft 118.2 removed the scaling calculation for the case in which a draw is not in progress at one hour from the start of the test and a final draw is imposed at the elapsed time of one hour. Instead, the ASHRAE Draft 118.2 method calculates FHR as the sum of the volume of hot water delivered without any scaling to the final draw. The methodology for conducting the FHR test, and in particular the issue of whether to scale the final draw, was considered during the May 1998 final rule, and DOE determined at that time that a temperature correction factor was appropriate and was included to adjust the volume of the last draw to account for the lower heat content of the last draw compared to the earlier draws with fully heated water. 63 FR 25996, 26004–26005 (May 11, 1998).

Issue B.13: DOE requests feedback on whether the temperature correction scaling calculation should be maintained for the final draw in calculation of FHR for the case in which a draw is not in progress at one hour from the start of the test and is imposed at the elapsed time of one hour.

Issue B.14: DOE requests feedback on the effect that removing the temperature correction factor would have on the rated FHR, draw pattern, and rated UEF values of the various types of non-flow-activated water heaters that are tested to the FHR test.

ASHRAE Draft 118.2 includes language clarifying that when the first recovery of the simulated-use test extends during a draw, the first recovery period extends until the end of that draw. The first recovery period is used in ASHRAE Draft 118.2 and section 6.3.2 of DOE's test procedure to calculate recovery efficiency. DOE's test procedure does not directly address how to calculate recovery efficiency if the first recovery period ends during a draw. Each of the parameters in the recovery efficiency equation are recorded at the end of the first recovery period (*e.g.,* the total mass removed is recorded at the end of the first recovery period and not the end of the draw).

Issue B.15: DOE requests feedback on whether additional specification should be added to Appendix E addressing the first recovery period ending during a draw.

Issue B.16: DOE requests feedback on whether it is appropriate to extend the first recovery period to the end of the draw, or to end the recovery period at the end of the recovery. If extending the first recovery period to the end of the draw is appropriate, please address the situation where a second recovery is initiated prior to the ending of the draw. Please also address the appropriate calculation of the maximum mean tank temperature recorded after cut-out following the first recovery, $\bar{T}_{max,1}$.

ASHRAE Draft 118.2 updated the recovery efficiency equation for water heaters with a rated storage volume greater than or equal to 2 gallons (7.6 L) to address situations in which the recovery period lasts for more than one draw, as can occur while testing water heaters with long recovery times such as heat pump water heaters recovering using only the heat pump. The energy removed from the tank during each draw is summed and added to the change in stored energy in the tank from the start of the test to the maximum mean tank temperature observed after the end of the recovery period. Section 6.3.2 of the DOE test procedure also uses the total energy removed from the tank when more than one draw occurs during the first recovery period.

Issue B.17: DOE requests feedback on whether the equation for recovery efficiency for water heaters with a rated storage volume greater than or equal to 2 gallons (7.6 L) should be updated to address when the recovery period lasts for more than one draw.

2. Other Potential Updates to the Federal Test Method

Beyond considering the updates in the ASHRAE Draft 118.2 test method discussed in the previous section, DOE is also considering a number of potential updates to its test method in Appendix E that are not addressed in ASHRAE Draft 118.2. These updates are discussed in the paragraphs that follow.

a. Test Conditions

Section 2.3 of Appendix E specifies maintaining the supply water temperature at 58 °F ± 2 °F (14.4 °C ± 1.1 °C). During the 24-hour simulated-use test, maintaining the supply water temperature within this range can be difficult at the immediate start of a draw due to the short time between draw initiation and the first measurement at 5 seconds (with subsequent measurements every 3 seconds thereafter), as required by section 5.4.2 or 5.4.3 of Appendix E. In some test configurations, particularly during the lower-flow water draws, the inlet water and piping may retain heat from a previous draw, causing the water entering the unit during the initial measurements to be slightly outside of tolerance. Any supply water temperature reading outside of the test tolerances would invalidate a test. However, due to the small percentage of total water use that would be affected, supply water temperatures that are slightly out of tolerance for the first one or two data points would have a negligible effect on the overall test result.[8] This issue is less evident during the FHR test, which specifies an initial temperature measurement 15 seconds after the start of the water draw. This is not an issue during the max GPM test due to the system being in steady-state during the entire test.

Issue B.18: DOE requests feedback on whether one or two supply water temperature data points outside of the test tolerance at the beginning of a draw would have a measurable effect on the results of the test.

Issue B.19: DOE requests feedback on whether DOE should consider relaxing the requirement for supply water temperature tolerances at the start of a draw, and if so, which methods are most

[8] For example, the first two temperature readings would reflect 8 seconds of water flow, in comparison to total water draw durations ranging from 1 minute to over 8 minutes, according to the water draw patterns defined in Tables III.1, III.2, III.3, and III.4 of Appendix E.

appropriate for doing so while maintaining accuracy and repeatability.

Section 2.2 of Appendix E specifies maintaining ambient air temperature between 65.0 °F and 70.0 °F (18.3 °C and 21.1 °C) on a continuous basis for all types of consumer water heaters (and residential-duty commercial water heaters) other than heat pump water heaters. For heat pump water heaters, ambient air temperature must be maintained between 67.5 °F ±1 °F (19.7 °C ± 0.6 °C), and the relative humidity must be maintained at 50% ± 2% throughout the test. For all water heaters, section 2.7.1 of Appendix E specifies maintaining the electrical supply voltage within ± 1% of the center of the voltage range specified by the manufacturer. Similar to the supply water temperature discussed above, a brief measurement of air temperature, relative humidity, or electrical supply voltage that is slightly outside of the test tolerance would invalidate a test, but likely has a negligible effect on the results of the test.

Issue B.20: DOE requests feedback on whether the tolerances for ambient air temperature, relative humidity, and electrical supply voltage are difficult to maintain at the start of a draw, and if so, whether DOE should consider relaxing these requirements at the start of a draw. If DOE should consider relaxing these requirements, what should the tolerances be?

DOE has conducted exploratory testing to investigate the effect of relative humidity (RH) on the measured UEF values of consumer gas-fired instantaneous water heaters. Two models, one non-condensing and the other condensing, were each tested twice at an RH of 50 percent and an RH of 80 percent (*i.e.,* each model was tested four times, with two tests at an RH of 50 percent and two tests at an RH of 80 percent). The increase in relative humidity from 50 percent to 80 percent resulted in a maximum change in UEF for the non-condensing and condensing models of 0.011 and 0.015, respectively.

Issue B.21: DOE requests feedback on whether test conditions for relative humidity should extend to other consumer water heater types besides heat pump water heaters.

For gas-fired water heaters, sections 2.7.2 and 2.7.3 of Appendix E require maintaining the gas supply pressure in accordance with the manufacturer's specifications; or, if the supply pressure is not specified, a supply pressure of 7–10 inches of water column (1.7–2.5 kPa) for natural gas and 11–13 inches of water column (2.7–3.2 kPa) for propane gas must be maintained. In addition, for gas-fired water heaters with a pressure regulator, sections 2.7.2 and 2.7.3 require the regulator outlet pressure to be within ±10 percent of the manufacturer's specified manifold pressure. From a review of product literature, DOE has found that many gas-fired water heaters with variable input burners have a factory preset manifold pressure that is computer-controlled and cannot be adjusted directly. Further, the manufacturer-specified manifold pressure typically refers to when the water heater is operating at the maximum firing rate.

Issue B.22: DOE requests comment on whether sections 2.7.2 and 2.7.3 should be amended to account for models where the manifold pressure cannot be adjusted directly and whether the ±10% tolerance should apply only when firing to the manufacturer specified firing rate.

In addition to the gas pressure requirements, section 5.2.3 requires maintaining an hourly Btu rating (*i.e.,* power input rate) that is within ±2% of the value specified by the manufacturer (*i.e.,* the nameplate value). DOE has observed during testing that for some gas-fired water heaters, a power input rate cannot be achieved that is within ± 2% of the nameplate value while maintaining the gas supply pressure and manifold pressure within the required ranges. In such instances, it is common practice for the testing laboratory to modify the size of the orifice that is shipped with the water heater; for example, the testing laboratory may enlarge the orifice to allow enough gas flow to achieve the nameplate input rating within the specified tolerance, if the power input rate is too low with the orifice as supplied. For commercial water heating equipment, DOE addressed this issue by specifying in the product-specific enforcement provisions that, after adjusting the manifold and supply pressures to their specified limits, if the fuel input rate is still not within ± 2 percent of the rated input, DOE will attempt to modify the gas inlet orifice. 10 CFR 429.134(n)(ii).

Issue B.23: DOE requests comment regarding whether provisions should be added to the test procedure at Appendix E to address water heaters that cannot operate within ± 2 percent of the nameplate rated input as shipped from the factory. If so, DOE requests comment on how to address this issue, and whether it is appropriate to physically modify the orifice, similar to the direction for commercial water heaters.

b. Terminology

In sections 5.3.3.1 and 5.3.3.2 of Appendix E, which describe general requirements and draw initiation criteria, respectively, for the FHR test, the term ''storage-type water heaters'' is used. However, the FHR applies to all water heaters that are not flow-activated, which could include non-flow-activated instantaneous water heaters with storage volumes above 2 gallons.

Issue B.24: DOE requests feedback on whether to update the phrase ''storage-type water heaters'' in section 5.3.3 to ''non-flow-activated water heaters.''

c. Test Set-up

DOE is considering whether it should update the test set-up requirement for the location of a flow meter (when used), and/or specifications regarding how to determine the water density for the purpose of calculating the water mass removed from the water heater when volume is measured using a flow meter. In sections 6.3.2 and 6.4.1 of Appendix E, both titled, ''Recovery Efficiency,'' the total mass of water removed (*i.e.,* mass of water that flows through the outlet) from the start of the 24-hour simulated-use test to the end of the first recovery period (M_1) is used to calculate recovery efficiency. The test procedure accommodates determining the total mass either directly (*e.g.,* through the use of a weighing scale), or indirectly by multiplying the total volume removed (V_1) (*i.e.,* total volume of hot water flow through the outlet) by the density of water (ρ_1), which is required to be determined based on the water temperature at the point where the flow volume is measured.[9] The test procedure does not specify where in the flow path the flow volume and density must be measured, which allows for laboratory test set-ups that measure the flow volume either on the cold inlet side of the water heater or on the hot outlet side. DOE is concerned that allowing the flow meter to be located on either the inlet or outlet side, and calculating the mass of the water that is heated during the test based on the density of the water where the flow meter is located, could result in differences in the mass of water that is calculated depending on whether the flow meter is in the inlet water line or the outlet water line. Because the inlet water is colder than at the outlet, it is also denser, meaning that the same volume of water has more mass at the inlet than the outlet. In addition, some of the mass of inlet water could, after being heated, expand out of the water heater into the expansion tank and be

[9] Although the DOE test procedure does not specify how to measure and/or calculate density, it is typically calculated using either a regression equation or density tables based on a specific temperature and pressure.

purged prior to a draw.[10] Any ''expanded'' volume of water that is lost through the purge line could be included in a volume measurement taken at the inlet, but not be included in a volume measurement taken at the outlet. To alleviate the potential for a mismatch between the mass of water measured at the inlet and outlet, DOE is considering whether to specify the location of the flow meter when one is used to determine the amount of water removed. Alternatively, if the volume of water going into the water heater will always be equivalent to the volume withdrawn, DOE could consider using the density at the hot outlet side for the purpose of calculating total mass of water removed in sections 6.3.2 and 6.4.1 of Appendix E, regardless of where flow volume is measured.

Issue B.25: DOE requests feedback on whether the consumer water heater test procedure should require measurement of flow in the outlet water line to ensure that the mass of water removed from the tank is accurate. Alternatively, DOE is interested in comment on whether requiring density, ρ_1, to be determined based on the outlet temperature, rather than the temperature where the flow volume is measured, would alleviate this issue.

In sections 6.3.5 and 6.4.2 of Appendix E, the mass withdrawn from each draw (M_i) is used to calculate the daily energy consumption of the heated water at the measured average temperature rise across the water heater (Q_{HW}). However, neither section includes a description of how to calculate the mass withdrawn for tests in which the mass is indirectly determined using density and volume measurements (as described above).

Issue B.26: DOE requests feedback on whether to update the consumer water heater test procedure to include a description of how to calculate the mass withdrawn from each draw in cases where mass is indirectly determined using density and volume measurements.

In section 6.3.3 of Appendix E titled, ''Hourly Standby Losses,'' the descriptions for cumulative energy consumption ($Q_{su,0}$ and $Q_{su,f}$) and mean tank temperature ($\bar{T}_{su,0}$ and $_{su,f}$) at the start and end of the standby period, along with the elapsed time, average storage tank and average ambient temperatures over the standby period ($\bar{T}_{stby,1}$, $\bar{T}_{t,stby,1}$ and $\bar{T}_{a,stby,1}$, respectively) specifically refer to the standby period that would occur after the first draw cluster, but do not explicitly address the case where the standby period occurs after the last draw of the test.

Issue B.27: DOE requests feedback on whether DOE should revise the descriptions of $Q_{su,0}$, $Q_{su,f}$, $\bar{T}_{su,0}$, $_{su,f}$, $\tau_{stby,1}$, $\bar{T}_{t,stby,1}$, and $\bar{T}_{a,stby,1}$ to accommodate cases where the standby period occurs after the last draw of the test, in addition to cases where the standby period occurs after the first draw cluster.

d. Specific Considerations for Certain Consumer Water Heaters

DOE has found that several manufacturers produce consumer gas-fired instantaneous water heaters that are designed to be used with a volume of stored water (usually in a tank, but sometimes in a recirculating hot water system of sufficient volume, such as a hydronic space heating or designated hot water system) where the water heater does not directly provide hot water to fixtures, such as a faucet or shower head, but rather replenishes heat lost from the tank or system through hot water draws or standby losses by circulating water to and from the tank or other system. These recirculating consumer gas-fired instantaneous water heaters are typically activated by an aquastat[11] installed in a storage tank that is sold separately or by an inlet water temperature sensor. While the products identified by DOE are within the statutory and regulatory definition of a consumer ''water heater'' as a covered product, the design and application of recirculating gas-fired instantaneous water heaters makes testing to the consumer water heater test procedure difficult, if not impossible, as these products are not capable of delivering water at the temperatures and flow rates specified in the UEF test method. Modifications to the consumer water heater test procedure may be required to be more representative of typical use for these products. These modifications could include changes to inlet and/or outlet water temperature requirements or draw patterns (flow rate and timing). In addition, use of a representative storage tank may be considered.

Issue B.28: DOE requests feedback on the typical application(s) in which recirculating gas-fired instantaneous water heaters are used.

Issue B.29: DOE requests feedback on what changes to the consumer water heater test procedure may be necessary to appropriately test recirculating gas-fired instantaneous water heaters.

Issue B.30: Additionally, DOE requests feedback on whether there is an industry standard that would allow for testing of recirculating gas-fired instantaneous water heaters that would provide results representative of the energy use of these products for an average use cycle or period of use.

DOE has identified flow-activated water heaters that are designed to deliver water at a temperature below the set point temperature of 125 °F ± 5 °F (51.7 °C ± 2.8 °C) that is required by section 2.5 of Appendix E. These water heating products are typically marketed as handwashing or point-of-use water heaters. These units typically have low heating rates, which requires the testing agency to reduce the flow rate in order to be able to achieve the outlet temperature within the set point temperature range. However, these units have a minimum activation flow rate, below which the unit shuts off. Therefore, when the flow rate is too low, the unit will stop heating water, so there is no flow rate at which the unit will operate and deliver water at the required outlet temperature.

Issue B.31: DOE requests feedback on whether language should be added to section 5.2.2.1 of Appendix E, titled, ''Flow-Activated Water Heaters, including certain instantaneous water heaters and certain storage-type water heaters,'' to allow for water heaters not designed to deliver water at 125 °F ± 5 °F (51.7 °C ± 2.8 °C) to be tested at a lower set point temperature, or whether other changes to the test method need to be made to accommodate these types of models (*e.g.,* an additional draw pattern, product definition).

DOE has identified water heating products with storage volumes less than 20 gallons and with input rates near or at the maximum input rate and considers them to be consumer water heaters. These products are sold in the consumer market and can be tested to the consumer water heater test procedure. Section 5.3.3 titled, ''First-Hour Rating'' of the consumer water heater test procedure at Appendix E requires that water heaters with storage volume less than 20 gallons be tested at 1.0 ± 0.25 gpm (3.8 ± 0.95 L/min), as opposed to 3.0 ± 0.25 gpm (11.4 ± 0.95 L/min) required for water heaters with rated storage volumes greater than or equal to 20 gallons. Water heaters with low volume and high input rates can potentially operate indefinitely at the 3.0 ± 0.25 gpm (11.4 ± 0.95 L/min) flow rate. When tested as currently required by Appendix E, such products would have a measured FHR around 60 gallons (227 L) and, therefore, would be required to use the medium draw

[10] The change in volume occurs because water expands and increases in volume as it is heated.

[11] An ''aquastat'' is a temperature measuring device typically used to control the water temperature in a separate hot water storage tank.

pattern, although such models could be used in applications similar to other types of water heaters that fall into the high draw pattern (*e.g.,* flow-activated instantaneous water heaters with high input rates and storage water heaters with greater than 20 gallons stored water and high input rates and/or volumes).

Issue B.32: DOE requests feedback on the consumer water heater test procedure with respect to testing the delivery capacity of non-flow-activated water heaters with low volume and high input rate. If amendments are warranted, DOE requests comment on what method(s) would be appropriate for determining the delivery capacity of such models and what attributes can be used to distinguish these water heaters from non-flow-activated water heaters more appropriately tested by the FHR test.

Section 4.5 of Appendix E requires water heaters with a rated storage volume at or above 2 gallons must have their internal storage tank temperature measured. Typically, a thermocouple tree is inserted into the storage tank of a water heater through either the anode rod hole, the outlet water line, or the temperature and pressure relief valve. DOE has identified consumer water heaters with physical attributes that make measuring mean tank temperature difficult, such as water heaters that have a built-in mixing valve and no anode rod, or have a large heat exchanger that does not allow a thermocouple tree to be inserted.

Issue B.33: DOE requests feedback on whether amendments to the water heater test procedure are needed to address water heaters that cannot have their internal storage tank temperatures measured as required by the test procedure. If so, DOE requests comment on what updates to the test procedure would be necessary that would still allow for accurate measurement of temperature.

C. Test Procedure Waivers

A person may seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when the basic model for which the petition for waiver is submitted contains one or more design characteristics that: (1) Prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). If a waiver is granted, as soon as practicable, DOE will publish in the **Federal Register** a NOPR that proposes to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l). Currently, DOE has granted one finalized waiver from the current consumer water heater test procedure.

On January 31, 2020, DOE published a Notice of Decision and Order in the **Federal Register** granting Bradford White Corporation a waiver for a specified basic model that experiences the first cut-out of the 24-hour simulated use test during a draw. 85 FR 5648. The Decision and Order requires Bradford White Corporation to use an alternate test procedure that DOE has determined more accurately calculates the recovery efficiency when the first cut-out occurs during a draw.[12] *Id.*

DOE has determined that the alternate test procedure is representative of real-world use conditions for the basic model specified in the Decision and Order. DOE requests feedback on whether the test procedure waiver approach is generally appropriate for testing basic models with these features.

D. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for consumer water heaters and residential-duty commercial water heaters. As noted, DOE recently issued an RFI to seek more information on whether its test procedures are reasonably designed, as required by EPCA, to produce results that measure the energy use or efficiency of a product during a representative average use cycle or period of use. 84 FR 9721 (March 18, 2019). DOE seeks comment on this issue as it specifically pertains to the test procedures for consumer water heaters and residential-duty commercial water heaters that are the subject of this current RFI.

As noted previously, DOE also requests comments on whether potential amendments based on the issues discussed would result in a test procedure that is unduly burdensome to conduct, particularly in light of any new products on the market since the last test procedure update. If commenters believe that any such amendments would result in a procedure that is, in fact, unduly burdensome to conduct, DOE seeks information on whether an existing private sector-developed test procedure would be more appropriate or other avenues for reducing the identified burdens while advancing improvements to the water heaters test procedure.

DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification. DOE notes that ANSI/ASHRAE Standard 118.2–2006 (RA 2015), ''Method of Testing for Rating Residential Water Heaters,'' is effectively the same as the DOE test procedures formerly used to measure EF. Further, as discussed earlier in this document, ASHRAE 118.2–2006 (RA 2015) is currently under revision with major changes being considered to update that test method so as to be similar to the DOE UEF test procedure currently in Appendix E.

Additionally, DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to purchasers of consumer water heaters. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of new or additional features and make it more likely that such features are included on consumer water heaters, while still meeting the requirements of EPCA.

DOE also requests comments on any potential amendments to the existing test procedures that would address impacts on manufacturers, including small businesses.

Finally, DOE recently published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. DOE seeks comments, data, and information on the issues presented in the RFI as they may be applicable to the consumer water heaters and residential-duty commercial water heaters that are the subject of this RFI.

[12] Docket number EERE–2019–BT–WAV–0020, see: *https://www.regulations.gov/docket?D=EERE-2019-BT–WAV-0020.*

III. Submission of Comments

DOE invites all interested parties to submit in writing by June 1, 2020, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended test procedures for consumer water heaters and residential-duty commercial water heaters. These comments and information will aid in the development of a test procedure NOPR for consumer water heaters, if DOE determines that amended test procedures may be appropriate for these products. After the close of the comment period, DOE will review the public comments received and may begin collecting data and conducting the analyses discussed in this RFI.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signed in Washington, DC, on February 21, 2020.

Alexander N. Fitzsimmons,

Deputy Assistant Secretary for Energy Efficiency,Energy Efficiency and Renewable Energy.

[FR Doc. 2020–07732 Filed 4–15–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0330; Product Identifier 2020–NM–031–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by a report indicating that when the number 2 engine thrust reverser (T/R) was opened, the right-hand T/R hinge nut located at position

4 was found detached; investigation revealed that certain nuts could have been installed with noncompliant locking features, or with locking features that could degrade quicker than anticipated. This proposed AD would require inspecting each T/R hinge for the presence of a nut and washer, installing a new nut and washer if necessary, and applying a torque stripe at each T/R hinge location, 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 June 1, 2020.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.* 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–2020–0330.

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–2020–0330; 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: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@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–2020–0330; Product Identifier 2020–NM–031–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 agency 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 2020–0028, dated February 14, 2020 (''EASA AD 2020–0028'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and -1041 airplanes.

This proposed AD was prompted by a report indicating that when the number 2 engine T/R was opened, the right-hand T/R hinge nut located at position 4 was found detached; investigation revealed that certain nuts could have been installed with noncompliant locking features, or with locking features that could degrade quicker than anticipated. A similar nut installation on T/R hinge positions 2 and 3 can be affected by the same issue. This condition, if not addressed on multiple hinge attachments, could lead to in-flight loss of a T/R, consequent structural damage to the airplane, and possible injury to persons on the ground. See the MCAI for additional background information.

Related IBR Material Under 1 CFR part 51

EASA AD 2020–0028 describes procedures for a general visual inspection of each T/R hinge for the presence of a nut and washer, replacing any existing nut with a new nut, installing a new nut and washer if neither is installed, and applying a torque stripe at each location. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0028 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0028 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0028 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD

requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0028 that is required for compliance with EASA AD 2020–0028 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0330 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD would affect 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 4 work-hours × $85 per hour = Up to $340	$984	$1,324	Up to $17,212.

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0330; Product Identifier 2020–NM–031–AD.

(a) Comments Due Date

The FAA must receive comments by June 1, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0028, dated February 14, 2020 (''EASA AD 2020–0028'').

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that when the number 2 engine thrust reverser (T/R) was opened, the right-hand T/R hinge nut located at position 4 was found detached; investigation revealed that certain nuts could have been installed with noncompliant locking features, or with locking features that could degrade quicker than anticipated. The FAA is issuing this AD to address this condition, which, if occurring on multiple hinge attachments, could lead to in-flight loss of a T/R, consequent structural damage to the airplane, and possible injury to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions, including inspecting each T/R hinge for the presence of a nut and washer, and compliance times specified in, and in accordance with, EASA AD 2020–0028.

(h) Exceptions to EASA AD 2020–0028

(1) Where EASA AD 2020–0028 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0028 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0028 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 2020–0028 that contains RC procedures and tests: 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 2020–0028, contact 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 EASA AD 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. EASA AD 2020–0028 may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0330.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

Issued on April 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07920 Filed 4–15–20; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

[Docket No. CPSC–2020–0011]

Fees for Production of Records; Other Amendments to Procedures for Disclosure of Information Under the Freedom of Information Act

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the Freedom of Information Act (FOIA), the Consumer Product Safety Commission (CPSC) may charge certain fees to recover the direct costs of providing specific FOIA services, such as duplication and searching for responsive records. The CPSC is proposing to amend its FOIA fee regulations to reflect more accurately the CPSC's direct costs of providing FOIA services, as well as to conform to the Office of Management and Budget's (OMB's) *Uniform Freedom of Information Act Fee Schedule and Guidelines* and to omit the fee category for the production of records on microfiche, an obsolete format. The CPSC also is proposing to amend other sections of its FOIA regulations to reflect organizational changes in the agency's FOIA Office; to codify the existing practice of the General Counsel remanding cases to the Chief FOIA Officer; and to allow for any relevant FOIA exemptions to be applied.

DATES: Submit comments by June 30, 2020.

ADDRESSES: Comments, identified by Docket No. CPSC–2020–0011, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, described above.

Written Submissions: Submit written submissions by Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (800) 638–2772.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to: *http://www.regulations.gov,* including any personal information provided. Do not submit electronically any confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to provide such information, please submit your comment it in writing following the instructions for Written Submissions provided above.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, CPSC–2020–0011, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Abioye Ella Mosheim, Chief FOIA Officer, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; email: *amosheim@cpsc.gov;* telephone: (301) 504–7454.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

On June 30, 2016, the President signed into law the FOIA Improvement Act of 2016, Public Law 114–185 (2016). The FOIA Improvement Act of 2016 amends the Freedom of Information Act, 5 U.S.C. 552, requiring, *inter alia,* the Chief FOIA Officer of every agency to review its FOIA fee regulations annually. *See* 5 U.S.C. 552(j)(3)(C).

OMB's *Uniform Freedom of Information Act Fee Schedule and Guidelines* (OMB Fee Guidelines) provides federal agencies with guidance on reviewing and assessing FOIA fees. 52 FR 10012 (Mar. 27, 1987). Following OMB's issuance of its Fee Guidelines in March 1987, CPSC proposed amendments to its FOIA fee regulations. 52 FR 17767 (May 12, 1987). The CPSC finalized its amendments on fees to reflect the agency's direct costs, and the amendments became effective on September 4, 1987. 52 FR 28979(Aug. 5, 1987). In 1997, CPSC updated one portion of its FOIA fee regulations regarding computerized records and interest to be charged on fees owed. 62 FR 46198 (Sept. 2, 1997). In 2017, CPSC also updated portions of its FOIA fee regulations to revise the definition of ''representative of the news media'' and to make other clarifications and corrections. 82 FR 37004 (Aug. 8, 2017).

The CPSC is proposing additional amendments to its FOIA fee regulations to ensure that the agency's fees accurately reflect its direct costs of providing FOIA services, consistent with the OMB Fee Guidelines. CPSC staff estimated the CPSC's direct costs of providing FOIA services by reviewing and assessing certain known costs of providing records under the FOIA in Fiscal Year 2019, as described in detail below. CPSC staff also examined whether there were any discrepancies between the OMB Fee Guidelines and CPSC's existing regulations, as well as between CPSC's general FOIA regulations and existing practices. The proposed amendments are summarized in five categories below.

II. Proposed Amendments Concerning Fees

Direct Costs. The FOIA authorizes agencies to charge certain fees to recover the direct costs of providing FOIA services. 5 U.S.C. 552(a)(4)(A). Fee schedules must provide for the recovery of only the direct costs of search, duplication, or review. 5 U.S.C. 552(a)(4)(A)(iv). Under the FOIA, agencies must promulgate regulations, pursuant to notice and public comment, specifying the schedule of fees applicable to processing FOIA requests; must establish procedures and guidelines for determining when such fees should be waived or reduced; and must conform their fee schedules to the OMB Fee Guidelines. 5 U.S.C. 552(a)(4)(A)(i). Pursuant to the OMB Fee Guidelines, agencies should charge fees that ''recoup the full allowable direct costs they incur'' and ''shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA.'' 52 FR 10018.

Duplication Fees. Proposed § 1015.9(e)(1) would amend the current regulations on fees the agency charges for the reproduction of documents to reflect CPSC staff's review and the assessment of certain known costs of producing FOIA records for Fiscal Year 2019 and based on current CPSC practices. The OMB Fee Guidelines require agencies to ''establish an average agency-wide, per-page charge for paper copy reproduction of documents,'' which ''shall represent the reasonable direct costs of making such copies, taking into account the salary of the operator as well as the cost of the reproduction machinery.'' 52 FR 10018. For copies prepared by computer, the OMB Fee Guidelines require agencies to charge the actual cost, including operator time, of production of the printout. *Id.* For other methods of duplication, the OMB Fee Guidelines require agencies to charge the actual direct costs of producing the documents. *Id.*

Current 16 CFR 1015.9(e)(1) sets forth the amount charged for reproducing documents on a standard photocopying machine at $0.10 per page. Proposed § 1015.9(e) would change the regulation to specify a charge of $0.15 per page for manual photocopies and for computer printouts that are sent from a computer to a printer or photocopier machine. The proposed fee for manual photocopies and computer printouts was calculated using the 2019 basic hourly pay rate of the average grade and step of staff members from the Office of the General Counsel, Division of the Secretariat (GCOS), who charged hours for FOIA projects in Fiscal Year 2019 (GS 12/4, or $33.52/staff hour), plus 16 percent for the allowable OMB benefit rate; multiplying that amount by the total staff hours within the GCOS that are estimated to be attributable to FOIA duplication in Fiscal Year 2019 (486.45 staff hours); adding the estimated cost of paper and toner used by the GCOS staff for computer printouts in Fiscal Year 2019 ($9,826); and dividing that number by the corresponding number of pages printed (196,820 pages). CPSC staff estimated the total hours spent by GCOS staff attributable to FOIA duplication in Fiscal Year 2019, by taking a poll of the FOIA specialists, whose most common response was that they spent 5 percent of their time on duplication.

Proposed § 1015.9(e) also would clarify that there is no duplication fee for producing records provided to requesters in electronic format. Because converting and sending an electronic file, such as a file in portable document format (PDF), to requesters via electronic mail or the FOIA online portal requires minimal operator time and computer and software costs, the agency's actual costs of duplicating these records are *de minimis.* The proposed rule also clarifies how the fees for costs will be assessed where records are available only in paper format and must be scanned to comply with a requester's preference to receive records in an electronic format.

Search Fees. Proposed § 1015.9(e)(2) would amend the current regulations on fees the agency charges for searches. Pursuant to the OMB Fee Guidelines, for manual searches, whenever feasible, agencies should charge at the salary rate of the employee making the search, consisting of basic pay, plus 16 percent for the allowable OMB benefit rate; however, where a ''homogenous class of personnel'' is used exclusively, agencies may establish an average rate for the range of grades typically involved in searching for records. 52 FR 10018. For computer searches, agencies should charge the actual direct cost of providing the service, plus central processing unit (CPU) time that is directly attributable to searching for responsive records to a FOIA request. Alternatively, if agencies can do so, they may establish a reasonable agency-wide rate for operator, programmer, and CPU costs involved in FOIA searches and charge accordingly. *Id.*

Current §§ 1015.9(e)(2)–(3) divide searches into two categories: (1) Searches conducted by clerical staff; and (2) searches conducted by non-clerical, professional, or managerial staff. The current regulations charge $3.00 per quarter hour for clerical searches, and $4.90 per quarter hour for non-clerical searches.

Proposed § 1015.9(e)(2) would remove the set dollar figures for search fees enumerated within the regulation itself, and in their place, state that search fees are based on the average grade and step of certain employees who charged hours in this category. CPSC staff believes that this avoids the need continuously to update the CPSC's FOIA fee regulations to be consistent with General Schedule pay adjustments. This approach is similar to the FOIA fee regulations at several other agencies.

Additionally, due to organizational changes in the CPSC's FOIA Office and how requests are processed, clerical staff rarely performs searches. Therefore, CPSC proposes to eliminate the category of clerical search fees. Consistent with this recommendation, and consistent with the OMB Fee Guidelines, the proposed regulations would distinguish between manual and computer-based searches.

The proposed manual search fee would be charged on a per-quarter-hour basis, and the exact rate would be calculated and published annually, using the basic hourly pay rate of the average grade and step of CPSC program staff who worked outside of the FOIA Office and who charged hours for FOIA projects in Fiscal Year 2019 (GS 14/7), plus 16 percent for the allowable OMB benefit rate.

The proposed computer search fee would be charged on a per-quarter-hour basis, and the exact rate would be calculated and published annually, using the basic hourly pay rate of the average grade and step of GCOS staff who charged hours for FOIA projects in Fiscal Year 2019 (GS 12/4), plus 16 percent for the allowable OMB benefit rate. CPSC program staff who work outside of the FOIA Office often conduct FOIA computer searches. However, CPSC staff has determined that the average grade and step of GCOS staff who charged hours for FOIA projects represents a reasonable agency-wide rate for operator costs in this category. The proposed computer search fee would not include CPU costs because any agency software or hardware costs directly attributable to searching for responsive records would be difficult to quantify and likely would be *de minimis.*

Review Fees. Proposed § 1015.9(e)(3) would amend the current regulations on fees the agency charges for the initial review of documents to determine whether any portion of any document may be withheld. The OMB Fee Guidelines permit agencies to establish a reasonable agency-wide average for

such costs, where a single class of reviewers is typically involved in the review process. 52 FR 10018.

Current § 1015.9(4) sets forth the amount charged for review at $4.90 per quarter hour. Similar to the proposed search fees, the proposed regulation would remove the set dollar figure review fee enumerated within the regulation itself. Instead, the review fee would be charged on a per-quarter-hour basis, and the exact rate would be calculated and published annually, using the basic hourly pay rate of the average grade and step of GCOS staff who charged hours for FOIA review in Fiscal Year 2019 (GS 12/9), plus 16 percent for the allowable OMB benefit rate.

Obsolete Formats. The FOIA requires agencies to provide records in any format requested, if the record is readily reproducible by the agency in that form or format. 5 U.S.C. 552(a)(3)(B). Currently, CPSC routinely produces records in one of three formats: (1) Computer printout, if under 250 pages; (2) compact disc (CD), if more than 250 pages; and (3) electronic files, such as PDF. The proposed amendments would clarify that requesters may request records in paper, CD, or electronic format. The proposed amendments also would remove the fee for producing records on microfiche because this format is obsolete and not routinely produced by the CPSC.

Annual Publication of Fees. Under the proposed regulations, the exact per-quarter-hour rates for searching and reviewing records would be calculated and published annually, using the most recent General Schedule table published by the Office of Personnel Management (OPM). In addition, the actual cost of CDs, DVDs, and other similar media would be calculated and published annually. These exact rates and costs would be made available to the public on the CPSC's FOIA web page and would be available by request from GCOS. The CPSC also would annually publish on its FOIA web page the salaries of CPSC employees associated with FOIA searches and reviews, consistent with the FOIA fee-posting practice observed at several other agencies.

Fee Waivers. The FOIA requires agencies to provide a fee waiver for search and duplication fees for certain categories of requesters in increments of the first 100 pages of duplication and the first 2 hours of search, rather than in dollar amounts. 5 U.S.C. 552(a)(4)(A)(iv). This proposed rulemaking would incorporate more clearly this statutory requirement into proposed § 1015.9(g), consistent with the OMB Fee Guidelines. 52 FR 10016. Proposed § 1015.9(g)(2) would specify that the first 100 pages of duplication will be waived for all non-commercial requesters, consistent with the FOIA and the OMB Fee Guidelines.

Proposed § 1015.9(g)(3) would specify that the first 2 hours of search time will be waived for all requesters to whom search fees apply, except commercial requesters.

Notice of Anticipated Fees. The OMB Fee Guidelines require agencies to implement procedures for notifying requesters when fees are estimated or determined to exceed $25 and provide those requesters an opportunity to confer with agency staff with the objective of reformulating their request to meet their needs at a lower cost. 52 FR 10018. The CPSC's current FOIA fee regulations lack procedures for providing requesters with notice of anticipated fees in excess of $25 and an opportunity to confer with agency staff. Proposed § 1015.9(f) would provide for notice of anticipated fees greater than $25 and the opportunity to confer with staff on costs. The proposed regulations also would provide that requesters must commit in writing to pay the actual or estimated fees or designate in writing the amount of fees the requester is willing to pay before the FOIA Office will do further work on a FOIA request.

Restrictions on Assessing Fees. The FOIA and the OMB Fee Guidelines prohibit agencies from charging a fee if the costs of collecting and processing that fee are likely to equal or exceed the fee. 5 U.S.C. 552(a)(4)(A)(iv); 52 FR 10018–19. Current § 1015.9(g)(5) states that the CPSC will not request payment if the requester's total bill is less than $9.00. CPSC staff estimates that the current cost to the agency of collecting and processing a fee is $25. Accordingly, the proposed amendments would delete § 1015.9(g)(5), and add proposed § 1015.9(g)(7), which would provide that no fee will be charged when the total fee is equal to or less than $25.

Advance Payment of Fees. The NPR proposes to add § 1015.9(i), which would set forth provisions for requiring advance payment before the production of records in certain cases. The OMB Fee Guidelines instruct agencies that they may not require a requester to make an advance payment unless: (1) The agency estimates that the allowable charges the requester may be required to pay are likely to exceed $250, in which case they should notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require payment ''of an amount up [to] the full estimated charges in the case of requesters with no history of payment''; or (2) a requester has previously failed to pay a fee charged in a timely fashion, in which case the agency may require the requester to pay the full amount owed, plus any applicable interest, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new or pending request. 59 FR 10020. Current § 1015.9(g)(3) states: ''Before the Commission begins processing a request or discloses any information, it will require advance payment if charges are estimated to exceed $250.00 and the requester has no history of payment and cannot provide satisfactory assurance that payment will be made; or a requester failed to pay the Commission for a previous Freedom of Information Act request within 30 days of the billing date.'' The proposed amendments would reflect the language used in the OMB Fee Guidelines. *See* 59 FR 10020. The proposed amendments also would codify the CPSC's current practices of tolling the processing of the request while notifying the requester that advance payment is due, 5 U.S.C. 552(a)(6)(A)(ii)(II), and closing the request if, after 30 days of receipt, the requester does not respond to the fee notice.

III. Proposed Amendments To Reflect Organizational Changes at CPSC

FOIA Office. The organizational structure of the CPSC's FOIA Office has changed since the FOIA regulations were last amended in 2017. *See* 82 FR 37010. The CPSC's FOIA Office is now housed within the Office of the General Counsel, rather than the Office of the Secretary, and the Commission's Assistant General Counsel for the Office of the General Counsel, Division of the Secretariat, holds the position of Chief FOIA Officer, rather than the Secretary of the Commission. The NPR proposes to amend 16 CFR 1015.1, 1015.2, 1015.3, 1015.4, 1015.5, 1015.6, 1015.7, and 1015.9 to replace the designations ''Secretary of the Commission,'' ''Secretary,'' or ''Secretariat,'' with the title, ''Chief FOIA Officer,'' and replace ''Office of the Secretary'' with ''Office of the General Counsel, Division of the Secretariat'' or ''Division of the Secretariat.''

IV. Proposed Amendment Concerning Appeals

Delegation of Authority. The current regulations are inconsistent regarding the delegation of authority to review and respond to FOIA appeals. This NPR proposes changes to §§ 1015.1(d),

1015.4, and 1015.7(e), to clarify that the Chairman delegates to the CPSC's General Counsel the responsibility of reviewing and responding to FOIA appeals. Previously, the Commission issued this delegation by final rule in 1985, 50 FR 7753 (February 26, 1985), but did not codify the change in other relevant FOIA provisions.

Remands. Proposed § 1015.7(c) codifies the existing practice of the General Counsel remanding FOIA appeals to the Chief FOIA Officer, if the General Counsel decides to grant the appeal in whole or in part, and upon remand, the existing practice of the Chief FOIA Officer providing the records to the requester in accordance with the General Counsel's decision.

V. Broadening the Scope of FOIA Exemptions Under 16 CFR 1015.20.

Currently, 16 CFR 1015.5(h) states that the CPSC ''may be unable to comply with the time limits set forth in § 1015.5 when disclosure of documents responsive to a request under this part is subject to the requirements of section 6(b) of the Consumer Product Safety Act.'' However, the regulation does not take into account that, due to statutory obligations, the CPSC also may be unable to comply with the time limits set forth in 16 CFR 1015.5, when disclosure of documents responsive to a request is subject to section 6(a) of the Consumer Product Safety Act. As such, the CPSC proposes to amend 16 CFR 1015.5(h) to conform to the statute, by replacing the phrase, ''section 6(b) of the Consumer Product Safety Act, 15 U.S.C. 2055(b),'' with ''section 6 of the Consumer Product Safety Act, 15 U.S.C. 2055.''

Additionally, current 16 CFR 1015.20, which addresses the release of accident or investigation reports, only allows for the application of the investigatory file FOIA exemption, and the redaction of the names of injured persons and the persons who treated the injured, pursuant to CPSA Section 25(c). Current CPSC practice, however, is to redact all personally identifiable information, including the names of injured persons and the persons who treated them, as well as the names of other persons incidental to a consumer complaint, pursuant to FOIA exemption (b)(6). *See* 5 U.S.C. 552(b)(b)(6). Rather than limit the applicable FOIA exemptions to the investigatory file exemption only, this NPR proposes to amend § 1015.20(a) to clarify that accident and investigation reports are subject to all applicable FOIA exemptions.

VI. Miscellaneous Amendments

To ensure proper routing of new FOIA requests and appeals, CPSC's FOIA Office created a separate email address for the submission of new FOIA requests and appeals. That address is *cpscfoiarequests@cpsc.gov.* Accordingly, the proposed rule would update §§ 1015.3(a) and 1015.7(a) to specify the proper email addresses to submit new requests and appeals.

VII. Environmental Considerations

The CPSC's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. 16 CFR part 1021. These regulations provide a categorical exclusion for certain CPSC actions that normally have ''little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(1). This proposed rule falls within the categorical exclusion.

VIII. Regulatory Flexibility Act

Under section 603 of the Regulatory Flexibility Act (RFA), when the Administrative Procedure Act (APA) or another law requires an agency to publish a general notice of proposed rulemaking, the agency must prepare an initial regulatory flexibility analysis (IFRA), assessing the economic impact of the proposed rule on small entities, or certify that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603(a), 605. The APA does not require a general notice of proposed rulemaking in this case because the proposed rule is ''a rule of agency organization, procedure or practice.'' 5 U.S.C. 553. Nor does CPSC believe that a general notice of proposed rulemaking is required by the FOIA statute in this case. The 1976 FOIA statute originally required each agency to ''promulgate regulations, pursuant to notice and receipt of comment, specifying the schedule of fees applicable to the processing of requests under [FOIA] and establishing procedures and guidelines for determining when such fees should be waived or reduced.'' 5 U.S.C. 552(a)(4)(A)(i). However, the FOIA statute does not require that subsequent amendments to the fee schedules or waiver rules be issued pursuant to notice and comment. Therefore, the RFA does not appear to be triggered, either under the APA or the FOIA law, even though CPSC is voluntarily following notice-and-comment procedures in this instance. Nevertheless, CPSC staff reviewed the potential impact of the proposed changes in this rule on small entities. Staff's analysis compared the number of fiscal year (FY) 2018 FOIA requesters to the number of small entities in the relevant North American Industrial Classification System (NAICS) sectors, and staff found there is unlikely to be a substantial number of small entities impacted by the proposed rule. Moreover, the impact on noncommercial entities would remain essentially unchanged, unless noncommercial requesters opt to receive their documents in paper format, rather than electronically. The costs for commercial firms has increased more than for other entities. However, requesters would be alerted if costs were expected to be greater than $25, and commercial firms would be expected to proceed with the request (in whole or in part), only if the perceived benefit at least balanced the cost. Additionally, requesting firms can avoid duplication costs by electing to receive the requested documents electronically. CPSC solicits comments on any economic impact of the proposed rule and any possible regulatory alternatives to reduce the economic impact, if any, while fully implementing the FOIA and the CPSC's statutory mandate. The CPSC will consider any such comments before promulgating the proposed rule in final form.

IX. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a ''collection of information.'' 44 U.S.C. 3501–3520. The proposed rule would amend CPSC's rule to make additional changes to conform to the FOIA Improvement Act of 2016, update certain CPSC's procedures by codifying them, and make other technical changes and corrections. The proposed rule would not impose any information-collection requirements. The existing rule and the proposed revisions do not require or request information from firms; but rather, they explain CPSC's FOIA procedures. Thus, the PRA is not implicated in this proposed rulemaking.

X. Executive Order 12988 (Preemption)

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. Section 26 of the CPSA explains the preemptive effect of consumer product safety standards issued under the CPSA. 15 U.S.C. 2075. The proposed rule is not a consumer product safety standard, but rather, the proposed rule would revise a rule of agency practice and procedure by making revisions and corrections to the agency's FOIA fee regulations.

Therefore, section 26 of the CPSA would not apply to this rulemaking.

XI. Effective Date

In accordance with the APA's general requirement that the effective date of a rule be at least 30 days after publication of the final rule, the Commission proposes that the effective date be 30 days after the date of publication of a final rule in the **Federal Register**. 5 U.S.C. 553(d).

XII. Request for Comments

The Commission requests comments on all aspects of the proposed rule. The Commission specifically solicits comments on the following questions:

○ How would the proposed rule improve or impede the agency's efficiency and transparency in providing information to the public?

○ How can the agency improve its FOIA fee practices and procedures, consistent with the FOIA and the OMB Fee Guidelines?

○ Is the CPSC using the most efficient and least costly methods to comply with requests for documents made under the FOIA?

○ Are there more accurate methods for calculating the CPSC's direct costs of providing FOIA services, consistent with the FOIA and the OMB Fee Guidelines? If so, what are they?

○ Does the proposed rule, including the proposed fee structure, provide sufficient transparency to the public to understand the procedures and costs associated with making FOIA requests?

○ Does the proposed rule sufficiently address the process that will be used to determine, document, and notify a requester of a waiver or reduction of fees, including, but not limited to, the public interest waiver in §§ 1015.9(g)(4)–(5)?

○ Is the proposed rule, including the proposed fee structure, compliant with the FOIA, the OMB Fee Guidelines, and all other applicable laws and regulations?

Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this document. Written comments must be received by June 30, 2020.

List of Subjects in 16 CFR 1015

Administrative practice and procedure, Consumer protection, Disclosure of information, Freedom of information.

In accordance with the provisions of 5 U.S.C. 553 and the authority in the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.,* CPSC proposes to amend part 1015 of Title 16, Chapter II, of the Code of Federal Regulations, as follows:

PART 1015—PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 1015 continues to read as follows:

Authority: 15 U.S.C. 2051–2084; 15 U.S.C. 1261–1278; 15 U.S.C. 1471–1476; 15 U.S.C. 1211–1214; 15 U.S.C. 1191–1204; 15 U.S.C. 8001–8008; Pub. L. 110–278, 122 Stat. 2602; 5 U.S.C. 552.

■ 2. Amend § 1015.1 by:

■ a. Removing the words ''Secretariat of the Commission'' and adding in their place ''Assistant General Counsel, Office of the General Counsel, Division of the Secretariat'' in paragraph (c); and

■ b. Adding paragraph (d) to read as follows:

§ 1051.1 Purpose and scope.

* * * * *

(d) The General Counsel is the designated head of the Commission's FOIA Appeals Office who, subject to the authority of the Chairman, is responsible for reviewing and responding to appeals from denials or partial denials of requests for records under this chapter.

■ 3. Revise § 1015.2 to read as follows:

§ 1015.2 Public inspection.

(a) The Consumer Product Safety Commission (CPSC) will maintain in a public reference room or area the materials relating to the CPSC that are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection in an electronic format. The principal location will be in the Office of the General Counsel, Division of the Secretariat. The address of this office is: Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814.

(b) The CPSC will maintain an electronic reading room on the internet at *https://www.cpsc.gov* for records that are required by 5 U.S.C. 552(a)(2) to be available by computer telecommunications. Records that the FOIA requires CPSC to make available for public inspection in an electronic format may be accessed through the CPSC's FOIA web page, which is accessible by visiting: *https://www.cpsc.gov.*

(c) Subject to the requirements of Section 6 of the CPSA, the CPSC will make available for public inspection in an electronic format copies of all records, regardless of form or format, which:

(1) Have been released to any person under 5 U.S.C. 552(a)(3);

(2) Because of the nature of their subject matter, the FOIA Office determines have become or are likely to become the subject of subsequent requests for substantially the same records; or

(3) That have been requested three or more times.

§ 1015.3 [Amended]

■ 4. Amend § 1015.3 by:

■ a. Removing the word ''Secretariat'' and adding in its place the words ''Chief FOIA Officer'' in paragraph (a);

■ b. Removing the designation ''cpsc-foia@cpsc.gov'' and adding in its place the designation ''cpscfoiarequests@cpsc.gov'' in paragraph (a) ; and

■ c. Removing the word ''Secretariat'' and adding in its place the words ''Chief FOIA Officer'' in paragraphs (d) and (e).

■ 5. Revise § 1015.4 to read as follows:

§ 1015.4 Responses to requests for records; responsibility.

The ultimate responsibility for responding to requests for records is vested in the Chief FOIA Officer of the Consumer Product Safety Commission. The Chief FOIA Officer, or delegate of the Chief FOIA Officer, may respond directly, or forward the request to any other office of the CPSC for response. The Chief FOIA Officer's response shall be in the form set forth in § 1015.7(d), for action on appeal. If no response is made by the FOIA Office within 20 working days, or any extension of the 20-day period, the requester and the General Counsel or delegate of the General Counsel may take the action specified in § 1015.7(e).

■ 6. Amend § 1015.5 by revising paragraphs (a) through (d), (f), (g) introductory text, (g)(1) introductory text, (g) (3) through (5), and (h) to read as follows:

§ 1015.5 Time limitation on responses to requests for records and requests for expedited processing.

(a) The Chief FOIA Officer, or delegate of the Chief FOIA Officer, shall respond to all written requests for records within twenty (20) working days (excepting Saturdays, Sundays, and legal public holidays). The time limitations on responses to requests for records submitted by mail shall begin to run at the time a request for records is received and date-stamped by the Office of the General Counsel, Division of the Secretariat. The Office of the General Counsel, Division of the Secretariat shall date-stamp the request the same day that it receives the request. The time limitations on responses to requests for records submitted electronically during working hours (8 a.m. to 4:30 p.m. EST) shall begin to run at the time the request

was electronically received, and the time limitations on responses to requests for records submitted electronically during non-working hours will begin to run when working hours resume.

(b) The time for responding to requests for records may be extended by the Chief FOIA Officer at the initial stage, or by the General Counsel, at the appellate stage, up to an additional ten (10) working days under the following unusual circumstances:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Office of the General Counsel, Division of the Secretariat;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; or

(3) The need to consult, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more components of the CPSC having substantial subject matter interest.

(c) Any extension of time must be accompanied by written notice to the person making the request, setting forth the reason(s) for such extension, and the time within which a response is expected.

(d) If the Chief FOIA Officer at the initial stage, or the General Counsel at the appellate stage, determines that an extension of time greater than ten (10) working days is necessary to respond to a request satisfying the ''unusual circumstances'' specified in paragraph (b) of this section, the Chief FOIA Officer, or the General Counsel, shall notify the requester and give the requester the opportunity to:

(1) Limit the scope of the request so that it may be processed within the time limit prescribed in paragraph (b) of this section; or

(2) Arrange with the Chief FOIA Officer, or the General Counsel, an alternative time frame for processing the request or a modified request.

* * * * *

(f) The Chief FOIA Officer, or delegate of the Chief FOIA Officer, may aggregate and process as a single request, requests by the same requester, or a group of requesters acting in concert, if the Chief FOIA Officer, or delegate, reasonably believes that the requests actually constitute a single request that would otherwise satisfy the ''unusual circumstances'' specified in paragraph (b) of this section, and the requests involve clearly related matters.

(g) The Chief FOIA Officer, or delegate of the Chief FOIA Officer, will provide expedited processing of requests in cases where the requester requests expedited processing and demonstrates a compelling need for such processing.

(1) The term ''compelling need'' means:

* * * * *

(3) The Chief FOIA Officer or delegate of the Chief FOIA Officer will determine whether to grant a request for expedited processing and will notify the requester of such determination within ten (10) calendar days of receipt of the request.

(4) Denials of requests for expedited processing may be appealed to the Office of the General Counsel, as set forth in § 1015.7 of this part. The General Counsel will expeditiously determine any such appeal.

(5) The Chief FOIA Officer, or delegate of the Chief FOIA Officer, will process, as soon as is practicable, the documents responsive to a request for which expedited processing is granted.

(h) The Chief FOIA Officer may be unable to comply with the time limits set forth in paragraphs (a) through (d) of this section when disclosure of documents responsive to a request under this part is subject to the requirements of section 6 of the Consumer Product Safety Act, 15 U.S.C. 2055, and the regulations implementing that section, 16 CFR part 1101. The Chief FOIA Officer, or delegate of the Chief FOIA Officer, will notify requesters whose requests will be delayed for this reason.

■ 7. Amend § 1015.6 by:

■ a. Removing the word ''Secretariat'' and adding in its place the words ''Chief FOIA Officer'' in paragraphs (a) and (b) introductory text;

■ b. Revising paragraph (b)(4); and

■ c. Removing the word ''Secretariat'' and adding in its place the words ''Chief FOIA Officer'' in paragraph (c).

The revision reads as follows:

§ 1015.6 Responses: Form and content.

* * * * *

(b) * * *

(4) A statement that the denial may be appealed to the General Counsel, as specified in § 1015.1(d). Any such appeal must be made within 90 calendar days after the date of the Chief FOIA Officer, or delegate of the Chief FOIA Officer's, denial or partial denial.

* * * * *

■ 8. Amend § 1015.7 by revising the section heading, and paragraphs (a) through (e) and (g), to read as follows:

§ 1015.7 Appeals from initial denials.

(a) When the Chief FOIA Officer, or delegate of the Chief FOIA Officer, has denied a request for records in whole or in part, the requester may, within 90 calendar days after the date of the denial or partial denial, appeal the denial to the Office of the General Counsel of the Consumer Product Safety Commission, attention: Division of the Secretariat. Appeals may be submitted through any of the following methods: the e-FOIA Public Access Link at *https://www.cpsc.gov;* email to *cpscfoiarequests@cpsc.gov;* U.S. mail to 4330 East West Highway, Room 820, Bethesda, MD 20814; or by facsimile to 301–504–0127. To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, ''Freedom of Information Act Appeal.''

(b) The General Counsel will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal submitted by mail shall begin to run at the time an appeal is received and date-stamped by the Division of the Secretariat. The Division of the Secretariat will date-stamp the appeal the same day that it receives the appeal. The time limitations on an appeal submitted electronically during working hours (8 a.m. to 4:30 p.m. EST) shall begin to run at the time the appeal is received electronically; and the time limitations on appeals submitted electronically during non-working hours will begin to run when working hours resume.

(c) After reviewing the appeal, the General Counsel will issue a decision to either grant or deny the appeal, in whole or in part. If the General Counsel decides to grant the appeal in whole or in part, the General Counsel will inform the requester and submitter of the information, in accordance with §§ 1015.6(a) and 1015.18(b). Thereafter, the Chief FOIA Officer will provide the records in accordance with the General Counsel's decision.

(d) The General Counsel shall have the authority to grant or deny all appeals and, as an exercise of discretion, to disclose records exempt from mandatory disclosure under 5 U.S.C. 552(b). In unusual or difficult cases, the General Counsel may, in his/her discretion, refer an appeal to the Chairman for determination.

(e) The General Counsel's action on appeal shall be in writing, shall be signed by the General Counsel, and shall constitute final agency action. A denial in whole or in part of a request on appeal shall set forth the exemption relied upon; a brief explanation, consistent with the purpose of the

exemption, of how the exemption applies to the records withheld; and the reasons for asserting it. The decision will inform the requester of the right to seek dispute resolution services from CPSC's FOIA Liaison or the Office of Government Information Services. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review of the General Counsel's final determination in a United States district court, as specified in 5 U.S.C. 552(a)(4)(B).

(f) * * *

(g) Copies of all appeals and copies of all actions on appeal shall be furnished to and maintained in a public file by the Office of the General Counsel, Division of the Secretariat.

■ 9. Amend § 1015.9 by:

■ b. Revising paragraphs (a) and (e) through (g); and

■ c. Adding paragraphs (h) and (i).

The revisions and additions read as follows:

§ 1015.9 Fees for production of records.

(a) The CPSC will provide, at no charge, certain routine information. For other CPSC responses to information requests, the Chief FOIA Officer, or the delegate of the Chief FOIA Officer, shall determine and levy fees for duplication, search, review, and other services, in accordance with this section.

* * * * *

(e) The following fee schedule will apply:

(1) *Duplication.* (i) Manual photocopies: $0.15 per page.

(ii) Computer printouts that are sent from a computer to a printer or photocopier machine: $0.15 per page.

(iii) Compact discs, DVDs, or other similar media duplications: direct-cost basis. The exact fees for duplication of records on these forms of media will be calculated and published annually and are available to the public on the CPSC's FOIA web page at *https://www.cpsc.gov* and from the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814.

(iv) There is no duplication fee for producing records provided to requesters in electronic format.

(v) Requesters may request and be provided records in any format that is readily reproducible by the agency, including electronic format.

(vi) When records available only in paper format must be scanned to comply with a requester's preference to receive records in an electronic format, the requester must pay the direct costs of scanning those materials. The exact fees for scanning these materials will be assessed on a quarter-hour basis, be calculated and published annually, and are available to the public on the CPSC's FOIA web page at *https://www.cpsc.gov* and from the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814.

(2) *Searches.* Fees for searches are assessed on a quarter-hour basis. The exact fees for searches are calculated and published annually and are available to the public on the CPSC's FOIA web page at *https://www.cpsc.gov* and from the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814.

(i) *Manual file searches:* Manual search fees are calculated using the basic hourly pay rate of the average grade and step of employees who charged hours in this category (GS 14/7), plus 16 percent to account for the cost of benefits.

(ii) *Computer searches.* Computer search fees are calculated using the basic hourly pay rate of the average grade and step of employees who charged hours in this category (GS 12/4), plus 16 percent to account for the cost of benefits,.

(3) *Review.* Fees for review are assessed on a quarter-hour basis. The exact fee for review is calculated and published annually and is available to the public on the CPSC's FOIA web page at *https://www.cpsc.gov* and from the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814. The review fee is calculated using the basic hourly pay rate of the average grade and step of employees who charged hours in this category (GS 12/9), plus 16 percent to account for the cost of benefits. Fees for reviewing records will only be charged to commercial requesters.

(4) *Postage.* If the requester wants special handling or if the volume or dimensions of the materials requires special handling, the FOIA Office will charge the direct cost of mailing such requested materials.

(5) *Other charges.* (i) Materials requiring special reproducing or handling, such as photographs, slides, blueprints, video and audio tape recordings, or other similar media: direct-cost basis.

(ii) Any other service: direct-cost basis.

(f) *Notice of anticipated fees in excess of $25.* (1) When the FOIA Office determines or estimates that the fees to be assessed will exceed $25, the FOIA Office shall promptly notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review, and duplication, if applicable, and any applicable fee waivers that would apply to the request, unless the requester has indicated a willingness to pay fees as high as those anticipated. The notice shall specify that the requester may confer with agency staff with the objective of reformulating the request to meet the requester's needs at a lower cost. If only a portion of the fee can be estimated readily, the FOIA Office will advise the requester accordingly. If the request is not from a commercial use requester, the notice shall specify that the requester is entitled to the statutory waivers of 100 pages of duplication at no charge and, if the requester is charged search fees, two hours of search time at no charge.

(2) When a requester has been provided notice of anticipated fees in excess of $25, the FOIA Office shall toll processing of the request and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates the amount of fees the requester is willing to pay. In the case of a requester who is not a commercial requester, the requester may designate that the requester seeks only those services that can be provided in paragraphs (g)(2) and (3) of this section, without charge. The CPSC is not required to accept payment in installments.

(3) If the requester has committed to pay a designated amount of fees, but the FOIA Office determines or estimates that the total fee will exceed that amount, the FOIA Office shall toll processing of the request and notify the requester of the actual or estimated fees in excess of the requester's commitment. The FOIA Office shall inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the administrative time limits in § 1015.5 will resume.

(4) The Chief FOIA Officer shall make available the FOIA Public Liaison to assist requesters in reformulating a request to meet the requester's needs at a lower cost.

(5) If a requester does not commit in writing to pay the actual or estimated total fee or designate in writing the amount of fees the requester is willing to pay within 30 working days from the date of the notification letter, the request shall be closed. The FOIA Office shall notify the requester that the request has been closed.

(6) Any adverse determination made by the Chief FOIA Officer, or the designee of the Chief FOIA Officer, concerning a dispute over actual or estimated fees may be appealed by the requester to the General Counsel, in the manner described at § 1015.7.

(g) *Fee waivers:* There are three categories of requesters: Commercial; educational institutions, noncommercial scientific institutions, and representatives of the news media; and all other requesters, including members of the general public.

Requester category	Search	Review	Duplication
Commercial (including law firms)	Fee	Fee	Fee.
Educational, noncommercial scientific institutions, or news media.	No Fee	No Fee	Fee after first 100 pages.
All other requesters (including members of the general public).	Fee After First 2 Hours	No Fee	Fee after first 100 pages.

Fees shall be waived as follows:

(1) No automatic fee waiver shall apply to commercial-use requests.

(2) The first 100 pages of duplication shall be waived for requests from the categories of educational institutions, noncommercial scientific institutions, representatives of the news media, and all other requesters (including members of the general public).

(3) The first 2 hours of search time shall be waived for the category of all other requesters (including members of the general public).

(4) The Chief FOIA Officer, or a designee of the Chief FOIA Officer, shall waive or reduce fees whenever disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and disclosure of the requested information is not primarily in the commercial interest of the requester.

(5) In making a determination under paragraph (g)(4) of this section, the Chief FOIA Officer, or designee of the Chief FOIA Officer, shall consider the following factors:

(i) The subject of the request: whether the subject of the requested records concerns the operations or activities of the government.

(ii) The informative value of the information to be disclosed: whether the disclosure is likely to contribute to an understanding of government operations or activities.

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: whether disclosure of the requested information will contribute to public understanding.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(6) Search fees shall be waived for all requests and duplication fees shall be waived for requests from educational institutions, noncommercial scientific institutions, and representatives of the news media, if the FOIA Office fails to comply with any time limit under §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6), other than the exceptions stated in 5 U.S.C. 552(a)(4)(A)(viii)(ll). Those exceptions include:

(i) If the FOIA Office has determined that unusual circumstances, as defined in § 1015.5(b) apply, and the FOIA Office provided timely written notice to the requester, as required by § 1015.5(c) or § 1015.7(f), then failure to comply with the time limit in §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6) is excused for 10 additional working days; or

(ii) If the FOIA Office has determined that ''unusual circumstances,'' as defined in § 1015.5(b) apply, and more than 5,000 pages are necessary to respond to the request, and the FOIA Office has provided timely written notice in accordance with §§ 1015.5(c) and (e), and the FOIA Office has discussed with the requester via written mail, email, or telephone (or made not less than three good-faith efforts to do so), how the requester could effectively limit the scope of the request; or

(iii) If a court has determined that exceptional circumstances exist, as defined in 5 U.S.C. 552(a)(6)(C), then failure to comply with §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6) shall be excused for the length of time provided by the court order.

(7) No fee will be charged when the total fee is equal to or less than $25.

(8) Any determination made by the Chief FOIA Officer, or the designee of the Chief FOIA Officer, concerning fee waivers may be appealed by the requester to the General Counsel, in the manner described at § 1015.7.

(h) *Collection of fees.* Collection of fees shall be in accordance with the following:

(1) Interest will be charged on amounts billed, starting on the 31st day following the day on which the requester receives the bill. Interest will be charged at the rate prescribed in 31 U.S.C. 3717.

(2) Search fees may be charged, even if no responsive documents are located, or if the search leads to responsive documents that are withheld under an exemption to the Freedom of Information Act.

(3) The FOIA Office may aggregate requests, for the purposes of billing, whenever it reasonably believes that a requester, or, on rare occasions, a group of requesters, is attempting to separate a request into more than one request to evade fees. The FOIA Office shall not aggregate multiple requests on unrelated subjects from one requester.

(i) *Advance payment of fees.* (1) For requests other than those described in paragraphs (i)(2) and (3) of this section, the FOIA Office shall not require a requester to make advance payment (*i.e.,* payment made before the FOIA Office commences or continues work on a request). Payment owed for work already completed (*i.e.,* payment before copies are sent to a requester) does not constitute an advance payment for purposes of this rule.

(2) When the FOIA Office determines or estimates that a total fee to be charged under this section will exceed $250, and the requester has no history of payment, the FOIA Office shall notify the requester of the actual or estimated fee and may require the requester to make an advance payment of the entire anticipated fee before beginning to process the request. A notice under this paragraph shall offer the requester an opportunity to discuss the matter with

FOIA Office staff to modify the request to meet the requester's needs at a lower cost.

(3) When a requester has previously failed to pay a properly charged FOIA fee to the CPSC within 30 calendar days of the date of billing, the FOIA Office may notify the requester that the requester is required to pay the full amount owed, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the FOIA Office begins to process a new request or continues processing a pending request from that requester.

(4) When the CPSC FOIA Office requires advance payment, the FOIA Office will not further process the request until the required payment is made. The FOIA Office will toll the processing of the request while it notifies the requester of the advanced payment due, and the administrative time limits in § 1015.5 will begin only after the agency has received the advance payments. If the requester does not pay the advance payment within 30 calendar days from the date of the FOIA Office's fee notice, the FOIA Office will presume that the requester is no longer interested in the records and notify the requester that the request has been closed.

§ 1015.20 [Amended]

■ 10. Amend § 1015.20 by removing the phrase ''the investigatory file exemption'' and adding in its place the word ''exemptions'' in paragraph (a).

Alberta E. Mills

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–07558 Filed 4–15–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–117138–17]

RIN 1545–BP43

Preparer Tax Identification Number (PTIN) User Fee Update

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the imposition of certain user fees on tax return preparers. The proposed regulations reduce the amount of the user fee to apply for or renew a preparer tax identification number (PTIN) and affect individuals who apply for or renew a PTIN. The Independent Offices Appropriations Act of 1952 authorizes the charging of user fees.

DATES: Written or electronic comments and requests for a public hearing must be received by May 18, 2020. Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–117138–17) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket.

Send paper submissions to: CC:PA:LPD:PR (REG–117138–17), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Michael A. Franklin at (202) 317–6844; concerning cost methodology, Michael A. Weber at (202) 803–9738; concerning submissions of comments and/or requests for a public hearing, Regina Johnson, (202) 317–5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to 26 CFR part 300 regarding user fees.

Regulations require a tax return preparer who prepares all or substantially all of a tax return or claim for refund to provide a PTIN as their identifying number on any tax return or claim for refund prepared for compensation. To account for its costs of providing PTIN application and renewal services, the IRS charges a user fee to apply for or renew a PTIN. This proposal would reduce the user fee from $33 per application or renewal to $21.

A. User Fee Authority

The Independent Offices Appropriations Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget (OMB) Circular A–25, 58 FR 38142 (July 15, 1993) (OMB Circular A–25).

Under OMB Circular A–25, Federal agencies that provide services that confer benefits on identifiable recipients are to establish user fees that recover the full cost of providing the service. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. In general, a user fee should be set at an amount that allows the agency to recover the direct and indirect costs of providing the service, unless the OMB grants an exception. OMB Circular A–25 provides that agencies are to review user fees biennially and update them as necessary.

B. PTIN Requirement

Section 6109(a)(4) of the Internal Revenue Code authorizes the Secretary of the Treasury or his delegate to prescribe regulations for the inclusion of a tax return preparer's identifying number on a return, statement, or other document required to be filed with the IRS. On September 30, 2010, the Treasury Department and the IRS published final regulations under section 6109 (REG–134235–08) in the **Federal Register** (TD 9501) (75 FR 60315) (PTIN regulations) to provide that, for returns or claims for refund filed after December 31, 2010, the identifying number of a tax return preparer is the individual's PTIN or such other number prescribed by the IRS in forms, instructions, or other appropriate guidance. The PTIN regulations require a tax return preparer who prepares or who assists in preparing all or substantially all of a tax return or claim for refund after December 31, 2010 to have a PTIN.

The PTIN regulations also state that the IRS will set forth in forms, instructions, or other appropriate guidance PTIN application and renewal procedures, including the requirement to pay a user fee to obtain or renew a PTIN. Pursuant to the authority granted in section 6109(c) and in accordance with § 1.6109–2(d) of the PTIN regulations, the IRS has set forth application and renewal procedures in

Form W–12, *IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal,* and the Form W–12 Instructions. Individuals may also apply for or renew a PTIN and pay the user fee online at *irs.gov/ptin.* The annual PTIN application and renewal period generally begins in the fall of the year preceding the filing season to which the PTIN relates.

Section 1.6109–2(d) states that only individuals authorized to practice before the IRS under 31 U.S.C. 330 are eligible to obtain a PTIN. Under § 1.6109–2(h), the IRS may prescribe in forms, instructions, or other appropriate guidance exceptions to the requirements of the PTIN regulations, including the requirement that an individual must be authorized to practice before the IRS to be eligible to receive a PTIN. On December 30, 2010, the Treasury Department and the IRS released Notice 2011–6 (2011–3 IRB 315 (Jan. 17, 2011)), which stated that, until December 31, 2013, a provisional PTIN could be renewed upon proper application and payment of the applicable user fee, even if the individual holding the provisional PTIN was not authorized to practice before the IRS.

On June 3, 2011, the Treasury Department and the IRS published in the **Federal Register** (76 FR 32286) amendments to Treasury Department Circular No. 230 (31 CFR part 10), to regulate all tax return preparers under 31 U.S.C. 330. In *Loving* v. *IRS,* 917 F.Supp.2d 67 (D.D.C. 2013), the district court concluded that the Treasury Department and the IRS lacked statutory authority to regulate tax return preparation as practice before the IRS under 31 U.S.C. 330 and enjoined the Treasury Department and the IRS from enforcing the regulations issued under that section. The district court subsequently modified its order to clarify that the IRS's authority to require that tax return preparers obtain a PTIN is unaffected by the injunction. *Loving* v. *IRS,* 920 F.Supp.2d 108, 109 (D.D.C. 2013) (stating ''Congress has specifically authorized the PTIN scheme by statute . . . [and that] scheme, therefore, does not fall within the scope of the injunction and may proceed as promulgated.''). The United States Court of Appeals for the District of Columbia Circuit affirmed the district court's decision and order for injunction. *Loving* v. *IRS,* 742 F.3d 1013 (D.C. Cir. 2014).

C. PTIN User Fee

Final regulations (REG–139343–08) published in the **Federal Register** (TD 9503) (75 FR 60316) (initial PTIN user fee regulations) on September 30, 2010, established a $50 user fee to apply for or renew a PTIN, in addition to a portion payable directly to the contractor, which was $14.25 for new applications and $13 for renewal applications. The $50 user fee was based on an annual PTIN renewal period and an estimate that 1.2 million individuals would be applying for or renewing a PTIN each year.

The Treasury Department and the IRS determined that a $50 user fee to apply for or renew a PTIN would recover the full direct and indirect costs that the government would incur to administer the PTIN application and renewal process. As explained in the preamble to the initial PTIN user fee regulations, the projected costs included the development and maintenance of the IRS information technology system that would interface with a third-party contractor, the development and maintenance of internal applications that would have the capacity to process and administer the anticipated increase in PTIN applications, and customer service support activities, which included website development and maintenance and call center staffing to respond to questions regarding PTIN usage and renewal. The $50 user fee was also determined to recover costs for personnel, administrative, and management support needed to evaluate and address tax compliance issues of individuals applying for and renewing a PTIN, to investigate and address conduct and suitability issues, and otherwise support and enforce the programs that required an individual to apply for and renew a PTIN.

Pursuant to the guidelines in OMB Circular A–25, the IRS re-calculated its costs associated with providing PTINs in 2015. The IRS determined that the full cost of administering the PTIN program going forward was reduced from $50 to $33 per application or renewal, plus a $17 fee per application or renewal payable directly to a third-party contractor. Final regulations (REG–121496–15) published in the **Federal Register** (TD 9781) (81 FR 52766) (2016 PTIN user fee regulations) on August 10, 2016, superseded and adopted temporary regulations (TD 9742) (80 FR 66794) and established the $33 annual user fee to apply for or renew a PTIN, plus $17 per application or renewal payable directly to a third-party contractor. The reduction in the fee amount was attributable to several factors, which included the reduced number of PTIN holders (approximately 700,000) from the number originally projected (1.2 million) in 2010, which reduced associated costs; the absorption of certain development costs in the early years of the program; and the fact that certain activities that would have been conducted in relation to registered tax return preparers would not be performed. In particular, the determination of the user fee no longer included expenses for personnel who performed functions primarily related to continuing education and testing for registered tax return preparers. Additionally, expenses related to personnel who performed continuing education and testing for enrolled agents and enrolled retirement plan agents were removed from the user fee.

In 2017, the IRS again conducted a biennial review of the PTIN user fee and determined that the amount of the fee going forward should be reduced to $31 per application or renewal, plus an amount payable directly to a third-party contractor. The reduction was primarily attributable to reductions in contract support costs and salary and benefits. On June 1, 2017, before a notice of proposed rulemaking proposing to reduce the amount of the fee was issued, the IRS was enjoined from charging a PTIN user fee. In *Steele* v. *United States,* 260 F. Supp. 3d 52 (D.D.C. 2017), the United States District Court for the District of Columbia concluded that the Treasury Department and the IRS lacked the statutory authority to charge a PTIN user fee and enjoined the IRS from charging a PTIN user fee. The government filed an appeal and on March 1, 2019, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's decision and lifted the injunction against charging the PTIN user fee. *See Montrois* v. *United States,* 916 F.3d 1056 (D.C. Cir. 2019) (holding that a PTIN provides tax return preparers a specific benefit by allowing them to provide an identifying number that is not a social security number on returns they prepare and stating that the permissible amount of the fee would be the same regardless of whether the specific benefit was instead the ability to prepare tax returns for compensation).

The case is currently on remand in the United States District Court for the District of Columbia regarding the amount of the fee. *Id.* at 1068.

Pursuant to the guidelines in OMB Circular A–25, the IRS has re-calculated its cost of providing PTINs. The IRS has determined that the full cost of administering the PTIN program going forward has been reduced to $21 per application or renewal, plus $14.95 payable directly to a third-party contractor. The government is authorized to charge a PTIN user fee under the IOAA because, in exchange

for the fee, it provides a service by issuing and maintaining PTINs, which provide tax return preparers a specific benefit by allowing them to provide an identifying number that is not a social security number on returns and to prepare returns for compensation.

D. Calculation of User Fees Generally

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of administering PTIN applications and renewals. The Federal Accounting Standards Advisory Board (FASAB) is the body that establishes GAAP that apply for Federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), available at *https://files.fasab.gov/pdffiles/2019_fasab-handbook.pdf.* Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government. SFFAS No. 4* establishes internal costing standards to accurately measure and manage the full cost of Federal programs, and the methodology below is in accordance with *SFFAS No. 4.*

1. Cost Center Allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost-accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost-accounting system is a cost center. Cost centers are usually separate offices that are distinguished by subject-matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost-accounting system. The costs charged to a cost center are the direct costs for the cost center's activities in addition to allocated overhead. Some cost centers work on different services across the IRS and are not fully devoted to the services for which the IRS charges user fees.

2. Cost Estimation of Direct Costs

The IRS uses various cost-measurement techniques to estimate the cost attributable to the program. These techniques include using various timekeeping systems to measure the time required to accomplish activities, or using information provided by subject-matter experts on the time devoted to a program. To determine the labor and benefits cost incurred to provide the service of providing a PTIN, the IRS estimated the number of full-time employees required to conduct activities related to the costs of issuing and renewing PTINs. The number of full-time employees is based on both current employment numbers and future hiring estimates. Other direct costs associated with administering the PTIN program include contract costs and travel, training, supplies, printing, and other miscellaneous costs.

3. Overhead

When the indirect cost of a service or activity is not specifically identified from the cost-accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost. Overhead is an indirect cost of operating an organization that is not specifically identifiable with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

- General management and administrative services of sustaining and supporting organizations.
- Facilities management and ground maintenance services (security, rent, utilities, and building maintenance).
- Procurement and contracting services.
- Financial management and accounting services.
- Information technology services.
- Services to acquire and operate property, plants, and equipment.
- Publication, reproduction, and graphics and video services.
- Research, analytical, and statistical services.
- Human resources/personnel services.
- Library and legal services.

To calculate the overhead allocable to a service, the IRS multiplies an overhead rate by the estimated direct costs. The IRS calculates the overhead rate annually based on the Statement of Net Cost included in the IRS annual financial statements. The financial statements are audited by the Government Accountability Office. The overhead rate is the ratio of the IRS's indirect costs divided by direct costs of its organizational units. Indirect costs are labor, benefits, and non-labor costs (excluding IT related to taxpayer services, enforcement, and business system modernization) from the supporting and sustaining organizational units. Direct costs are labor, benefits, and non-labor costs for the IRS's organizational units that interact directly with taxpayers.

For the PTIN user fee review, an overhead rate of 57.58 percent was used. The rate was calculated based on the FY 2019 Statement of Net Cost as follows:

Total Indirect Costs	$4,006,706,430
Total Direct Costs	÷ $6,957,940,668
Overhead Rate	57.58%

E. Calculation of PTIN User Fee

The IRS projected the direct costs associated with the PTIN program for fiscal years 2020 through 2022. Direct costs are incurred by the Return Preparer Office (RPO) and include staffing and other direct costs related to administering the PTIN program. Staffing costs relate to conducting certain suitability checks, foreign preparer processing, handling compliance and complaint activities, information technology and contract-related support, communications, budgeting and finance, and program oversight and support. The labor and benefits for the work performed related to the PTIN program is projected to be $30,816,935 in total over fiscal years 2020 through 2022. Other direct costs associated with administering the PTIN program include contract costs and travel, training, supplies, printing, and other miscellaneous costs. The total amount of these other direct costs over fiscal years 2020 through 2022 is projected to be $463,750. Total direct costs for fiscal years 2020 through 2022 are therefore projected to be $31,280,685. Adding overhead expenses to the total direct costs results in total costs of $49,292,103 as shown below:

Total Direct Costs	$31,280,685
Overhead (57.58%)	$18,011,418
Total Direct Costs and Overhead	$49,292,103

The number of users annually is estimated to be 800,000, based on numbers of PTIN holders in prior fiscal years. Dividing the total cost by the projected population of users for fiscal years 2020 through 2022 results in a cost per application of $21 as shown below:

Total Costs	$49,292,103
Number of Applications	÷2,400,000
Cost Per Application	$21

Taking into account the full amount of these costs, the amount of the PTIN user fee per application or renewal is $21. The revised amount takes into account a reduction in contract support costs, a reduction in the cost of salary and benefits, and the current fiscal year overhead rate.

A third-party contractor performs certain functions, including processing

applications to obtain or renew a PTIN and operating a call center, and charges a reasonable fee, which will be set at $14.95 per application or renewal, in addition to the amount charged by the government. The third-party contractor was chosen through a competitive bidding process. The amount of the contractor portion may change in 2021 when the contract expires and will be re-computed.

Special Analyses

The OMB's Office of Information and Regultory Analysis has determined that this regulation is significant and subject to review under section 6(b) of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations affect all individuals who prepare or assist in preparing all or substantially all of a tax return or claim for refund for compensation. Only individuals, not businesses, can have a PTIN. Thus, the economic impact of these regulations on any small entity generally will be a result of an individual tax return preparer who is required to have a PTIN owning a small business or a small business otherwise employing an individual tax return preparer who is required to have a PTIN. The Treasury Department and the IRS estimate that approximately 800,000 individuals will apply annually for an initial or renewal PTIN. Although the final regulations will likely affect a substantial number of small entities, the economic impact on those entities is not significant. The final regulations will establish a $21 fee per application or renewal (plus $14.95 payable directly to the contractor), which is a reduction from the previously established fee of $33 (plus $17 payable directly to the contractor) per application or renewal and will not have a significant economic impact on a small entity. Accordingly, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Announcement 2020–4, 2020–17 IRB 1, provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal author of these regulations is Michael A. Franklin, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

■ **Par. 2.** Section 300.12 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.12 Fee for obtaining a preparer tax identification number.

* * * * *

(b) *Fee.* The fee to apply for or renew a preparer tax identification number is $21 per year and is in addition to the fee charged by the contractor.

* * * * *

(d) *Applicability date.* This section applies to applications for or renewal of a preparer tax identification number filed on or after [date that is 30 days after these regulations are published as final regulations in the **Federal Register**].

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2020–08055 Filed 4–15–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–132529–17]

RIN 1545–BO13

Computation and Reporting of Reserves for Life Insurance Companies; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document contains a correction to the notice of proposed rulemaking that was published in the **Federal Register** on Thursday, April 2, 2020. The proposed regulations in the notice of proposed rulemaking provide guidance on the computation of life insurance reserves and the change in basis of computing certain reserves of insurance companies.

DATES: Written or electronic comments and requests for a public hearing are still being accepted and must be received by June 1, 2020. This correction is applicable on and after April 2, 2020.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–132529–17) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper by mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket.

Send paper submissions to: CC:PA:LPD:PR (REG–132529–17), Room

5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Dan Phillips, (202) 317–6995 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations in the notice of proposed rulemaking, which is the subject of this correction, were issued primarily under section 807 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–132529–17) contains an error that needs to be corrected.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–132529–17) that is the subject of FR Doc. 2020–05701, published on April 2, 2020 (85 FR 18496), is corrected as follows:

On page 18504, in the third column, the second paragraph is deleted in its entirety.

Martin V. Franks,

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

[FR Doc. 2020–07562 Filed 4–15–20; 8:45 am]

BILLING CODE 4830–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2020–7; Order No. 5478]

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 Two). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 22, 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 April 7, 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 Two.

II. Proposal Two

Background. The Postal Service currently calculates unit delivery costs by rate category to provide insight into the nature of those costs at a detailed level. Petition, Proposal Two at 1. A review of those costs revealed large differences between the street time unit delivery costs for flats in Flats Sequencing System (FSS) and non-FSS zones. *Id.* This gap was surprising because it did not exist for the marginal times on which the costs were based. *Id.*

The Postal Service states that upon investigation, it uncovered the source of the discrepancy between relative costs and volumes: Volume proportions from the City Carrier Street Time Study (CCSTS) data collected in FY 2013, and used in the established model, do not match the current volume proportions. *Id.* at 2.

The shift in volume proportions has implications for calculated unit delivery costs because city carrier street time variabilities depend upon the volumes used to calculate them. *Id.* Failure to account for volume changes can lead to the calculation of inappropriate variabilities. *Id.* The Postal Service states that if a particular type of mail experiences a volume decline and the current variability calculation does not account for that decline, the volume variable cost for this type of mail will be higher than it should be, leading to high calculated unit costs. *Id.* at 2–3. The Postal Service explains that ''[c]hanges in the relative volumes of letter and flat mail create the need for a process of updating the regular delivery activity cost pools.'' *Id.* at 3.

Proposal. Proposal Two would ''introduce a methodology for updating the delivery time variabilities for city carrier regular delivery time, so that they reflect changes in relative volumes.''[2] City carrier delivery activity cost pools are found by multiplying city carrier street time variabilities by accrued regular delivery time. *Id.* at 4. Each street time variability has three parts: The marginal time for the type of mail, the volume for the type of mail, and the total regular delivery time. *Id.* Any of the three parts can change when volume changes. *Id.* In updating variability, the approach underlying Proposal Two ''allows for responses in all three parts due to a volume change.'' *Id.*

The Postal Service states that while the mean volumes used to calculate regular delivery time elasticities are typically calculated directly from the FY 2013 CCSTS data, to facilitate an update of the calculated variabilities, it is possible to ''derive the mean volumes as proportions of the total average letter and flat delivered volume.'' *Id.* The Postal Service clarifies that letter and flat delivered volume is the sum of the volumes of four components (mail shapes) for which delivery variabilities are calculated: delivery point sequence (DPS) mail, cased mail, FSS mail, and sequenced mail. *Id.* at 3–5. Consequently, the average volume for any component can be calculated ''by multiplying the component's proportion of total letter and flat delivery volume by the overall average volume.'' *Id.* at 4. The Postal Service asserts that its proposed version of the mean formulation ''makes it easy to update the regular delivery time variabilities using more recent volume means . . . [which are] . . . calculated by forming the needed volume proportions with the more recent data, here the FY 2019 [City Carrier Cost System] volumes.''[3] The Postal Service states that ''the proposed new methodology would be applied again each year to achieve annual updates.'' *Id.* at 1.

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[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), April 7, 2020 (Petition). The Petition was accompanied by a study supporting its proposal. *See* Professor Michael D. Bradley *A Methodology for Updating the City Carrier Regular Delivery Variabilities**, April 7, 2020 (Bradley Report). The Postal Service also filed a notice of filing of public and non-public materials relating to Proposal Two. Notice of Filing of USPS–RM2020–7–1 and USPS–RM2020–7–NP1 and Application for Nonpublic Treatment, April 7, 2020.

[2] *Id.* at 1. A ''full discussion of the research supporting the proposal'' is provided in the Bradley Report, attached to the Petition electronically as a separate PDF file. *See id.* at 3.

[3] *Id.* at 5 (footnote omitted). In a footnote, the Postal Service explains that the regular delivery time equation includes volumes from customers' receptacles, but that it lacks recent data that would permit it to update that volume. *Id.* n.1.

Impact. To see if a recalculation of variabilities using current volumes mitigates the gap between FSS and non-FSS unit city carrier street time flats costs, the Postal Service compares these costs for FY 2019 using the old variabilities and the new variabilities. *Id.* at 6–7. It concludes that the updated variabilities reduce the gap between FSS and non-FSS unit street time costs for flats. *Id.* at 7. The reduction is in the range between 2.5 cents and 4.0 cents, depending on the mail category. *Id.* at 7–8.

The updated variabilities also result in some changes in the unit volume variable city carrier costs for nearly all products.[4] *Id.* at 8. For all but one domestic market dominant mail products, the change in unit volume variable costs is in the range between -0.9 cents and 0.2 cents. *Id.* at 10. The largest impact of Proposal Two on unit volume variable costs is observed for High Density and Saturation Flats/Parcels, which has the unit costs fall by 1.2 cents. *Id.* at 9–10. For domestic competitive mail products and services, Proposal Two results in a decrease of unit volume variable costs by 0.2 cents on average. *Id.* at 10.

III. Notice and Comment

The Commission establishes Docket No. RM2020–7 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 Two no later than May 22, 2020. Pursuant to 39 U.S.C. 505, Lawrence Fenster 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. RM2020–7 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 Two), filed April 7, 2020.

2. Comments by interested persons in this proceeding are due no later than May 22, 2020.[5]

3. Pursuant to 39 U.S.C. 505, the Commission appoints Lawrence Fenster 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. 2020–07974 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–FW–P

[4] These costs include both office and street time cost, as well as related indirect cost. *Id.* at 9.

[5] The Commission reminds interested persons that its revised and reorganized Rules of Practice and Procedure become effective April 20, 2020, and should be used in filings with the Commission after April 20, 2020. Beginning on that date, the rules will be available on the Commission's website. In the meantime, the new rules can be found in Order No. 5407, which was issued on January 16, 2020. Docket No. RM2019–13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 20–70, 17–105, 11–131; FCC 20–39; FRS 16644]

Modernization of Media Regulation Initiative; Program Carriage

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether to adopt changes to our rules governing the resolution of program carriage disputes between video programming vendors and multichannel video programming distributors (MVPDs) to ensure an expeditious dispute resolution process. Specifically, we propose to modify one of the time limit requirements for filing program carriage complaints in order to make it consistent with the time limits for other types of complaints. For consistency, we also propose to revise the parallel time limit requirements for filing program access, open video system (OVS), and good-faith retransmission consent complaints. We also propose to revise the effective date and review procedures of initial decisions issued by an administrative law judge (ALJ) in program carriage proceedings so they comport with the Commission's generally applicable procedures for review of ALJ initial decisions. We propose to extend this change to program access and OVS proceedings as well.

DATES: Comments due on or before May 18, 2020; reply comments due on or before June 1, 2020.

ADDRESSES: You may submit comments, identified by MB Docket Nos. 20–70, 17–105, 11–131, by any of the following methods:

- Federal Communications Commission's website: *http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact John Cobb, *John.Cobb@fcc.gov* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking (*FNPRM*), MB Docket Nos. 20–70, 17–105, 11–131; FCC 20–39, adopted on March 31, 2020 and released on April 1, 2020. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, CY–A257, Washington, DC, 20554. The full text of this document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. To request these documents in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

This Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking (FNPRM) proposes changes to the Commission's rules governing the resolution of program carriage disputes between video programming vendors and multichannel video programming distributors (MVPDs). Specifically, we propose to modify one of the time limit requirements for filing program carriage complaints in order to make it

consistent with the time limits for other types of complaints. For consistency, we also propose to revise the parallel time limit requirements for filing program access, open video system (OVS), and good-faith retransmission consent complaints. We also propose to revise the effective date and review procedures of initial decisions issued by an administrative law judge (ALJ) in program carriage proceedings so they comport with the Commission's generally applicable procedures for review of ALJ initial decisions. We propose to extend this change to program access and OVS proceedings as well. We believe that these changes will help ensure an expeditious program access, program carriage, retransmission consent, and OVS complaint process and provide additional clarity to both potential complainants and defendants, as well as adjudicators, consistent with the Communications Act of 1934, as amended (the Act). With this proceeding, we continue our efforts to modernize our media regulations.

Background. Congress passed the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) to, among other goals, ''ensure that cable television operators do not have undue market power vis-à-vis video programmers and consumers.'' Congress was concerned that the local market power then held by cable operators along with increasing vertical integration in the industry would hinder diversity and competition in the video programming market. To address these concerns, Congress instructed the Commission in section 616 of the Act to adopt regulations governing program carriage agreements between MVPDs and video programming vendors. Specifically, section 616 directed the Commission to prohibit several anti-competitive practices, and to adopt procedures for expedited review of program carriage complaints. In this *FNPRM,* we propose changes to two of these procedural provisions: First, the statute of limitations, and second, the rule governing the effective date of program carriage decisions.

For a program carriage complaint to be considered timely, a complainant must satisfy one of the three prongs of the statute of limitations set forth in § 76.1302(h) of the Commission's rules. The first prong provides that a complaint is timely if it is filed within one year of the date that the defendant MVPD enters into a program carriage contract that a party alleges to violate the program carriage rules. The second prong provides that a complaint is timely if it is filed within one year of the date that the defendant MVPD presents a carriage offer that a party alleges violates the program carriage rules. The third prong of the statute of limitations for program carriage complaints provides that a complaint ''must be filed within one year of the date on which . . . [a] party has notified [an MVPD] that it intends to file a complaint with the Commission based on violations of one or more of the rules contained in this section.'' As originally adopted in the *1993 Program Carriage Order,* this third prong included additional limiting language. In particular, it provided that a complaint would be timely if it was filed within one year of the date on which ''the complainant has notified [an MVPD] that it intends to file a complaint with the Commission based on a request for carriage or to negotiate for carriage of its programming on defendant's distribution system that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this subpart.'' In the *1994 Program Carriage Order,* however, the Commission removed this limiting language without providing a rationale for this specific modification. Subsequently, in 1999, while discussing an amendment made to the second prong of the statutes of limitations for program access, program carriage, and OVS complaints, the Commission suggested that the third prong of these statutes of limitations is triggered when a ''defendant unreasonably refuses to negotiate with [the] complainant.'' We note that these three statutes of limitations were functionally identical when originally adopted by the Commission. But while the 1994 amendment to § 76.1302 removed any reference to a denial or non-acknowledgement of a request to negotiate from the text of the provision, the third prong of the other statutes of limitation was not similarly modified. And although the Commission suggested in 1999 that the third prong of the program carriage statute of limitations should be interpreted consistent with the statutes of limitation for program access and OVS complaints, in a series of decisions beginning in 2008, the Media Bureau and Commission applied the third prong in a manner consistent with the language of the rule.

Most recently, in the *2011 Program Carriage NPRM,* the Commission expressed concern that the third prong of the statute of limitations could be read to mean that a complaint is timely if filed within one year of when the complainant notified the defendant MVPD of its intention to file, regardless of when the actual act alleged to have violated the rules occurred. The Commission recognized that an interpretation of the program carriage statute of limitations that allows filing within one year of notice of intent to file, regardless of when the allegedly unlawful conduct occurred, ''undermines the fundamental purpose of a statute of limitations.'' Thus, the Commission proposed to revise the rule in the *2011 Program Carriage NPRM* by replacing the three-pronged statute of limitations with a single provision providing ''that a complaint must be filed within one year of the act that allegedly violated the program carriage rules.''

The program carriage procedural rules also provide that the Chief of the Media Bureau may refer a carriage dispute case to an ALJ after determining that the complainant has established a prima facie violation of § 76.1301. Section 76.1302(j) then specifies that a decision issued by an ALJ on the merits shall become effective upon release, except in limited circumstances. If review of an ALJ decision is sought, the rules require that the decision remain in effect pending review, unlike the generally applicable procedures of § 1.276(d), that automatically stay an ALJ's initial decision pending review. We note that while Congress instructed the Commission to adopt procedures for expedited review of program carriage complaints, there is no specific statutory requirement mandating that ALJ initial decisions take immediate effect, nor that they remain in effect pending review. These rules governing when an ALJ's initial decision in a program carriage matter takes effect and whether it remains in effect pending review have caused confusion for both parties and adjudicators, and ultimately can create inconsistent outcomes pending appeal. In this *FNPRM,* we propose rule changes to eliminate this confusion.

The procedural rules for program access complaints and OVS complaints contain parallel provisions requiring that orders take immediate effect and remain in effect pending review. Section 628 of the 1992 Cable Act instructed the Commission to adopt procedures for the expedited review of program access complaints. Accordingly, in the *1993 Program Access Order,* the Commission adopted regulations providing for the expedited review of program access complaints, including a provision that ALJ initial decisions would take effect upon release. The Commission subsequently adopted nearly identical procedures for the filing of OVS complaints pursuant to section 653 of the Act, including the rule providing that ALJ initial decisions would take

immediate effect. In 1999, the Commission consolidated review procedures from the program carriage, program access, and OVS rules into a newly created section, which provides that review of an initial decision on the merits by an ALJ in any part 76 proceeding will be handled in accordance with the Commission's general procedures, except that orders issued pursuant to the program carriage, program access, and OVS rules will remain in effect pending review.

In May 2017, the Commission launched a proceeding to review its media regulations to eliminate or modify regulations that are outdated, unnecessary, or unduly burdensome. Commenters in that proceeding suggested that the program carriage rules should be reviewed and updated as part of this initiative.

Discussion. This *FNPRM* seeks comment on two different proposals to amend the part 76 procedural rules. First, we propose to revise the program carriage statute of limitations provision in § 76.1302(h) to modify subsection (3) of that provision. As explained below, this proposal differs from the proposal in the *2011 Program Carriage NPRM* to revise this same provision. Second, we propose to amend §§ 76.10(c)(2), 76.1003(h)(1), 76.1302(j)(1), and 76.1513(h)(1) to provide that review of all initial decisions issued by an ALJ pursuant to the program access, program carriage, and OVS complaint rules will be handled in accordance with the Commission's generally applicable procedures for review of ALJ initial decisions. We believe that amending these provisions as proposed will make the Commission's procedures more consistent and encourage the timely resolution of program carriage disputes.

Program Carriage Statute of Limitations. The third prong of the program carriage statute of limitations provides that a complaint is timely as long as it is filed within one year of the complainant notifying the defendant of its intent to file a complaint with the Commission, regardless of when the actual act alleged to have violated the rules occurred. As discussed above, the Commission has previously expressed concern that this undermines ''the fundamental purpose of a statute of limitations 'to protect a potential defendant against stale and vexatious claims by ending the possibility of litigation after a reasonable period of time has elapsed.' '' We propose to revise the third prong of the program carriage statute of limitations to clarify that it applies only in circumstances where there is not an existing program carriage contract or contract offer and a defendant MVPD has denied or failed to acknowledge either a request for program carriage or a request to negotiate for program carriage. The revised rule will provide that, ''in instances where there is no existing contract or an offer for carriage,'' program carriage complaints relying on the third triggering event must be filed within one year of the date on which ''[an MVPD] has denied or failed to acknowledge a request by a video programming vendor for carriage or to negotiate for carriage of that video programming vendor's programming on defendant's distribution system, allegedly in violation of one or more of the [program carriage rules].'' With this proposed revision, we intend to ensure that parties file program carriage complaints on a timely basis and provide certainty to both MVPDs and prospective complainants. We seek comment on the potential effects of this proposal on the program carriage complaint process and the parties involved.

We tentatively find persuasive comments responding to the *2011 Program Carriage NPRM* suggesting that the Commission should reincorporate limiting language that would make clear that the third prong applies only in instances where an MVPD denies or fails to acknowledge either a request for carriage or a request to negotiate for carriage, similar to the language of the rule as originally adopted in 1993, rather than adopt the single statute of limitations provision proposed in that item. We tentatively agree with commenters that this revision would provide clarity as to when an MVPD's alleged violation occurred and eliminate the possibility of an open-ended interpretation of the program carriage statute of limitations, a concern raised by the Commission itself and by multiple commenters in the 2011 proceeding. Commenters in the 2011 proceeding argued that the proposal to replace the three-pronged statute of limitations with a single provision would not alleviate the problems caused by the current statute of limitations, as it would ''effectively eliminate any time limitation by allowing complaints to be filed within one year of any 'alleged violation' of the rules without any limitation on what 'alleged violations' program carriage claims may be based on.'' We seek comment on this analysis. Would the revision proposed herein better fulfill the general aim of a statute of limitations by protecting potential MVPD defendants against ''stale and vexatious'' claims? Relatedly, would it provide greater certainty for potential complainants regarding when their claims expire? How should we determine when a potential defendant has failed to acknowledge a request? Should we specify a set number of days (*e.g.,* 30 or 60) after the initial request for program carriage is made by which the MVPD must acknowledge the request or else the statute of limitations begins to run? If we specify a time period, should that time period instead run from the date that the initial request is received by the MVPD? What evidence should the Commission rely on in determining when that request is made or received? What are other ways that we could determine whether an MVPD has failed to acknowledge a request? Are there other objective means by which we can make this determination or is it inherently fact specific and thus better determined on a case-by-case basis? How, if at all, would making the changes discussed above affect the ability of MVPDs to file program carriage complaints? What would the effect of this revision be on the expeditious resolution of program carriage complaints by Commission staff or an ALJ, an explicit goal of section 616? We encourage commenters to provide specific examples where possible of how this proposed revision, if adopted, would affect the resolution of program carriage complaints.

We note that the statutes of limitations for program access, OVS, and good-faith retransmission consent complaints contain a similar triggering event that runs from the moment that a potential complainant notifies a defendant that it intends to file a complaint based on a denial or failure to acknowledge a request. For consistency, we propose to revise those provisions so that the triggering event for each would be the denial or failure to acknowledge a request, rather than notice of intent to file a complaint on that basis. We seek comment on this proposal. We propose to determine when a potential defendant has failed to acknowledge a request with regard to program access, OVS, and good-faith retransmission consent complaints in the same way we would make this determination in the context of program carriage complaints. Or are there reasons why these determinations should differ in the context of these different types of substantive disputes?

We note that the Commission or Bureau has previously entertained several program carriage complaints which involved a contract that provided a defendant MVPD with the discretion to re-tier a complainant programmer or to carry the complainant programmer on additional systems. In those

proceedings, the complainant programmer had alleged that the defendant MVPD exercised its discretion in a way that violated the program carriage statute and rules. The Commission or Bureau found that such complaints were timely filed under the third prong of the program carriage statute of limitations. Would similar complaints be timely filed under any of the three prongs of the program carriage statute of limitations if we were to adopt the rule revisions proposed herein? If not, how would complainant programmers be impacted? We propose to add language to the third prong to clarify that it applies only in circumstances where there is not an existing program carriage contract or contract offer. Having agreed to a contractual provision that provides an MVPD with the discretion to take future carriage actions unilaterally, what basis, if any, would there be for allowing such programmer to file a program carriage complaint when an MVPD exercises that discretion?

We recognize that determining when an MVPD has denied or failed to acknowledge a request for carriage or a request to negotiate for carriage may require a fact-specific analysis and that parties may view circumstances giving rise to the dispute differently. To the extent necessary, we expect that the adjudicator will be able to resolve such issues on a case-by-case basis. Relatedly, we tentatively disagree with suggestions from comments to the *2011 Program Carriage NPRM* that complainants would manufacture triggering events, resulting in a statute of limitations that lacks any clarity for defendant MVPDs. We tentatively conclude that Pprt 76's general pleading requirements, which prohibit the filing of false or frivolous claims and provide for sanctions against parties doing so, would sufficiently dissuade parties from filing vexatious claims in the program carriage context. We seek comment on this tentative conclusion.

Some commenters responding to the *2011 Program Carriage NPRM* argued that the statute of limitations should not begin to run until discriminatory conduct that is alleged to violate the program carriage rules has become apparent to video programming vendors. Video programming vendors suggested that they are at an information disadvantage because they do not have access to all of the terms offered by MVPDs to comparably situated vendors making it difficult to determine whether they have a meritorious claim of discrimination. We seek additional comment on this argument. For discriminatory conduct to violate the program carriage rules, it must be ''on the basis of affiliation or non-affiliation of'' programmers and it must ''unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly.'' If an MVPD makes an offer or the parties enter into a contract that discriminates ''on the basis of affiliation or non-affiliation of'' programmers and to an extent that it unreasonably restrains the ability of an unaffiliated video programming vendor to compete fairly, then the video programming vendor has one year from the date on which that offer was made or that contract was executed to file a complaint with the Commission. Does this preclude video programming vendors from being eligible to file meritorious program carriage complaints because of their alleged information disadvantage? Other commenters alleged that MVPDs ''have historically strung out negotiations with unaffiliated programmers, permitting them to discriminate against unaffiliated vendors without ever having to issue a formal denial.'' We seek comment on this argument. Are there alternative proposals that would address these issues, while still foreclosing stale and vexatious claims?

Review of Initial ALJ Decisions. The differences between the part 1 and part 76 review procedures for ALJ initial decisions have caused confusion for both adjudicators and parties in program carriage proceedings. The part 76 review procedures for ALJ initial decisions contain two major differences from the part 1 procedures. First, ALJ decisions following the part 1 procedures do not take effect for at least 50 days following release, while part 76 provides that they take immediate effect. Second, part 1 provides that ALJ decisions are stayed automatically upon the filing of exceptions, while part 76 provides that ALJ decisions will remain in effect pending review. To address this confusion, we propose to amend the program access, program carriage, and OVS procedural rules so that review of initial decisions issued by an ALJ is handled in accordance with the Commission's generally applicable procedures in part 1 of our rules for review of ALJ initial decisions. In practice, this will mean that decisions on the merits issued by an ALJ in program access, program carriage, and OVS proceedings will not take effect before 50 days after issuance and decisions will be automatically stayed upon the filing of exceptions by an aggrieved party.

We tentatively conclude that this revision would reduce the potential for confusion by making the part 76 procedures consistent with the Commission's generally applicable procedures in part 1 of our rules for review of ALJ initial decisions. We seek comment on this proposal. Are there valid reasons for requiring that ALJ initial decisions in program access, program carriage, and OVS proceedings take effect upon release, but delaying the effectiveness of ALJ initial decisions in other contexts? Further, what are the reasons, if any, for allowing ALJ initial decisions in program access, program carriage, and OVS proceedings to remain in effect while the parties seek review? Would there be any potential negative effects for consumers from making this change? Are there any potential negative effects for complainants? Would there be any harms to complainants from staying the effect of ALJ initial decisions during review that could not be alleviated by extending the effect of the remedial order commensurate with the length of the stay? Would any potential costs to complainants resulting from our proposed rule revisions outweigh the benefits? Commenters are encouraged to provide specific examples where possible. What, if any, other technical rule revisions would reduce confusion in the application of these ALJ review procedures and aid in the efficient resolution of program access, program carriage, and OVS complaints by ALJs?

We also propose a simple technical edit in the respective program access, program carriage, and OVS provisions to make clear that decisions under those rules may be issued by the Commission, Commission staff, or an ALJ. This revision does not reflect a substantive change to the rules and would merely increase the clarity of the program access, program carriage and OVS rules. Are there any additional proposals related to the effective date of program access, program carriage, and OVS complaint decisions issued by ALJs that we should consider as a part of this proceeding?

Other Program Carriage Proposals. The *2011 Program Carriage NPRM* sought comment on a number of additional issues related to the Commission's program carriage rules, including: Revising the discovery procedures; permitting the award of damages; adopting a best ''final offer'' dispute resolution model; heightening the evidentiary showing to obtain a mandatory carriage remedy; explicitly prohibiting retaliation for filing a complaint; adopting a good-faith negotiation rule; clarifying what constitutes discrimination; and codifying the burden of proof requirements for discrimination cases.

Given the significant amount of time that has passed since the *2011 Program Carriage NPRM* and the vast changes in the media marketplace in the intervening years, we seek comment on whether those proposals are necessary to ensure an efficient program carriage marketplace.

Initial Regulatory Flexibility Act Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) relating to this *NPRM.* The IRFA is set forth below.

Paperwork Reduction Act. This *NPRM* may result in new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 through 3520). If the Commission adopts any new or revised information collection requirement, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Ex Parte Rules—Permit-But-Disclose. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Filing Requirements—Comments and Replies. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (Mar. 19, 2020) available *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

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

Availability of Documents. Comments and reply comments will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

Initial Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking (*FNPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *FNPRM.* The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules. Congress passed the Cable Television Consumer Protection

and Competition Act of 1992 (1992 Cable Act) to, among other goals, ''ensure that cable television operators do not have undue market power vis-à-vis video programmers and consumers.'' Congress was concerned that the local market power held by cable operators along with increased vertical integration in the industry would hinder diversity and competition in the video programming market. To address these concerns, Congress instructed the Commission in section 616 of the 1992 Cable Act to adopt regulations governing program carriage agreements between MVPDs and video programming vendors. Section 616 directed the Commission to adopt procedures for expedited review for complaints filed pursuant to section 616 and provide for penalties and remedies for violations of the same.

This *FNPRM* seeks comment on two different proposals to amend the part 76 procedural rules. First, we propose to revise the program carriage statute of limitations provision in § 76.1302(h) to revise subsection (3) to clarify that it applies only in circumstances where there is not an existing program carriage contract or contract offer and a defendant MVPD has denied or failed to acknowledge either a request for program carriage or a request to negotiate for program carriage. For consistency, we propose to revise the parallel program access, OVS, and good-faith retransmission consent rules, so that the triggering event for each would be the denial or failure to acknowledge a request, rather than notice of intent to file a complaint on that basis, as we propose to do with the program carriage rules here. Second, we propose to amend §§ 76.10(c)(2), 76.1003(h)(1), 76.1302(j)(1), and 76.1513(h)(1) to provide that all initial decisions issued by an administrative law judge (ALJ) pursuant to the program access, program carriage, and OVS rules will not take effect before 50 days after issuance and decisions will be automatically stayed upon the filing of exceptions by an aggrieved party in accordance with the Commission's generally applicable procedures for review of ALJ decisions. We believe that amending these provisions as proposed will better ensure that program access, program carriage, OVS, and good-faith retransmission consent complaints are addressed expeditiously by providing additional clarity to both potential complainants and defendants, consistent with Congress's intent in the Act, and will apply existing Commission procedures uniformly.

Legal Basis. The proposed action is authorized pursuant to 1, 4(i), 4(j), 616, 628, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 536, 548, and 573.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

Cable Companies and Systems (Rate Regulation Standard). The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 4,200 cable operators nationwide, all but 9 are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 4,200 systems nationwide, 3,900 have fewer than 15,000 subscribers, based on the same records. Thus, under this second size standard, the Commission believes that most cable systems are small.

Cable System Operators (Telecommunications Act Standard). The Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 49,011,210 cable subscribers in the United States today. Accordingly, an operator serving fewer than 490,112 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on the available data, we find that all but five independent cable operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under the definition in the Communications Act.

Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA determines that a wireline business is small if it has fewer than 1,500 employees. Economic census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that, in general, DBS service is provided only by large firms.

Motion Picture and Video Production. The Census Bureau defines this category as follows: ''This industry comprises

establishments primarily engaged in producing, or producing and distributing motion pictures, videos, television programs, or television commercials.'' We notes that firms in this category may be engaged in various industries, including cable programming. Specific figures are not available regarding how many of these firms produce and/or distribute programming for cable television. The SBA has developed a small business size standard for this category, which is: All such firms having $35,000,000 or less in annual revenue. To gauge small business prevalence in the Motion Picture and Video Production industries, the Commission relies on data currently available from the U.S. Census Bureau for the year 2012. Census Bureau data for 2012 show that there were 8,203 firms in this category that operated for the entire year. Of these, 8075 firms had annual receipts of $24,999,999 or less, and 61 firms had annual receipts exceeding $50,000,000. 67 firms had annual receipts between $25,000,000 and $49,000,000. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

Motion Picture and Video Distribution. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in acquiring distribution rights and distributing film and video productions to motion picture theaters, television networks and stations, and exhibitors.'' We note that firms in this category may be engaged in various industries, including cable programming. Specific figures are not available regarding how many of these firms produce and/or distribute programming for cable television. The SBA has developed a small business size standard for this category which is: All such firms having $34,500,000 million or less in annual revenue. To gauge small business prevalence in the Motion Picture and Video Distribution industries, the Commission relies on data currently available from the U.S. Census Bureau for the year 2012. Census Bureau data for 2012 show that there were 307 firms in this category that operated for the entire year. Of these, 294 firms had annual receipts of $24,999,999 or less, and 8 firms had annual receipts exceeding $50,000,000. 5 firms had annual receipts between $25,000,000 and $49,000,000. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

Television Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of less than $25 million, 25 had annual receipts ranging from $25 million to $49,999,999, and 70 had annual receipts of $50 million or more. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,374. Of this total, 1,282 stations (or 94.2%) had revenues of $41.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 15, 2019, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates the number of licensed noncommercial educational (NCE) television stations to be 388. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.

There are also 387 Class A stations. Given the nature of these services, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard. In addition, there are 1,892 LPTV stations and 3,621 TV translator stations. Given the nature of these services as secondary and in some cases purely a ''fill-in'' service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. As discussed above, this *FNPRM* proposes two revisions to the part 76 procedural rules. The first revision concerns the statute of limitations provision contained in § 76.1302(h) and would insert limiting language to clarify that it applies only in circumstances where there is not an existing program carriage contract or contract offer and a defendant MVPD has denied or failed to acknowledge either a request for program carriage or a request to negotiate for program carriage. For consistency, we propose to revise the parallel program access, OVS, and good-faith retransmission consent rules, so that the triggering event for each would be the denial or failure to acknowledge a request, rather than notice of intent to file a complaint on that basis, as we propose to do with the program carriage rules here. The second would amend § 76.1302(j)(1) to provide that initial decisions by an administrative law judge are automatically stayed upon the filing of exceptions by an aggrieved party, rather than only in the event of an order mandating carriage of a video programming vendor's content that requires a defendant MVPD to delete existing programming from its system to accommodate carriage. For consistency, we propose to extend this change to parallel provisions in program access, § 76.1003(h)(1), and OVS, § 76.1513(h)(1), proceedings as well. These revisions should result in a more streamlined and clear part 76 complaint process, which would ultimately reduce the burden on entities potentially involved in part 76 complaints.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting

requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standard; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

Through this *FNPRM,* the Commission seeks to minimize the burdens associated with the resolution of program carriage, program access, OVS, and good-faith retransmission consent complaints, by clarifying that the third triggering for all four types of complaints is the denial or failure to acknowledged a request and providing for automatic stays of initial decisions by an ALJ pending review for program carriage, program access, and OVS complaints. It is our hope that these revisions will aid in the expeditious resolution of program access, program carriage, OVS, good-faith retransmission consent complaints consistent with the Act. These changes would reduce the costs associated with litigating program access, program carriage, OVS, good-faith retransmission consent complaints before the Commission by eliminating any confusion surrounding the statute of limitations in all four contexts and eliminating the need to seek a stay of an initial decision issued by an ALJ pending review for program carriage, program access, and OVS complaints. The Commission invites comment on alternative proposals that we should consider that would better minimize any adverse impact on small businesses, while still furthering the goal of reducing the costs associated with the efficient resolution of part 76 complaints.

Federal Rules that May Duplicate, Overlap or Conflict With the Proposed Rule. None.

It is ordered that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 616, 628, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 536, 548, and 573, this Further Notice of Proposed Rulemaking in MB Docket No. 11–131 and Notice of Proposed Rulemaking in MB Docket No. 20–70 *is adopted. It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking in MB Docket No. 11–131 and Notice of Proposed Rulemaking in MB Docket No. 20–70, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable Television.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Amend § 76.10 by revising paragraph (c)(2) to read as follows:

§ 76.10 Review.

* * * * *

(c) * * *

(2) Any party to a part 76 proceeding aggrieved by any decision on the merits by an administrative law judge may file an appeal of the decision directly with the Commission, in accordance with §§ 1.276(a) and 1.277(a) through (c) of this chapter.

■ 3. Amend § 76.65 by revising paragraph (e)(3) to read as follows:

§ 76.65 Good faith and exclusive retransmission consent complaints.

* * * * *

(e) * * *

(3) The television broadcast station or multichannel video programming distributor has denied, unreasonably delayed, or failed to acknowledge a request to negotiate retransmission consent in violation of one or more of the rules contained in this subpart.

* * * * *

■ 4. Amend § 76.1003 by revising paragraphs (g)(3) and (h)(1) to read as follows:

§ 76.1003 Program access proceedings.

* * * * *

(g) * * *

(3) A cable operator, or a satellite cable programming vendor or a satellite broadcast programming vendor has denied or failed to acknowledge a request to purchase or negotiate to purchase satellite cable programming, satellite broadcast programming, or terrestrial cable programming, or has made a request to amend an existing contract pertaining to such programming pursuant to § 76.1002(f), allegedly in violation of one or more of the rules contained in this subpart.

(h) *Remedies for violations*— (1) *Remedies authorized.* Upon completion of such adjudicatory proceeding, the Commission, Commission staff, or Administrative Law Judge shall order appropriate remedies, including, if necessary, the imposition of damages, and/or the establishment of prices, terms, and conditions for the sale of programming to the aggrieved multichannel video programming distributor. Such order shall set forth a timetable for compliance. Such order issued by the Commission or Commission staff shall be effective upon release. See 47 CFR 1.102(b); 1.103. The effective date of such order issued by the Administrative Law Judge is set forth in 47 CFR 1.276(d).

* * * * *

■ 5. Amend § 76.1302 by revising paragraphs (h)(1) and (3) and (j)(1) to read as follows:

§ 76.1302 Carriage agreement proceedings.

* * * * *

(h) * * *

(1) The multichannel video programming distributor enters into a contract with a video programming vendor that a party alleges to violate one or more of the rules contained in this section; or

* * * * *

(3) In instances where there is no existing contract or an offer for carriage, the multichannel video programming distributor has denied or failed to acknowledge a request by a video programming vendor for carriage or to negotiate for carriage of that video programming vendor's programming on defendant's distribution system, allegedly in violation of one or more of the rules contained in this section.

* * * * *

(j) *Remedies for violations*—(1) *Remedies authorized.* Upon completion of such adjudicatory proceeding, the Commission, Commission staff, or Administrative Law Judge shall order appropriate remedies, including, if necessary, mandatory carriage of a video programming vendor's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of a video programming vendor's programming. Such order shall set forth a timetable for compliance. The effective date of such order issued by the Administrative Law Judge is set forth in 47 CFR 1.276(d). Such order

issued by the Commission or Commission staff shall become effective upon release, see 47 CFR 1.102(b), 1.103, unless any order of mandatory carriage issued by the staff would require the defendant multichannel video programming distributor to delete existing programming from its system to accommodate carriage of a video programming vendor's programming. In such instances, if the defendant seeks review of the staff decision, the order for carriage of a video programming vendor's programming will not become effective unless and until the decision of the staff is upheld by the Commission. If the Commission upholds the remedy ordered by the staff or administrative law judge in its entirety, the defendant MVPD will be required to carry the video programming vendor's programming for an additional period equal to the time elapsed between the staff or administrative law judge decision and the Commission's ruling, on the terms and conditions approved by the Commission.

* * * * *

■ 6. Amend § 76.1513 by revising paragraphs (g)(3) and (h)(1) to read as follows:

§ 76.1513 Open video dispute resolution.

* * * * *

(g) * * *

(3) An open video system operator has denied or failed to acknowledge a request for such operator to carry the complainant's programming on its open video system, allegedly in violation of one or more of the rules contained in this part.

(h) *Remedies for violations*—(1) *Remedies authorized.* Upon completion of such adjudicatory proceeding, the Commission, Commission staff, or Administrative Law Judge shall order appropriate remedies, including, if necessary, the requiring carriage, awarding damages to any person denied carriage, or any combination of such sanctions. Such order shall set forth a timetable for compliance. Such order issued by the Commission or Commission staff shall be effective upon release. See 47 CFR 1.102(b); 1.103. The effective date of such order issued by the Administrative Law Judge is set forth in 47 CFR 1.276(d).

* * * * *

[FR Doc. 2020–07822 Filed 4–15–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 10

[FAR Case 2017–011; Docket No. FAR–2017–0011, Sequence No. 1]

RIN 9000–AN46

Federal Acquisition Regulation: Section 508-Based Standards in Information and Communication Technology; Correction.

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; correction.

SUMMARY: On March 31, 2020, DoD, GSA, and NASA published a rule proposing to amend the Federal Acquisition Regulation (FAR) to incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board pursuant to section 508 of the Rehabilitation Act of 1973. DoD, GSA, and NASA are making editorial changes to correct amendatory instructions.

DATES: Comments for the proposed rule published March 31, 2020, at 85 FR 17831, continue to be accepted on or before June 1, 2020, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2017–011 by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2017–011''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2017–011.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2017–011'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Lois Mandell, 1800 F Street, NW, 2nd floor, Washington, DC 20405.

Instructions: Please submit comments only and cite ''FAR case 2017–011(proposed rule)'' in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at 202–550–0935 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAR Case 2017–011.

SUPPLEMENTARY INFORMATION:

Correction

In the rule, FR Doc. 2020–05867 published in the **Federal Register** at 85 FR 17831, March 31, 2020, make the following correction:

On page 17832, third column, line 31, remove ''(*https://www.access-board.gov/guidelines-andstandards/communications-and-it/about-the-ict-refresh/final-regulatoryimpact-analysis*)'' and add ''*https://www.regulations.gov/docket?D=ATBCB-2015-0002*'' in its place.

10.001 [Corrected]

■ On page 17834, in the first column, PART 10—MARKET RESEARCH, revise amendatory instruction number 5 to read as follows:

PART 10—MARKET RESEARCH

■ 5. Amend section 10.001 by revising paragraph (a)(3)(ix) to read as follows:

10.001 Policy.

(a) * * *

(3) * * *

(ix) Assess the availability of supplies or services that meet all or part of the applicable information and communication technology accessibility standards at 36 CFR 1194.1 (see subpart 39.2).

* * * * *

William F. Clark,

Director,Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020–07737 Filed 4–15–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 194, and 195

[Docket No. PHMSA–2018–0047]

RIN 2137–AF37

Pipeline Safety: Regulatory Reform for Hazardous Liquid Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA is soliciting public comment on proposed amendments to the Federal Pipeline Safety Regulations for the safety of hazardous liquid pipelines that would revise the requirements for facility response plans, revise the definition for accidents, and consider repealing, replacing, or modifying other specific regulations. The intent of these changes is to reduce regulatory burdens and improve regulatory clarity without compromising safety and environmental protection.

DATES: Comments on this notice are due by June 15, 2020.

ADDRESSES: Submit comments, identified by Docket No. PHMSA–2018–0047, using any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* U.S. DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand-deliver/courier:* Available between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this proposed rule. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments by mail, include a self-addressed stamped postcard.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.*

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 of proposed rulemaking (NPRM). Submissions containing CBI should be sent to Sayler Palabrica at *sayler.palabrica@dot.gov* or 1200 New Jersey Ave SE, E24–447, Washington, DC 20590. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Chris Hoidal, Senior Technical Advisor, by telephone at 303–807–8833 or by email at *chris.hoidal@dot.gov.*

For general information, contact Sayler Palabrica, Transportation Specialist, by telephone at 202–366–0559 or by email at *sayler.palabrica@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary
II. Background
III. Request for Input
IV. Proposed Amendments
V. Availability of Standards Incorporated by Reference
VI. Regulatory Analyses and Notices

I. EXECUTIVE SUMMARY

A. Purpose of This Rulemaking Action

PHMSA is proposing to amend the Federal Pipeline Safety Regulations at 49 CFR parts 190, 194, and 195 to reduce the regulatory burden on pipeline systems transporting hazardous liquids. The proposed amendments in this rulemaking include regulatory relief actions identified by internal agency review, petitions for rulemaking, and public comments on DOT's regulatory reform and infrastructure notifications titled, ''Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation'' (82 FR 26734; June 8, 2017), and ''Notification of Regulatory Review'' (82 FR 45750; Oct. 2, 2017). PHMSA is requesting comment on the proposed amendments.

B. Summary of the Proposed Amendments

PHMSA is proposing to repeal, replace, or revise sections in parts 190, 194, and 195 to reduce regulatory burdens. Part 190 specifies procedures during inspections and investigations, part 194 contains the requirements for preparing and submitting oil spill response plans, and part 195 prescribes the safety and reporting requirements for pipelines transporting hazardous liquids or carbon dioxide. In part 190, PHMSA is proposing to clarify the requirements for producing records during an inspection or investigation and reduce the burden required to submit confidential commercial information under most circumstances. In part 194, PHMSA is proposing amendments that would streamline the oil spill response plan requirements and clarify or eliminate requirements that may be confusing or redundant. In part 195, PHMSA is proposing amendments that would relieve accident reporting burdens, allow remote monitoring of rectifier stations, and clarify integrity management (IM) guidance.

C. Costs and Benefits

PHMSA projects that, if promulgated, the amendments in this proposed rule would result in estimated annualized net cost savings of $273,242 for regulated entities based on a 7 percent discount rate. PHMSA has determined that the proposed changes would not increase risks to public safety or the environment.

In accordance with 49 U.S.C. 60102, Executive Order (E.O.) 12866, and DOT policy, PHMSA has prepared an initial assessment of the costs and benefits of these proposed changes as well as reasonable alternatives. PHMSA has released the preliminary regulatory impact analysis (RIA) concurrent with this NPRM for public review and comment, and it is available in the docket.

II. Background

In response to E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' E.O. 13783, ''Promoting Energy Independence and Economic Growth,''

and E.O. 13777, ''Enforcing the Regulatory Reform Agenda,'' DOT issued two notices soliciting regulatory reform ideas from the public. The first notification (82 FR 26734; June 8, 2017) requested public comment on existing regulations that may be obstacles to transportation infrastructure projects. DOT received more than 200 comments in the transportation infrastructure docket, including six comments that are relevant to the Federal Pipeline Safety Regulations.[1] The second notification (82 FR 45750; Oct. 2, 2017) requested comment on existing rules and other agency actions that may be eligible for repeal, replacement, suspension, or modification without compromising safety. DOT asked the public to identify agency actions that eliminate jobs or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; could be revised to use performance standards in lieu of design standards; or potentially unnecessarily encumber energy production. After a 30-day comment period, DOT re-opened the comment period until December 1, 2017 (82 FR 51178; Nov. 3, 2017). Of the nearly 3,000 public comments received, approximately 30 were related to the Federal Pipeline Safety Regulations.[2]

To support DOT's regulatory reform efforts, PHMSA's Office of Pipeline Safety (OPS) reviewed, considered, and identified existing regulations that could be improved, revised, repealed, or streamlined. OPS also considered the public comments submitted in response to DOT's June 8, 2017 notice soliciting comments about transportation infrastructure, DOT's October 2, 2017 public notice soliciting comments on regulatory reform, and petitions for rulemakings. These amendments to PHMSA regulations are being proposed based on the input received in response to those notifications.

III. Request for Input

PHMSA is seeking public comments on the regulatory reform actions proposed in this NPRM. PHMSA will consider all relevant and substantive comments but encourages interested parties to submit comments that: (1) Identify the proposed amendments being commented on and the appropriate section numbers; (2) provide justification for their support or opposition to the proposed amendments, especially data on safety risks and cost burdens; and (3) provide specific alternatives if appropriate.

IV. Proposed Amendments

A. Part 190 Pipeline Safety Enforcement and Regulatory Procedures

The Pipeline Safety Laws (49 U.S.C. 60101 *et seq.*) require pipeline operators to maintain records, make reports, and provide certain information to PHMSA upon request. PHMSA is proposing to amend its regulations under part 190 to clarify the requirements for producing records during an agency inspection or investigation in a way that recognizes technological innovation. The proposed changes would clarify that new technology is permitted while ensuring that PHMSA can effectively enforce the Federal Pipeline Safety Regulations.

Section 190.203 Inspections and investigations

The Pipeline Safety Laws require operators to make records, reports and information available to PHMSA upon request and provide the information that is required in order to decide whether or not an operator is in compliance.[3] PHMSA is proposing to clarify that operators may submit records electronically, provided that the method used to submit information allows PHMSA to download and print non-redacted copies of records in their original format (the file format used by the application that created the electronic document) and does not impose limitations that impede PHMSA's ability to enforce the Pipeline Safety Laws. PHMSA recognizes that record production technology will continue to evolve and intends to define document production standards in this proposed rule in a way does not create a barrier to innovation in record production technology. Thus, PHMSA's proposed change would set consistent minimum standards for providing records to PHMSA and give operators the choice to select the best method to deliver the information that PHMSA needs to enforce the Pipeline Safety Laws. This change does not have direct safety effects but will improve the efficiency of inspections and investigations.

PHMSA encourages the use of technology that makes sending and receiving records more convenient; however, that goal is undermined by a lack of clear expectations for the quality and usability of information submitted to the agency. This lack of clear expectations leads to unnecessary delays and burdens on both operators and inspectors when PHMSA requests operators manually re-submit records that were provided in an unusable format.

Historically, pipeline operators provided PHMSA with paper copies of records during the agency's routine inspections and accident investigations. As technology has evolved, operators have provided electronic and hard copies of company records to PHMSA. Recently, some operators have requested that PHMSA access and review documents related to incidents or investigations through an operator-controlled electronic record delivery system (often referred to as a ''portal'').

PHMSA recognizes that electronic systems present an opportunity to deliver operator records to PHMSA in a cost-effective manner. However, some electronic systems alter the usability of documents in a way that limits PHMSA's ability to carry out its statutory responsibilities under the Pipeline Safety Laws. For example, some portals are ''view only'' and do not allow PHMSA the ability to download, print, or search important operator records; many of these documents must be analyzed and compared with other documents, and cannot be adequately reviewed by viewing on a computer screen one page at a time. Other features that have impeded PHMSA's review of documents include automatic watermarking, intrusive monitoring systems, and systems that convert documents to un-searchable PDFs.

In order to maintain consistency between operator-submitted paper and electronic records, PHMSA proposes to place certain minimum standards on the capabilities of an operator's record production and delivery systems. Specifically, PHMSA proposes to require that, for any records that an operator chooses to submit to PHMSA using an electronic record delivery system or similar technology, the electronic record delivery system or technology must: (1) Allow PHMSA to download and print all records on the portal from any U.S.-based internet access point without redacting or altering the document (*e.g.,* watermarking, date and time-stamping with username/access date information); (2) not remove or restrict document functionality that is available to the operator for each document, meaning that if the original format of a document allows for the ability to magnify a document while maintaining legibility; search a record for text; or search for specific records by name, date, or file type, then those same capabilities must be available to PHMSA personnel; and (3) provide PHMSA with a point of

[1] Docket No. DOT–OST–2017–0057.

[2] Docket No. DOT–OST–2017–0069.

[3] 49 U.S.C. 60117(b).

contact who is responsible for addressing reported problems with the system or any record displayed on the system. If the point of contact is not a site administrator, then PHMSA would expect the point of contact to have direct access to a site administrator responsible for fixing problems as expeditiously as possible.

For any electronic record delivery system that PHMSA accesses for the purposes of enforcing the Pipeline Safety Laws, operators must: (1) Disable the use of activation codes that must be entered to begin any individual session; (2) disable any unnecessary internet connectivity requirements to view downloaded documents; (3) disable any document tracking features; (4) ensure that any ''time-out'' feature be set to a reasonable amount of time, but no shorter than one hour; and (5) not impose any pre-access conditions (*e.g.,* through log-in agreements or notifications) that hinder PHMSA's ability to use records displayed on the portal. If PHMSA determines that an operator's electronic record delivery system would impede or otherwise prevent PHMSA's efficient review of records in an inspection or investigation, or if the system is otherwise in conflict with PHMSA regulations, PHMSA may order an operator to deliver records via an alternative method or in an alternative format.

The proposed rule gives operators the choice to select the best method to deliver information to PHMSA and does not require operators to modify records to meet these requirements. PHMSA proposes to require operators submit electronic records in their original format unless PHMSA allows an alternative format. Operators must not alter documents in a way that impedes PHMSA's ability to effectively or efficiently review the documents. For example, if a particular report is in PDF format, PHMSA would not expect an operator to convert it to a word document before submitting it to PHMSA through an electronic system. On the other hand, an electronic system that converts all submitted documents, including searchable spreadsheets or word processor documents, to PDF form would not be acceptable.

Clear requirements for electronic record delivery systems will reduce delays for both operators and PHMSA. The Pipeline Safety Laws require operators to make records, reports, and information available upon request in order to assist PHMSA's determination regarding whether an operator is in compliance with the Pipeline Safety Laws (49 U.S.C. 60117(b)). The proposed rule ensures that operators do not spend time creating systems that are unusable by PHMSA and allows the agency to efficiently access and use electronic records.

Section 190.343 Information made available to the public and request for protection of confidential commercial information

Section 190.343 establishes the procedures for operators to request confidential treatment of commercial information they submit to PHMSA, including a requirement for operators to provide PHMSA with a redacted copy of the records being submitted and an explanation as to why the information is confidential commercial information. PHMSA is proposing to revise these requirements to reduce the burden associated with redacting documents containing confidential information. This change has no direct safety effects but may improve the efficiency of inspections and investigations.

In response to DOT's notification of regulatory reform (82 FR 45750; Oct. 2, 2017), the American Petroleum Institute (API) and the Association of Oil Pipelines (AOPL) expressed concerns about the need to provide a copy of redacted records under § 190.343(a), especially records that are requested during inspections and investigations. API and AOPL stated, ''the process of redacting information from voluminous documents is very burdensome and costly, and if a Freedom of Information Act (FOIA) request is not made for the documents, then dedicating significant resources to such an effort is unwarranted.'' Pipeline operators have expressed similar concerns to PHMSA staff.

PHMSA understands this concern and also has observed that redaction requirements can lead to delays during investigations. For these reasons, PHMSA proposes to provide operators the option, but not the obligation, to submit a redacted copy of records containing confidential commercial information submitted for purposes other than rulemaking or special permit proceedings, such as in response to a PHMSA inspection or investigation. PHMSA proposes to continue to require operators to submit a redacted copy of records submitted in rulemaking proceedings and in applications for special permits and renewals, since those documents must be placed in a public docket. The proposed revision results in cost savings in situations in which it may be burdensome and costly for operators to redact records prior to submission. In other situations, operators may prefer to provide PHMSA with a second copy that has confidential commercial information redacted.

In addition to the changes to redaction requirements, PHMSA also proposes to clarify what is required to assert that information is confidential commercial information. Simply marking records ''confidential'' under a general claim of confidentiality is not sufficient for the purposes of claiming confidential commercial information. PHMSA proposes to require operators provide a specific explanation of why the information is confidential commercial information. The proposed rule also clarifies § 190.343 by eliminating superfluous language in paragraph (b) that indicates under what conditions PHMSA will treat information as confidential.

B. Part 194 Response Plans for Onshore Oil Pipelines

PHMSA promulgated part 194 in response to the mandates in the Oil Pollution Act of 1990 (OPA 90).[4] OPA 90 requires any operator of a ship or facility, including pipeline facilities, that could cause substantial environmental harm by discharging oil into or on the navigable waters or adjoining shorelines of the United States, to prepare and submit a facility response plan (FRP) for a worst-case oil discharge. Part 194 requires operators of onshore oil pipeline facilities to prepare an FRP and establishes the minimum requirements for what the operators must include in their FRPs. In all FRPs, the operator must describe a ''worst-case'' scenario as well as the appropriate response to that discharge, including details regarding the equipment and personnel that will be made available during the specified timeframe following the discharge to appropriately contain and clean up the spill. Part 194 also requires operators to run drills and exercises based on their FRPs to prepare for an acutal release.

PHMSA is proposing several changes to part 194 to streamline how operators of onshore oil pipelines must plan, prepare, and submit FRPs as required by OPA 90. The proposed changes are intended to improve the clarity of the requirements and applicability of part 194, codify current policy, ensure consistency with other federal requirements and terminology, and reduce regulatory burdens without compromising safety. Notably, this NPRM would clarify the applicability of part 194 by removing a list of exemptions that are incorrectly defined

[4] The Oil Pollution Act of 1990 (OPA 90) (33 U.S.C. 1321) amended the Federal Water Pollution Control Act (FWPCA).

as ''exceptions'' in § 194.101. Section 194.101(b)(1) lists ''exceptions'' to the requirements of part 194. However, these ''exceptions'' are not applicable if the pipeline facility could cause ''substantial'' or ''significant and substantial harm'' to navigable waters or adjoining shorelines. Since part 194 only applies to pipeline facilities that could affect navigable waterways or adjoining shorelines, these are not true exceptions. Partially removing the ''exceptions'' as currently written would clarify the applicability of part 194 in a manner consistent with OPA 90.

PHMSA is proposing to move the ''exception'' currently listed in § 194.101(b)(2)(ii) to § 194.3(b). This exemption applies to pipelines 6⅝ inches or less in diameter, ten miles or less in length, and where the operator determines that it is unlikely that the worst-case discharge (WCD) from any point on the line section would adversely affect, within 4 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas. Due to the lower risk presented by these low-capacity pipelines that are removed from protected resources, PHMSA wishes to explicitly recognize the possibility that these pipelines may not require a plan.

Additionally, PHMSA is proposing to remove the terms ''substantial harm'' and ''significant and substantial harm'' from the regulations and remove § 194.103 in its entirety. Currently, part 194 requires an operator to make a distinction between the types of potential harm an oil spill could cause, include a statement in its FRP if certain conditions are met, and submit a plan accordingly. OPA 90 requires submission of plans for facilities that could cause ''substantial harm'' or ''significant and substantial harm,'' but does not expressly require approval of plans for ''substantial harm'' facilities. PHMSA has historically reviewed plans for both types of facilities for accuracy and completeness, communicated those findings to the operators, and required correction where needed. Furthermore, the requirements in part 194 for pipeline facilities that could cause ''substantial harm'' are the same as the requirements for pipeline facilities that could cause ''significant and substantial harm.'' Distinguishing between the two creates unnecessary categories and some degree of burden to operators and PHMSA. PHMSA proposes to remove these terms, clarify the applicability of part 194 in § 192.3, and thus eliminate a minor regulatory burden associated with justifying the appropriate determination. This change would be consistent with the authorizing legislation, OPA 90, and does not compromise safety since the distinction between ''substantial harm'' and ''significant and substantial harm'' has no effect on the plan requirements.

PHMSA is also proposing additional provisions to make it easier for an operator to prepare and submit response plans. These changes would include: (1) Allowing operators to use spill modeling for estimating WCDs; (2) requiring operators to submit plans electronically; (3) allowing operators to submit DOT annexes to existing response plans prepared for state regulators; and (4) clarifying that an operator must submit plans before putting a pipeline facility in service rather than prior to beginning construction. PHMSA is also proposing technical and editorial changes for consistency and clarity. The following is a section by section discussion of the proposed changes.

Section 194.3 Applicability.

Section 194.3 defines the applicability of part 194. Part 194 applies to onshore oil pipeline facilities that, because of its location, the operator determines that oil discharged from any point on the pipeline facility could reasonably be expected to adversely affect any navigable waters in the U.S. or adjoining shorelines. PHMSA is proposing to revise this section to clarify that part 194 applies to pipeline facilities that could affect the navigable waters of the U.S. or adjoining shorelines within 12 hours, with an exception for smaller-diameter or shorter pipelines that cannot adversely affect navigable waters within 4 hours.

These changes would preserve the current exceptions in § 194.101(b) for: (1) Pipeline facilities where a discharge would not affect water within 12 hours of the release, and (2) pipeline facilities 6⅝ inches or less in diameter and 10 miles or less in length where a discharge would not be able to affect water within 4 hours of the discharge. The current exception in § 194.101(b)(1) is not explicitly retained because that exception only applies if the pipeline is not in proximity to navigable waters. Since part 194 does not apply to pipelines that cannot affect navigable waters, the exception in § 194.101(b)(1) is meaningless. This change will, therefore, not have an effect on the number of operators subject to the part 194 requirements since all FRPs currently submitted to PHMSA are for pipelines that are greater than 6⅝ in diameter and could affect navigable waters within 12 hours of a release or are less than 6⅝ in diameter and can affect navigable waters within 4 hours of a release. The proposed changes will provide increased clarity regarding the applicability of part 194 without affecting safety.

These proposed amendments will also clarify that part 194 is not applicable to operators of onshore oil pipeline facilities that are 6⅝ inches or less in diameter and *greater* than 10 miles in length or greater than 6⅝ inches in diameter and 10 miles or *less* in length that do not affect navigable waters or adjoining shorelines. The existing exceptions omit the possible combinations of small diameter pipelines longer than 10 miles in length and larger diameter pipelines 10 miles or less in length. This incorrectly implies that operators of those onshore oil pipelines must submit response plans even if they would not affect navigable waters or adjoining shorelines. Given that OPA applies to facilities that could affect navigable waters and adjoining shorelines, an FRP is not required for such facilities.

Section 194.5 Definitions

Section 194.5 provides definitions specific to part 194. PHMSA is proposing to add, revise, and remove several definitions from this section to ensure the terms used throughout part 194 are clear and accurate. PHMSA also believes that amending certain definitions in part 194 will help improve the readability of the part.

Area Contingency Plan (ACP) and National Contingency Plan (NCP)

PHMSA proposes to add definitions for National Contingency Plan (NCP) [5] and Area Contingency Plan (ACP) in part 194. The proposed rule defines the NCP as the National Oil and Hazardous Substances Pollution Contingency Plan codified in 40 CFR part 300. The NCP provides the national-level organizational structure and procedures for preparing for and responding to oil spills and other hazardous releases. PHMSA also proposes to define ACP as a regional response plan prepared in accordance with OPA 90 and the NCP.

Various environmental laws and regulations, primarily the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) [6], OPA 90, and the NCP establish tiered classifications of response plans to ensure that the government and other entities have adequate protocols and resources in place to respond to an oil spill

[5] 40 CFR part 300, National Contingency Plan, NCP.

[6] Pub. L. 95–510, aka Superfund.

regardless of the scope of the spill. The broadest response plan is the nationwide NCP, which was created by CERCLA and is codified by the Environmental Protection Agency in 40 CFR part 300. ACPs are regional response plans required by OPA 90 which cover smaller geographical areas defined in the NCP. The most detailed plans are facility-specific response plans, which must be consistent with the applicable ACPs and the NCP. Since PHMSA uses the terms ACP and NCP throughout part 194, the regulations would benefit from spelling out and defining these terms.

Worst-case Discharge

Part 194 requires an operator to determine a ''worst-case discharge'' (WCD) volume to account for in its FRP. The WCD is the largest of three elements: (1) Largest discharge from a line section calculated by adding the possible amount released following a pipeline failure before a pipeline is shutdown with the line section drain down after shutdown; (2) volume of largest breakout tank or battery of tanks with credits for preventative measures; or (3) largest historic discharge. Currently, the WCD is defined as the largest foreseeable discharge of oil, including discharge from fire or explosion, in adverse weather conditions. PHMSA is proposing to remove the phrase ''in adverse weather conditions'' from the definition of WCD and instead require operators consider adverse weather in § 194.107 when developing the plan. Potential weather conditions have no effect on calculation for the volume of oil discharged from a pipeline facility, but is an important consideration for planning the spill response itself. This change may therefore improve the quality of FRPs.

Specified Minimum Yield Strength

PHMSA is proposing to remove the definition of ''specified minimum yield strength'' since the term only appears in § 194.101, which is a section PHMSA is proposing to remove. This definition, therefore, would no longer be necessary.

Tertiary Containment

PHMSA is proposing to add a definition for ''tertiary containment,'' which appears in § 194.105 but is not defined. PHMSA's interpretation [7] of ''tertiary containment'' is based on the definition of secondary containment in the National Fire Protection Association (NFPA) standard NFPA 30, ''Flammable and Combustible Liquids Code,'' which PHMSA would also incorporate by reference into part 194. PHMSA proposes to codify this term, consistent with PHMSA's previous interpretation, as a dike, berm, or other physical containment outside of the secondary containment. NFPA 30 defines secondary containment for piping systems as containment that is external to and separate from the primary piping system; a secondary containment tank is defined as one that has an inner wall and an outer wall with a means for monitoring the space between the walls for leaks.

Contract or Other PHMSA-approved Means

PHMSA is proposing to revise the definition of ''contract or other approved means'' to clearly define which methods for documenting the availability of adequate response resources, other than a signed contract with an oil spill removal organization (OSRO), are approved. PHMSA also proposes to clarify that documentation of active membership in cooperative or mutual aid agreements is also approved. The proposed revisions add clarity and transparency to PHMSA's review and approval of plan documentation.

Onshore Oil Pipeline Facilities

PHMSA proposes amending the definition of ''onshore oil pipeline facilities'' to clarify the scope of the part 194 regulations in light of potential ambiguity regarding the proper classification of pipelines under the CWA.

The CWA defines ''onshore facility'' as ''any facility . . . of any kind located in, on, or under any land within the United States other than submerged land.'' 33 U.S.C. 1321(a)(10). The President has delegated to the Secretary of Transportation the authority to review and approve response plans for ''transportation-related'' onshore facilities, including pipelines. *See* E.O. 12777, section 2(d)(2) (Oct. 18, 1991). With respect to pipelines, the Secretary of Transportation has delegated that authority to PHMSA. *See* 49 CFR 1.97(c)(2).

The CWA defines ''offshore facility'' to include ''any facility of any kind located in, on, or under, any of the navigable waters of the United States.'' *Id.* section 1321(a)(11). The President has delegated to the Secretary of the Interior the authority to review and approve response plans for ''offshore facilities.'' *See* E.O. 12777, section 2(d)(3). Under a Memorandum of Understanding (MOU), the Secretary of the Interior has re-delegated his authority over ''transportation-related'' facilities to the Secretary of Transportation to the extent those facilities are ''located landward of the coast line.'' The MOU provides that ''[t]he term 'coast line' shall be defined as in the Submerged Lands Act (43 U.S.C. 1301(c)) to mean 'the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.''' 40 CFR part 112, appendix B. To the extent the MOU re-delegates authority over pipelines from the Secretary of the Interior to the Secretary of Transportation, the Secretary of Transportation has delegated that authority to PHMSA. *See* Memorandum from the Secretary to the Administrator, PHMSA, re: Ratification of Research and Special Programs (''RSPA'') and PHMSA Approvals of Oil Spill Response Plans, and Delegation of Authority to PHMSA (Aug. 18, 2016).

Thus, PHMSA has been delegated authority to review and approve response plans for pipelines located landward of the coast line, regardless of whether those pipelines are considered under the CWA's definitions to be ''onshore facilities,'' ''offshore facilities,'' or both.

Beginning with the promulgation of 49 CFR part 194 in 1993, PHMSA has implemented its authority under the CWA by treating the entirety of every pipeline located landward of the coast line as an ''onshore facility'' for purposes of the CWA, even if some segments cross navigable waters. In other words, for the purposes of part 194, PHMSA does not consider that there are any ''offshore'' pipeline facilities landward of the coast line. Thus, the current version of § 194.5 defines ''onshore oil pipeline facilities'' to include only those facilities ''in, on, or under, any land within the United States other than submerged land,'' while defining ''high volume area'' in a way that recognizes that an ''onshore oil pipeline facility'' may ''cross a major river or other navigable waters.''

In recent litigation, a plaintiff asserted that every segment of a pipeline landward of the coast line that crosses navigable waters is an ''offshore facility,'' and that PHMSA acted unlawfully in approving response plans covering such segments pursuant to regulations that only apply to facilities ''in, on, or under, any land.'' The court disagreed, holding that ''PHMSA's interpretation of oil pipelines that cross navigable waters as single onshore facilities is reasonable within the meaning of the CWA.'' *Nat'l Wildlife*

[7] PHMSA. Interpretation Response #PI–14–0010, 10/6/2014. *https://www.phmsa.dot.gov/regulations/title49/interp/PI–14-0010.*

Fed. v. *Sec'y of the Dep't of Transp.,* 374 F. Supp. 3d 634, 647 (E.D. Mich. 2019).

PHMSA continues to implement its authority under the CWA consistent with its long-held interpretation that the entirety of every pipeline located landward of the coast line is an ''onshore facility'' for purposes of the CWA, even if some segments cross navigable waters. To provide additional certainty, however, PHMSA proposes amending the definition of ''onshore oil pipeline facilities'' to make clear that the part 194 regulations cover all pipelines landward of the coast line, regardless of whether those pipelines are considered under the CWA's definitions to be ''onshore facilities,'' ''offshore facilities,'' or both. This change would maintain the status quo and have no impact on the substance of the response plans submitted by operators. Operators could continue to submit response plans covering a response zone made up of multiple facilities, and the requirements for those plans would remain unchanged.

Major River

PHMSA is proposing to remove the definition for ''major river.'' This change would not affect the requirements of part 194 as the meaningful portions of the definition are repeated elsewhere. The term ''major river'' only appears in the definition for ''high volume area,'' which includes the first part of the ''major river'' definition regarding waterways with high flow volumes and vessel traffic. The second part of the major river definition is adequately covered by the high-volume area definition and appendix B and is unnecessary. Additionally, the book that is referenced is outdated, out of print, and not readily available to the public.

Section 194.7 Operating Restrictions and Interim Operating Authorization

PHMSA is proposing technical and editorial amendments to § 194.7 to account for the removal of §§ 194.101 and 194.103.

Section 194.9 Incorporation by Reference

PHMSA is proposing to add a new section to part 194 to list standards and documents from the American Petroleum Institute (API), the National Fire Protection Association (NFPA), and the United States Coast Guard (USCG) that are incorporated by reference (IBR) in this part. While the API and NFPA documents were already listed in the existing § 194.105 for the purposes of determining the worst-case discharge of breakout tanks, part 194 lacked a specific IBR section identifying which editions of the standards were IBR into part 194. These are the same editions that are currently incorporated by reference in part 195.

API Recommended Practice 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, Third Edition

API Recommended Practice (RP) 651, Third Edition (2007) specifies procedures and practices for applying cathodic protection, a method of protecting metallic facilities from corrosion, to aboveground petroleum storage tanks. This RP contains: (1) Procedures and practices for effective corrosion control on aboveground storage tank bottoms through the use of cathodic protection; (2) provisions for the application of cathodic protection to existing and new aboveground storage tanks; and (3) information and guidance for cathodic protection specific to aboveground metallic storage tanks in hydrocarbon service. Section 8 of the RP sets forth cathodic protection criteria to determine whether adequate cathodic protection has been achieved on aboveground breakout tanks. Compliance with the cathodic protection procedures and practices in API RP 651, API Std 650, and API Std 653, as applicable, allows an operator to claim a 5% prevention credit to reduce the calculated WCD of a breakout tank.

API Recommended Practice 2350, Overfill Protection for Storage Tanks in Petroleum Facilities, Third Edition

API RP 2350 Third Edition (2005) is specifically limited to tanks associated with marketing, refining, pipeline and similar facilities containing Class I or Class II petroleum liquids. It addresses minimum overfill and damage prevention practices for aboveground storage tanks in petroleum facilities, including refineries, marketing terminals, bulk plants, and pipeline terminals that receive flammable and combustible liquids. In § 194.105, operators may claim a 5% prevention credit to reduce the calculated WCD of a breakout tank if the tank has an overfill protection system that complies with API RP 2350.

API Standard 620, Design and Construction of Large, Welded, Low-Pressure Storage Tanks, 11th Edition (including Addendum 1, Addendum 2, and Addendum 3)

API Standard (Std) 620, 11th Edition (2008), along with Addendum 1 (2009), Addendum 2 (2010), and Addendum 3 (2012) specifies design, construction, and testing requirements for large, field-assembled, welded steel tanks used to store petroleum, petroleum products, or other liquids used in the petrochemical industry. Tanks designed, constructed, and tested in accordance with API Std 620 are rated to operate with a vapor pressure up to 15 psig and a metal temperature below 250 °F. Section 194.105(b)(4) allows an operator to reduce the calculated WCD from a breakout tank by 10% if the tank is built and repaired in accordance with API Std 620.

API Standard 650, Welded Steel Tanks for Oil Storage, 11th Edition (Including Addendum 1, Addendum 2, Addendum 3, and Errata)

API Std 650, Eleventh Edition (2007), along with Addendum 1 (2008), Addendum 2 (2009), Addendum 3 (2011), and Errata (2011) establishes minimum requirements for material, design, fabrication, erection, and testing for vertical, cylindrical, aboveground, closed- and open-top, welded storage tanks in various sizes and capacities for internal pressures approximating atmospheric pressure. This standard applies only to tanks whose entire bottom is uniformly supported and to tanks in non-refrigerated service that have a maximum design temperature of 93°C (200 °F) or less. In § 194.105, operators may claim a 10% prevention credit to reduce the calculated WCD of a breakout tank if the tank is built and repaired in accordance with API Std 650 and API Std 653, if applicable. Additionally, operators may claim a 5% prevention credit if the breakout tank is cathodically protected and tested in accordance with API Std 650 and API 651, if applicable.

API Standard 653, Tank Inspection, Repair, Alteration, and Reconstruction, Third Edition (Including Addendum 1, Addendum 2, Addendum 3, and Errata)

API Std 653, Third Edition (2001), along with Addendum 1 (2003), Addendum 2 (2005), Addendum 3 (2008), and Errata (2008), provides minimum requirements for maintenance inspection, repair, alteration, relocation, and reconstruction of aboveground steel oil storage tanks once they have been placed in service, manufactured in accordance with API Std 650 or its predecessor API 12C. In § 194.105, operators may claim a 10% prevention credit to reduce the calculated WCD of a breakout tank if the tank is repaired in accordance with API Std 653 and built and repaired in accordance with API Std 650, as applicable.

NFPA–30, Flammable and Combustible Liquids Code, 2012 Edition (Including Errata 30–12–1 and Errata 30–12–2)

NFPA 30, 2012 Edition, provides fundamental safeguards for the storage, handling, and use of flammable and combustible liquids. It is a relatively broad document covering general fire safety considerations for facilities where flammable and combustible liquids are present and specific requirements for a number of different types of situations and facilities. In § 194.105(b)(4), NFPA 30 is referenced to determine whether prevention credits can be applied for breakout tanks for secondary containment or drainage/treatment. Most breakout tanks are aboveground storage tanks covered under Chapter 22 of NFPA 30. Section 22.11 covers the spill control specifications for dikes, berms, secondary containment tanks, impoundment, and drainage. If a breakout tank is provided secondary containment in accordance with the applicable provisions of NFPA 30, then the operator may reduce the calculated WCD of the tank by 50% as a prevention credit.

Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program

PHMSA proposes to IBR the United States Department of Homeland Security, United States Coast Guard (USCG) ''Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program,'' June 2019.[8] This document describes the requirements for OSROs to be classified by the USCG to respond to and recover oil spills of various sizes at various locations. The USCG classifies OSROs based on the location of their response resources and an assessment of their ability to mobilize those resources. An OSRO's response resources (*e.g.,* booms, skimmers, vessels, storage, and personnel) and response times must meet or exceed the response capability caps needed by a facility, tank vessel, and non-tank vessel plan holder.[9] Pursuant to 33 CFR parts 154 and 155, OSROs are classified into three tiers based on their response time capabilities. Tier 1 OSROs have the most stringent response time requirements and must be able to deploy the specified quantity of initial resources on-site within 12 hours of notification (6 hours within a higher-volume port area). These response time requirements are further discussed in Chapter 4 of the USCG's OSRO Classification Program Guidelines. The document also addresses personnel training, equipment maintenance, and other requirements OSROs must meet to be classified. OSROs are periodically inspected by the USCG to confirm that they still meet the readiness requirements described in this document.

A contract with a USCG-classified OSRO is not required to comply with part 194; however, it is a convenient way of providing and documenting adequate response resources in an Oil Spill Response Plan (OSRP). PHMSA proposes to revise § 194.115 to adopt the response resources requirements from the USCG oil facilities regulations in appendix C to part 154, Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans, and the existing response time requirements identical to the WCD Tier 1 requirements in the ''Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program.'' Therefore, a contract with an OSRO classified by the USCG as a WCD Tier 1 for facilities meets the response resources requirements in §§ 194.115 and 194.107(b)(1)(vi).

Section 194.101 Operators Required to Submit Plans

PHMSA is proposing to remove § 194.101 and incorporate the most relevant exceptions found in this section into the applicability section at § 194.3. Including these conditions into the applicability statement serves the same purpose.

Section 194.103 Significant and Substantial Harm; Operator's Statement

PHMSA is proposing to remove this section and all references to ''significant and substantial harm'' and ''substantial harm.'' Section 194.103 defines conditions where a pipeline facility can be expected to cause ''significant and substantial harm to the environment in the event of a discharge of oil.'' If these conditions are not met, then a WCD can be assumed to cause ''substantial harm.'' There is no functional difference between the requirements for facilities that could cause ''significant and substantial harm'' and facilities that could cause ''substantial harm.''

Currently, the requirements for preparing a ''significant and substantial harm'' or ''substantial harm plans'' are nearly the same, as shown in the table below.

A ''significant and substantial harm'' plan:	A ''substantial harm'' plan:
(1) includes a statement for why the pipeline could cause significant and substantial harm according to the conditions at 49 CFR 194.103;.	(1) does not require a statement of harm;
(2) must be approved by PHMSA; and.	(2) must be reviewed by PHMSA; and
(3) must be updated and resubmitted to PHMSA within 5 years of each approval.	(3) must be updated and resubmitted to PHMSA within 5 years of submission.

PHMSA reviews all ''significant and substantial harm'' and ''substantial harm'' plans equally and requires operators to correct any deficiencies the agency identifies. Operators with ''significant and substantial harm'' plans in compliance with part 194 receive a letter from PHMSA stating the agency approves the plan. Operators with ''substantial harm'' plans in compliance with part 194 receive a letter from PHMSA stating the agency reviewed the plan for compliance. The differentiation in plan types appears to cause confusion as evidenced by submission of ''significant and substantial harm'' statements for pipelines that do not meet the criteria. PHMSA has also received ''substantial harm'' plans that include resubmittal requirements for ''significant and substantial harm'' plans. For this reason, PHMSA is proposing to remove § 194.103. In

[8] *Available at https://homeport.uscg.mil/Lists/Content/Attachments/55022/2019%20Guidelines%20for%20the%20US%20Coast%20Guard%20OSRO%20Classification%20Program.pdf.*

[9] Section 311(j) of the Federal Water Pollution Control Act (FWPCA), amended by section 4202 of the Oil Pollution Act of 1990 (OPA 90), requires the preparation and submission of response plans by the owners or operators of certain oil-handling facilities and for all vessels defined as ''tank and non-tank vessels'' (hereafter referred to as plan holders). Plan holders, through their response plans, must address the complex system for assembling, mobilizing, and controlling response resources to maintain statutory compliance as well as being prepared to respond to oil spills within their area of operation. Plan holders must submit a response plan to the USCG that identifies and ensures, by contract or other approved means, the availability of response resources (personnel and equipment) necessary to remove, to the maximum extent practicable, a WCD, including a discharge resulting from fire or explosion, and to mitigate or prevent a substantial threat of such a discharge. To relieve the burden upon plan holders to provide detailed lists of response resources, the USCG created the OSRO classification program, so that plan holders would be required to identify the OSROs only by name in their response plans, if the OSRO meets a plan holder's planning requirements.

§ 194.119, PHMSA proposes to review all facility response plans for compliance and issue letters of approval to acceptable plans, which is consistent with how PHMSA currently manages both types of plans it receives. Similarly, in § 194.121, PHMSA proposes to require operators to review and resubmit all response plans within five years of the date of the last approval. This administrative change will not impact safety since the majority of plans are updated before the five-year resubmission timeframe due to other changes affecting a plan.

Section 194.105 Worst Case Discharge

Each operator must determine the WCD of oil possible from its pipeline facility. PHMSA is proposing to remove the requirement to include historical discharge volumes in the WCD calculation and allow the use of spill models. Currently, the regulations define a WCD as the largest volume of oil discharged when comparing: (1) The maximum release from a pipeline line section; (2) the capacity of the single largest breakout tank, or capacity of a battery of tanks within a single secondary containment, with applicable prevention credits applied and; (3) the largest historic discharge. An operator must provide documentation showing that it considered and correctly calculated the potential discharge volume for each scenario. PHMSA then compares the operator's historical and calculated discharge volumes during its review of the operator's entire FRP. If the historical volume is greater than the calculated volume, PHMSA considers the calculation incorrect, and the operator must recalculate the volume or explain the anomaly.

PHMSA has determined that requiring operators to submit historical discharge volumes in their FRPs is unnecessary and duplicative of other reporting requirements in the Federal Pipeline Safety Regulations. Removing the requirement for operators to submit this information should have no effect on safety. The largest historical discharge is almost never the WCD and PHMSA has access to historical spill volumes through accident reports. Only the largest of the listed estimates is the WCD, and in the past five years, PHMSA has found only one instance in which a plan noted a historic spill volume that exceeded the calculated WCD volume, and in that instance, the difference was less than 50 barrels of hazardous liquid.

PHMSA will still have access to historical spill information. Section 195.50 requires operators to report accidents to PHMSA via DOT Form 7000.1, which includes the volume of product spilled. PHMSA can use the data from accident reports to evaluate the historic WCD volume of a facility instead of requiring the operator to provide the information separately. Removing the requirement to report historic discharge in § 194.105(b)(2) will provide some cost savings to operators when preparing their plans without impacting the quality of FRPs or reducing the data available for analysis by PHMSA. The revised requirements at § 194.105 would require calculations for: (1) The maximum release from a pipeline section, and (2) capacity of the single largest breakout tank or battery of tanks within a single secondary containment with applicable prevention credits applied.

PHMSA is also proposing to clarify that an operator may use oil spill modeling programs to calculate the WCDs. These programs calculate the likelihood of a spill, as well as the magnitude and environmental impacts that might occur. An adequate spill model could also provide more accurate predictions of potential spill volumes. Several operators use spill models to calculate WCD for State-required response plans or to assist them with managing the integrity of their pipeline facilities. PHMSA is aware of several models that use the same variables as the current regulatory requirements, such as pipeline diameter, line section length, detection and shutdown times, and maximum product flow rates. Certain oil spill modeling programs may also consider terrain, proximity to navigable waters, mechanical capabilities of valves, and other variables. These models can also provide valuable information if a spill were to occur anywhere along the pipeline facility, not just at the location of the WCD.

Section 194.107 General response plan requirements

Section 194.107(a) describes the general content, such as procedures and resources, an operator must include in a response plan. An operator's response plan must prove that the operator can adequately respond to a WCD. PHMSA is proposing a number of revisions to codify PHMSA policy, eliminate redundant reporting, and make clarifications consistent with Federal policy and terminology. Together, these revisions will result in higher quality FRPs, improved regulatory clarity, and reduced burden.

Consistent with the revisions to § 194.103 discussed earlier, PHMSA is proposing to amend § 194.107(a) to remove any discussion of ''significant and substantial harm.'' PHMSA is also proposing to remove the reference to the term ''substantial threat.'' Operators must consider WCDs regardless of whether they are a result of abnormal operating conditions, so including the term substantial threat is redundant of the WCD requirement. In addition, PHMSA proposes to move the phrase ''in adverse weather conditions'' from the definition of WCD to § 194.107(a). While weather conditions do not change the calculations for WCD values, adverse weather or climate conditions can affect how to plan for and respond to spills. Adding a reference to adverse weather in the plan requirements would clarify that response planning must consider the operating environment that may be present during a spill. These changes codify PHMSA's current practices.

Additionally, PHMSA is proposing to revise § 194.107(b) to codify current PHMSA practices and streamline plan submission requirements for consistency with other Federal programs. For example, PHMSA currently lists a requirement to identify procedures for obtaining permission for in-situ burning or the use of dispersants under the section for complying with the NCP. However, in-situ burning and dispersants are not permitted in all areas, especially onshore. PHMSA therefore proposes to move this requirement to the section on complying with ACPs and clarifying that operators only need to provide procedures for those activities if they are allowed in the applicable ACP.

Section 194.107(c) specifies what each response plan must include. PHMSA is proposing changes to align the regulations with current PHMSA practices. PHMSA is proposing to revise § 194.107(c) by adding a requirement to include procedures for providing applicable Safety Data Sheets to emergency responders and the Federal On-Scene Coordinator (FOSC) within six hours of a spill and clarify that the immediate notification procedures in § 194.107(c)(1)(ii) must include notifications to the National Response Center (NRC). The requirement to provide Safety Data Sheets to first responders codifies a self-executing requirement in section 14 of the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016 (Pub. L. 114–183) and NRC notification is already required at § 195.52. PHMSA is also proposing to eliminate the requirement to provide a list of response resources if an operator contracts with an OSRO classified by the U.S. Coast Guard (USCG) as a WCD

Tier 1 [10] organization for the operating environments (''River/Canal,'' ''Inland,'' or ''Great Lakes,'') that the pipeline facility could affect. This is consistent with other Federal requirements, codifies PHMSA's current practices, and eliminates an unnecessary burden on the operator. OSROs provide lists of response resources to the expert agency USCG as a part of the classification program, therefore requiring this information from an operator is redundant. PHMSA also proposes to clarify that procedures for testing equipment are only necessary if an operator controls response equipment; procedures for maintaining equipment are inapplicable to operators that rely solely on OSROs and that do not own response equipment.

Finally, PHMSA is proposing editorial revisions throughout this section and changes to make these requirements more consistent with current response practices. The most notable of these changes include: (1) Amending the term ''drill program'' to read ''drill and exercise program''; (2) specifying that operators can satisfy the requirement for a drill and exercise program by following the current National Preparedness for Response Exercise Program [11] (PREP) guidelines; and (3) changing the term ''response management system'' to ''incident command system'' in § 194.107(c)(3). These changes ensure drill and exercise programs are consistent nationally and that PHMSA's terminology is consistent with the NCP and the National Response Framework.[12]

Section 194.109 Submissions of state response plans

Section 194.109 allows operators to prepare and submit a response plan prepared to comply with a State law or regulation instead of creating a separate plan to comply with part 194, so long as the plan prepared for a State law or regulations meets or exceeds the requirements of part 194. PHMSA is proposing to allow operators to submit to PHMSA a plan that was prepared to meet a State requirement if the operator also submits a DOT-specific appendix addressing any additional Federal requirements under part 194 that are not addressed in the State plan. This will reduce the burden on operators to prepare separate plans for both PHMSA and a State.

Section 194.113 Information summary

The required elements of an ''Information Summary'' are provided in § 194.113. Currently, the information summary for a core plan must provide a listing and description of each response zone covered by that plan. Operators have the option to subdivide their response plans into ''response zones'' in order to have different procedures for specific geographical areas. However, currently, any change in the configuration of response zones requires amending the core plan. PHMSA proposes to instead require that the core plan list the applicable response zone appendices and move the requirement to list the response zones to those appendices. This will slightly reduce the burden to preparing and updating plans because it will allow operators to only modify response zone appendices without having to also change the core plan for changes to response zone configuration. PHMSA is also removing all references to ''significant and substantial harm'' consistent with the removal of § 194.103.

PHMSA also proposes to revise § 194.113 to clarify that maps, including current National Pipeline Mapping System (NPMS) [13] submissions, are an acceptable method of describing the location of the response zone and pipeline facilities. Clarifying that maps are an acceptable alternative to a listing of line segment locations codifies current PHMSA policy. The proposed rule would also allow operators to satisfy the requirements at § 194.113 by referencing the NPMS, provided that their NPMS submission is current and includes the PHMSA-issued FRP identification number. Currently, the NPMS allows, but does not require, an operator to include the FRP identification number in their geospatial data. Allowing operators to reference NPMS submissions eliminates the burden for operators to provide additional maps or a list of line segments in addition to information they already submit for the NPMS. Additionally, if an operator identifies the applicable FRPs on their NPMS submissions, PHMSA can use the NPMS to quickly and accurately identify that FRP for a FOSC during a spill or other type of emergency. Finally, PHMSA proposes eliminating the requirement for operators to provide a basis for determining if a WCD would cause ''significant and substantial harm,'' as PHMSA is proposing to remove that term from part 194. These changes result in a minor reduction in burden with no impact on the quality of operators' FRPs.

Section 194.115 Response resources

PHMSA is proposing to harmonize its oil pipeline response planning requirements in § 194.115 with those of the USCG to ensure that pipeline operators have the necessary personnel and equipment available to remove to the maximum extent practicable, a WCD. This proposed amendment is based on recommendations from the National Transportation Safety Board's (NTSB) accident report on the Enbridge oil spill near Marshall, Michigan, in 2010.[14] The NTSB recommended a DOT audit of PHMSA's FRP program (NTSB Recommendation P–12–1) and recommended PHMSA amend part 194 to harmonize onshore oil pipeline response plan requirements with those of the USCG and the U.S. Environmental Protection Agency to ensure that operators have adequate resources available to respond to worst-case discharges (NTSB Recommendation P–12–9).

In response to these recommendations, DOT initiated an audit of the onshore pipeline facility response plan program, including an addendum from PHMSA. The DOT audit found that PHMSA's current regulations do not adequately specify the appropriate quantity or type of response resources needed to respond to a spill.[15] To address these issues, the audit recommended PHMSA amend § 194.115(a) to reference the USCG's ''Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans'' [16] and to define the meaning of the response tiers in § 194.115(b).

[10] WCD Tier 1, or W1 is a USCG classification for OSROs. WCD tier 1 has the most stringent requirements for deployment and response times among the WCD tiers. For more information, see the *Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program.* April 2013. *https://homeport.uscg.mil/Lists/Content/Attachments/1286/Guidelines%20for%20the%20USCG%20OSRO%20Classification%20Program.pdf.*

[11] *https://www.regulations.gov/document?D=USCG-2011-1178-0110.*

[12] U.S. Department of Homeland Security, Federal Emergency Management Agency. 2013. *National Response Framework. https://www.fema.gov/media-library-data/20130726-1914-25045-8516/final_national_response_framework_20130501.pdf.*

[13] Section 195.61 requires operators to provide geospatial data regarding hazardous liquid pipeline facilities to PHMSA.

[14] Enbridge Incorporated Hazardous Liquid Pipeline Rupture and Release, Marshall, Michigan, July 25, 2010, Pipeline Accident Report NTSB/PAR–12/01 (Washington, DC: National Transportation Safety Board, 2012).

[15] Audit Report: An Assessment of the Office of Pipeline Safety's Onshore Pipeline Facility Response Plan Program, U.S. Department of Transportation, June 19, 2017. *https://www.transportation.gov/sites/dot.gov/files/docs/mission/administrations/office-policy/300246/osrp-audit-report-final-dotp-12-1and2.pdf.*

[16] 33 CFR part 154, appendix C.

PHMSA is proposing both of these amendments in this rulemaking. In § 194.115(a), PHMSA is proposing to require that operators have adequate response resources as defined in USCG's ''Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans.'' Those guidelines define how to identify adequate response resources to remove, to the maximum extent practicable, a WCD. The proposed changes will not affect the cost of operators' compliance with part 194, as PHMSA uses the USCG's ''Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans'' and the USCG Response Resource Inventory to assess and verify the adequacy of operator's response resources in FRPs.[17]

In § 194.115(b), PHMSA is proposing to include additional guidance on the meaning of the response tiers. The USCG's ''Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans,'' which PHMSA is proposing to reference in paragraph (a), require an operator to ensure the availability of certain resources within certain response times for each of three tiers. Tier 1 resources are local resources that are available for the initial response. Tier 2 resources are regional resources available within a longer time period and Tier 3 resources are national level resources available within an even longer period. PHMSA is proposing, consistent with its current practice, to clarify that the response times that operators must use differ than the times referenced in the Guidelines. Specifically, PHMSA clarifies that a more rapid response to a WCD is required in ''high-volume areas'' as defined in § 194.5, rather than in ''higher volume port areas'' defined by the USCG in 33 CFR 154.1020. PHMSA's definition includes substantially more inland waterways than the USCG definition, which is limited to 5 ports and 2 rivers. For example, while the Guidelines require Tier 1 resources capable of responding to a WCD arrive within 12 hours at a Great Lakes location, PHMSA requires that Tier 1 resources arrive within 6 hours at any high-volume area, which includes the Great Lakes.

As discussed above in the discussion of § 194.107, an operator need not provide a list of response resources if that provides evidence of a signed, current contract with an OSRO that has received a WCD1 classification from the USCG. The USCG has determined that an OSRO that has received this classification is capable of deploying the maximum resources that can reasonably respond to any size spill. In this situation, PHMSA determines compliance with § 194.115 by checking whether sufficient WCD1-classified OSRO facilities are located within 6 hours of all high-volume areas within a response zone, or 12 hours of all other areas. An operator that satisfies this requirement has shown that it has ensured the availability of the highest possible amount of resources within the shortest, Tier 1 timeframes, and thus generally will greatly exceed the requirements of § 194.115.

Section 194.119 Submission and approval procedures

PHMSA is proposing minor clarifications to § 194.119 to require operators submit FRPs electronically in a PDF or HTML format. The current regulations require operators submit two copies of each FRP; this is duplicative and has led some operators to believe that PHMSA requires them to submit both electronic and paper copies of each FRP. PHMSA prefers that operators submit FRPs electronically. Clarifying that operators only need to submit an electronic copy of each FRP eliminates unnecessary costs associated with printing, shipping, scanning, and storing those documents.

PHMSA is also proposing to require operators respond to PHMSA's notification of any alleged deficiency in response plans within 30 days, consistent with the timeframe given for operators to submit a petition for reconsideration of PHMSA's determination of the adequacy of their plan. Additionally, the proposed rule requires PHMSA approval for all plans and removes the reference to the terms ''substantial harm'' and ''significant and substantial harm plans'' in this section since PHMSA proposes to remove those terms from all of part 194. Finally, PHMSA is proposing to revise § 194.119 to state that PHMSA may send a copy of a response plan to the FOSC when requested instead of requiring an operator to provide a plan to the FOSC. PHMSA can provide FRPs to FOSCs when necessary and relieve operators of this burden since PHMSA maintains electronic copies of the FRPs.

Section 194.121 Response plan review and update procedures

PHMSA is proposing revisions to the response plan and review procedures in § 194.121 to require operators to review and resubmit all response plans at least every five years from the date of the last approval. Consistent with its proposal to remove references and requirements based on the terms ''substantial harm'' and ''significant and substantial harm,'' PHMSA is removing instances of those terms in this section as well.

Additionally, PHMSA proposes to clarify that an operator must submit an FRP before a new oil pipeline facility or an extension of an existing pipeline facility becomes operational. As currently written, one could interpret the regulations to require that operators submit an FRP for a pipeline facility that is under construction. OPA 90 applies to a transportation-related pipeline facility that could discharge oil; a plan is not required during construction because during construction there is no oil in the pipeline that can be discharged.

Consistent with allowing operators to reference the NPMS to satisfy the requirement in § 194.113 to provide the location of response zones and pipeline facilities, PHMSA proposes to revise the instructions for updating line section information to include newly constructed or extended pipelines that are not yet available in NPMS. Operators with new segments may continue to reference the NPMS for the existing segments, but must include a list and description of any segments that are not currently available in the NPMS. This change ensures operators referencing the NPMS do not have to create and submit new maps of existing pipelines whenever pipelines are extended or added.

Appendix A to Part 194

Appendix A to part 194 provides a recommended format for preparing and submitting response plans required by part 194. PHMSA is proposing to amend this appendix to reflect the changes to part 194 set forth in this proposed rule and to add further guidance. For example, in ''Section 5. List of Contacts,'' PHMSA is proposing to clarify that an operator must include 10-digit telephone numbers in their response plans as opposed to just ''a telephone number.'' At ''Section 9. Response Zone Appendices,'' PHMSA is proposing additional guidelines for operators to include procedures to obtain permission to use applicable alternative response strategies, such as in-situ burning or dispersants, consistent with applicable ACPs, which was omitted in the initial publication of part 194. Also in Section 9, PHMSA proposes to include procedures for operators to provide applicable Safety

[17] At the recommendation of NTSB, PHMSA harmonized its procedures for reviewing oil spill response plans with those of the USCG and the EPA. More information can be found at *https://www.ntsb.gov/safety/safety-recs/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=P-12-009.*

Data Sheets to emergency responders and the FOSC within six hours of a spill, consistent with the revisions to § 194.107(c) and section 14 of the PIPES Act of 2016 (Pub. L. 114–183).

Appendix B to Part 194

PHMSA is proposing to add the Great Lakes to the list of ''Other Navigable Waters'' in appendix B to part 194. This change will affect one operator whose pipeline currently crosses the Great Lakes, but PHMSA does not anticipate this change will affect that operator's plan.

C. Part 195 Transportation of Hazardous Liquids by Pipeline

Part 195 contains the Federal safety regulations for pipeline facilities used to transport hazardous liquids and carbon dioxide. Those regulations include reporting requirements and standards for the safe design, construction, testing, operation, and maintenance of hazardous liquid pipeline facilities. PHMSA is proposing amendments to part 195 to adjust the monetary damage criterion for reporting pipeline accidents for inflation, clarifying that operators may monitor cathodic protection rectifiers remotely, and correcting the organization of the IM guidance in appendix C of part 195. PHMSA also proposes editorial amendments to § 195.3 to meet requirements from the Office of the Federal Register and update the address for API.

Section 195.50 Reporting accidents and § 195.52 Immediate notice of certain accidents.

PHMSA is proposing to revise the definition of an ''accident'' at §§ 195.50 and 195.52 to adjust the monetary damage threshold criterion for inflation. This proposed amendment changes the criteria for submitting accident reports and giving immediate telephonic notification to the NRC. PHMSA is proposing adjusting the value of the property damage threshold from $50,000 to $118,000. In part 195, property damage includes the cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both. Operators would still be required to report any accident that caused a death or a personal injury requiring hospitalization; that resulted in either a fire or explosion not intentionally set by the operator; that resulted in pollution of any stream, river, lake, reservoir, or other similar body of water; or that is otherwise significant in the judgment of the operator.

On May 3, 1984, PHMSA's predecessor agency, the Research and Special Programs Administration, promulgated a definition for an ''incident'' at § 191.3 to establish criteria that would trigger requirements to report specific events on gas pipeline facilities to PHMSA.[18] The 1984 definition of an incident included a property damage threshold of $50,000. In 1994, PHMSA adopted the same value for hazardous liquid pipeline accidents.[19] Today, the property damage criteria that triggers incident and accident reporting requirements are the same as they were in 1984 and 1994. PHMSA is basing the proposed inflation adjustment in this rulemaking on the 1984 date that established the $50,000 value for gas pipelines so that the property damage criteria remain consistent between gas and hazardous liquid pipelines. PHMSA intends to propose a similar change for reporting incidents on gas pipeline facilities in a separate regulatory action.

One of the issues raised most frequently in comments submitted in response to the notification of regulatory reform (82 FR 45750; Oct. 2, 2017) was the $50,000 property damage threshold for reporting gas pipeline incidents and hazardous liquid pipeline accidents. Comments submitted in response to the notice of regulatory reform from API, AOPL, and GPA Midstream Association[20] supported an increase in the property damage threshold for reporting gas pipeline incidents and hazardous liquid pipeline accidents. Based on the average annual Consumer Price Index (CPI) from the Bureau of Labor Statistics, $50,000 in 1984 is approximately $118,000 in 2017 dollars.[21] At $50,000, the current criterion requires operators report relatively minor accidents that would not have been reported in 1984 due to inflation in property, equipment, and repair costs.

The proposed revision to the property damage threshold brings the accident reporting criteria in-line with the 1984 threshold in inflation-adjusted terms. Based on a review of previous accident reports, adjusting the figure for inflation would decrease the total number of events reportable as accidents by approximately 1%, and reduce those reportable due to only the property-damage criterion by approximately a third. This rulemaking assumes the threshold set 35 years ago is still appropriate for today once it is adjusted for inflation; however, since the original rulemaking 35 years ago an improved safety record has decreased the number of significant events, and the safety information needs may have changed. PHMSA seeks comment on whether the level of safety information needed from property damage only accident reporting should be updated to align with inflation, and the extent to which retaining a de facto lower threshold after inflation would provide beneficial information on contributing risk factors and accident trends.

PHMSA intends to periodically update the monetary damage threshold on a regular basis in the future, potentially biennially. Future updates would be based on the same formula used for this adjustment:

$$T_n = T_p \times \frac{CPI_n}{CPI_p}$$

Where T_n is the revised damage threshold, T_p is the previous damage threshold, CPI_n is the average CPI–U for the past calendar year, and CPI_P is the average CPI–U used for the previous damage threshold. PHMSA could subsequently update the monetary damage threshold in accordance with this formula either through notice and comment rulemaking, a direct final rule, notice on the PHMSA public website, or other means. This method is similar to the method that the Federal Railroad Administration uses to update the criteria for reporting accidents/incidents at 49 CFR 225.19 and appendix B to part 225. PHMSA seeks comments on the appropriate method and frequency for future updates to the monetary damage threshold. PHMSA intends to base any finalized version of this provision on the price level at the time of publication of the final rule.

The revised accident reporting criteria will result in fewer accident reports being submitted to PHMSA and fewer telephonic notifications to the NRC, resulting in cost savings to industry and reduced burden on government. While accident reporting does not directly affect safety, PHMSA acknowledges that the collection and analysis of accident data has indirect safety benefits to both operators and regulators. However, reporting accidents with relatively

[18] Transportation of Natural and Other Gas by Pipeline: Annual Reports and Incident Reports, 49 FR 18960, (May 3, 1984).

[19] Regulatory Review: Hazardous Liquid and Carbon Dioxide Pipeline Safety Standards, 59 FR 33388, (June 28, 1994).

[20] Formerly the Gas Processors Association.

[21] Calculated by multiplying the original property damage criteria ($50,000) by the average CPI in 2017 divided by the average CPI in 1984. ($50,000 * (245.139/103.933) = $117,931, or approximately $118,000). This analysis is based on the CPI for all urban consumers (CPIAUCSL) from the Bureau of Labor Statistics, accessed via the Federal Reserve Bank of St. Louis. *https://fred.stlouisfed.org/series/CPIAUCSL#0.*

minor damage provides comparatively less information value than reports with greater damage.

Section 195.573 What must I do to monitor external corrosion control?

PHMSA is proposing to revise § 195.573(c) to clarify that operators may monitor rectifier stations remotely. Rectifiers are devices that direct an electrical current on a pipeline to prevent external corrosion. Section 195.573(c) currently requires operators to regularly inspect rectifiers on hazardous liquid pipelines to ensure that they are working correctly. Advances in technology make it possible for operators to monitor these electrical systems remotely, but it is unclear in the regulations if this is permissible. In this rulemaking, PHMSA is proposing to make it clear that operators may inspect rectifier stations directly onsite or by way of remote monitoring technologies. This rulemaking also proposes to specify that such an inspection will consist of amperage and voltage measures in order to clarify the requirements of this section for operators and PHMSA and State inspectors.

Remote monitoring is a safe and efficient alternative to in-person checks in the field; however, monitoring equipment and the rectifier itself must be properly maintained to function safely and as intended. PHMSA's experience has shown that rectifiers, often located in remote areas, can be subject to damage from a variety of sources, including natural forces and vandalism. If an operator chooses to monitor a rectifier remotely, PHMSA proposes to require operators to physically inspect rectifier stations whenever they conduct a cathodic protection test under § 195.573. In accordance with that section, this will typically occur once every calendar year, not to exceed 15 months.

Appendix C Guidance for Implementation of an Integrity Management Program

PHMSA is proposing to make minor corrections to the guidance in part 195 for implementing Integrity Management (IM) programs on hazardous liquid pipelines. API and AOPL submitted comments in response to the notification of regulatory reform (82 FR 45750; Oct. 2, 2017) concerning appendix C of part 195, noting that portions of the guidance for hazardous liquid IM programs, with regard to the identification of High Consequence Areas (HCA), are either impracticable or misplaced. They commented that the guidance for identifying agricultural drainage tiles as possible could-affect HCAs is not feasible. While PHMSA provides geographical information system (GIS) maps of other HCAs to hazardous liquid pipeline operators through the National Pipeline Mapping System (49 U.S.C. 60132(d)), API and AOPL commented that drainage tiles are difficult to identify as they are neither mapped by PHMSA nor available from any other national-level data source. They also identified other items under the guidance for identifying HCAs that are more accurately categorized as guidance for identifying integrity risk factors elsewhere in the appendix.

In consideration of those comments, PHMSA has reviewed the guidance for implementing a liquid IM program outlined in appendix C of part 195 and is proposing revisions to address these issues. PHMSA proposes revised guidance for considering spills in fields and is moving details for considering the physical support of pipelines, maximum operating pressure (MOP) exceedances, and natural force damage caused by earth movement or seismicity from the guidance for identifying segments that could-affect HCAs to the guidance on identifying threats.

PHMSA also proposes to leave the requirement to consider operating conditions (other than MOP exceedances) and flood zones where it currently is in the regulations and in the HCA identification guidance. API commented that it was not clear why overpressure conditions and natural force damage were relevant to identifying HCAs. PHMSA agrees that past exceedances of MOP are more relevant to threat identification; however, other pipeline operating characteristics such as pressure, flow, and mode of operation can influence the predicted spill volume, and therefore whether it could affect an HCA. Likewise, potential flood conditions may influence whether a release could affect an HCA.

These are primarily editorial revisions to non-binding guidance, therefore there are neither direct costs nor benefits. However, clearer and more practicable guidance may improve operators' implementation of the IM requirements.

V. Availability of Standards Incorporated by Reference

PHMSA currently incorporates by reference into 49 CFR parts 192, 193, and 195 all or parts of more than 80 standards and specifications developed and published by standard development organizations (SDO). In general, SDOs update and revise their published standards every 2 to 5 years to reflect modern technology and best technical practices. ASTM International (ASTM) often updates some of its more widely used standards every year. Sometimes multiple editions are published in a given year.

The National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, directs Federal agencies to use standards developed by voluntary consensus standards bodies in lieu of government-written standards whenever possible. Voluntary consensus standards bodies develop, establish, or coordinate technical standards using agreed-upon procedures. In addition, OMB issued Circular A–119 to implement section 12(d) of the NTTAA relative to the utilization of consensus technical standards by Federal agencies. This circular provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying the reporting requirements in the NTTAA.

Accordingly, PHMSA has the responsibility for determining, via petitions or otherwise, which currently referenced standards should be updated, revised, or removed, and which standards should be added to the Federal Pipeline Safety Regulations. Revisions to materials incorporated by reference in the Federal Pipeline Safety Regulations are handled via the rulemaking process, which allows for the public and regulated entities to provide input. During the rulemaking process, PHMSA must also obtain approval from the Office of the Federal Register to incorporate by reference any new materials.

Pursuant to 49 U.S.C. 60102(p), PHMSA may not issue a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge.

Further, the Office of the Federal Register issued a rulemaking on November 7, 2014, that revised 1 CFR 51.5 to require that agencies detail in the preamble of an NPRM the ways the materials it proposes to incorporate by reference are reasonably available to interested parties, or how the agency worked to make those materials reasonably available to interested parties (79 FR 66278).

To meet its statutory obligation for this rulemaking, PHMSA negotiated agreements with various SDOs to provide free online access to standards that are incorporated by reference or proposed to be incorporated by reference. The standards in the proposed rule are available for view at the following locations during the

comment period; API standards are available at *http://publications.api.org/,* and NFPA standards are available at *https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/Free-access,* and the ''Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program'' is available at *https://homeport.uscg.mil/Lists/Content/Attachments/55022/2019%20Guidelines%20for%20the%20US%20Coast%20Guard%20OSRO%20Classification%20Program.pdf.*

In addition, PHMSA will provide individual members of the public temporary access to any standard that is incorporated by reference. Requests for access can be sent to the following email address: *phmsaphpstandards@dot.gov.*

VI. Regulatory Analyses and Notices

A. Legal Authority for This Rulemaking

This proposed rule is published under the authority of the Federal pipeline safety statutes (49 U.S.C. 60101 *et seq.*); Section 311 of the Clean Water Act; 33 U.S.C. 1321, as amended by the Oil Pollution Act (CWA); and E.O. 12777. E.O. 12777 delegated authority to the Secretary of Transportation, pursuant to 311(j)(5) of the CWA, to promulgate regulations requiring the owners and operators of transportation-related onshore facilities to prepare and submit FRPs. E.O 12777 also ordered the Secretary of Transportation to review and approve the FRPs, in accordance with the CWA and promulgated regulations. The Secretary has delegated this authority under E.O. 12777 to the Administrator of PHMSA (49 CFR 1.97).

Section 60102(a) authorizes the Secretary of Transportation to issue regulations governing the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Further, section 60102(l) of the Federal pipeline safety statutes states that the Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as a part of the pipeline safety regulations. The Secretary has delegated the authority in section 60102 to the Administrator of PHMSA (49 CFR 1.97).

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

E.O. 12866, ''Regulatory Planning and Review'' (58 FR 51735; Oct. 4, 1993), and DOT's regulatory policies and procedures require that PHMSA submit for review ''significant regulatory actions'' to the Office of Management and Budget (OMB). This NPRM is not a significant regulatory action under section 3(f) of E.O. 12866 and was therefore not reviewed by OMB. This NPRM also is not significant under the Department of Transportation's Policies and Procedures for Rulemaking (49 CFR part 5).

E.O. 12866 requires agencies to design regulations ''in the most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' PHMSA anticipates that, if promulgated, this NPRM, would have economic benefits to the public and the regulated community by reducing unnecessary cost burdens without increasing risks to public safety or the environment. PHMSA estimates the proposed rule will result in annualized cost savings of approximately $273,242 per year, based on a 7 percent discount rate. In support of this NPRM, PHMSA prepared an initial regulatory impact analysis (RIA) with estimated costs and benefits, which is available in the public docket.

C. Executive Order 13771—''Reducing Regulation and Controlling Regulatory Costs''

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's Preliminary RIA, which is available in the docket.

D. Executive Order 13132—''Federalism''

E.O. 13132 (64 FR 43255; Aug. 10, 1999) imposes certain requirements on Federal agencies formulating or implementing policies or regulations that preempt State law or that have federalism implications. This NPRM does not impose a substantial, direct effect on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. This NPRM also does not impose substantial direct compliance costs on State and local governments.

The proposed rule could have preemptive effect because the pipeline safety laws, specifically 49 U.S.C. 60104(c), prohibit State safety regulation of interstate pipelines. Under the pipeline safety law, States have the ability to augment pipeline safety requirements for intrastate pipelines but may not approve safety requirements less stringent than those required by Federal law. A State may also regulate an intrastate pipeline facility not otherwise covered by PHMSA regulations. In this instance, the preemptive effect of the proposed rule is limited to the minimum level necessary to achieve the objectives of the pipeline safety laws under which the proposed rule is promulgated. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

E. Executive Order 13175—''Consultation and Coordination With Indian Tribal Governments''

E.O. 13175, (65 FR 67249, Nov. 6, 2000), requires agencies to consider and consult with Tribal governments when formulating policies. PHMSA does not anticipate that this NPRM will significantly or uniquely affect Tribal governments or impose substantial direct compliance costs, so the funding and consultation requirements of E.O. 13175 do not apply. PHMSA invites Tribal communities and governments to comment on this NPRM.

F. Executive Order 13211—''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

E.O. 13211 (66 FR 28355, May 22, 2001) requires agencies to submit ''significant energy actions'' to OMB for review. This NPRM is not a ''significant energy action'' under E.O. 13211 because it is unlikely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, no additional analysis is necessary under E.O. 13211.

G. Executive Order 13272—''Regulatory Flexibility Act''

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), as amended, requires Federal agencies to consider the impact of their regulatory proposals on small entities' concerns into account when developing, writing, publicizing, promulgating, and enforcing regulations. PHMSA determined that, if finalized, the regulations in this NPRM would not have a significant economic impact on a substantial number of small entities. An analysis of the potential economic impacts of the proposed rule on small entities is included in the Initial Regulatory Flexibility Analysis, which is available for public review and comment in the docket for this rulemaking.

H. Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires Federal agencies to minimize paperwork burden imposed on the American public by ensuring maximum utility and quality of information collected by the Federal

government. PHMSA estimates that the proposals in this rulemaking will impact the information collections described below.

Based on the proposals in this rule, PHMSA will submit an information collection revision request to OMB for approval based on the requirements in this proposed rule. The information collection is contained in the pipeline safety regulations, 49 CFR parts 190 through 199. The following information is provided for each 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. The information collection burden for the following information collections are estimated to be revised as follows:

1. Title: Transportation of Hazardous Liquids by Pipeline: Record keeping and Accident Reporting.

OMB Control Number: 2137–0047.

Current Expiration Date: 01/31/2023.

Abstract: This information collection covers general recordkeeping and the collection of information from hazardous liquid pipeline operators for accident reports. PHMSA estimates that due to the revised monetary damage threshold for reporting accidents operators will submit 40 fewer hazardous liquid accident reports per year. Therefore, PHMSA expects to eliminate 40 responses and 40 hours to this information collection per year as a result of the provisions in the proposed rule.

Affected Public: All hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 1,192 (1,232 – 40).

Total Annual Burden Hours: 52,029 (52,429 – 400).

Frequency of Collection: Regular.

2. Title: Response Plans for Onshore Oil Pipelines.

OMB Control Number: 2137–0589.

Current Expiration Date: 06/30/2022.

Abstract: This information collection covers operators' submission of facility response plans for onshore hazardous liquid pipeline facilities. While the proposed rule would not reduce the number of required plan submissions, it would streamline some of the plan requirements, thereby reducing the burden hours per response. The proposed rule would reduce burden hours associated with justifying harm categories or preparing duplicate federal facility response plans in addition to state mandated response plans. Eliminating the expectation to submit paper copies of facility response plans will reduce reporting costs but not paperwork burden hours.

Affected Public: Onshore Hazardous Liquid Pipeline Operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 540.

Total Annual Burden Hours: 70,416 (73,980 – 3,564).

Frequency of Collection: On occasion.

I. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) requires Federal agencies to prepare and consider estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and Tribal governments before adopting such regulations. This NPRM imposes no unfunded mandates. If promulgated, this rule would not result in costs of $100 million, adjusted for inflation, or more in any one year to either State, local, or Tribal governments, in the aggregate, or to the private sector.

J. National Environmental Policy Act

The National Environmental Policy Act (42 U.S.C. 4321 *et. seq.*) requires Federal agencies to analyze the impacts to the environment. PHMSA analyzed this NPRM in accordance with Section 102(2)(c) of the Council on Environmental Quality regulations (40 CFR parts 1500 through 1508), and DOT Order 5610.1C. PHMSA has prepared a draft Environmental Assessment (EA) and has preliminarily determined this action will not significantly affect the quality of the human environment. A copy of the EA for this action is available in the docket. PHMSA invites comment on the environmental impacts of this proposed rulemaking.

K. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document is a cross-reference for this action to the Unified Agenda.

List of Subjects

49 CFR Part 190

Administrative practices and procedures, Penalties.

49 CFR Part 194

Environmental protection, Hazardous materials transportation, Incorporation by reference, Oil pollution, Petroleum, Pipeline safety, Pipelines, Reporting and recordkeeping requirements, Transportation, Water pollution control.

49 CFR Part 195

Hazardous materials transportation, Incorporation by reference, Integrity management, Pipeline safety, Pipelines.

For the reasons provided in the preamble, PHMSA proposes to amend 49 CFR parts 190, 194, and 195 as follows:

PART 190—PIPELINE SAFETY ENFORCEMENT AND REGULATORY PROCEDURES

■ 1. The authority citation for 49 CFR part 190 is revised to read as follows:

Authority: 33 U.S.C. 1321(b); 49 U.S.C. 60101 *et seq.;* and 49 CFR 1.97

■ 2. In § 190.203, revise paragraph (e) and add paragraph (g) to read as follows:

§ 190.203 Inspections and investigations.

* * * * *

(e) If a representative of the U.S. Department of Transportation inspects a pipeline facility or investigates an accident or incident involving a pipeline facility, the operator must make available to the representative, pursuant to paragraph (g) of this section, all records and information that pertain to the event in any way, including but not limited to integrity management plans and test results. The operator must provide all reasonable assistance in the inspection or investigation. Any person who obstructs an inspection or investigation by taking actions that were known or reasonably should have been known to prevent, hinder, or impede an investigation, without good cause will be subject to administrative civil penalties under this subpart.

* * * * *

(g) When an operator submits records in response to a PHMSA inspection or investigation under this section, the operator must provide the records via hard copy or use an electronic or digital method such as email, data-storage device, or other means that comply with this section.

(1) Any electronic system must permit PHMSA to download and print a copy of each record free of redactions, watermarks, or other alterations, from any U.S.-based internet access point. Any electronic system for delivering records to PHMSA must not include activation codes to begin an individual session, internet connectivity requirements to view downloaded documents, document tracking features, login time-out intervals shorter than one hour, or pre-access conditions.

(2) Where an operator submits electronic records to PHMSA, the documents must be submitted in their original format unless PHMSA allows an alternative format. If the original format allows an operator to magnify a document while maintaining legibility; search a record for text; or search for specific records by name, date, or file type, then the operator may not alter the format of the record prior to submission in a way that limits the ability of PHMSA to use the same capabilities.

(3) If an operator uses an electronic portal or other system to provide records to PHMSA, the operator must provide the PHMSA personnel conducting the inspection or investigation with a point of contact who is responsible for addressing reported problems with accessing the system or obtaining records using the system.

(4) If PHMSA determines the form in which the records are provided would impede or otherwise prevent the efficient review of records in an inspection or investigation, or if the system is otherwise in conflict with PHMSA regulations, PHMSA may order an operator to deliver records in an alternative way. If PHMSA finds that an operator or a system alters records to remove functionality in a way that impedes the agency's review, PHMSA may require the operator to resubmit records in their original form.

■ 3. In § 190.343, revise paragraphs (a) and (b) to read as follows:

§ 190.343 Information made available to the public and request for protection of confidential commercial information.

* * * * *

(a) *Asking for protection of confidential commercial information.* You may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps:

(1) Mark ''CONFIDENTIAL'' on each page of the original document containing information that you would like to keep confidential; and

(2) Explain in detail why the information you are submitting is confidential commercial information. General claims of confidentiality are not sufficient.

(3)(i) *Information submitted during a rulemaking proceeding or application for special permit or renewal.* When submitting information for a rulemaking proceeding or application for special permit or renewal, the submitter must send to PHMSA, along with the original document, a second copy of the original document with the confidential commercial information redacted.

(ii) *Information provided for any other reason.* When information is submitted for any reason other than that described in paragraph (a)(3)(i) of this section, the submitter may send to PHMSA, along with the original document, a second copy of the original document with the confidential commercial information redacted.

(b) *PHMSA decision.* If PHMSA decides to disclose the information, PHMSA will review your request to protect confidential commercial information under the criteria set forth in the Freedom of Information Act (FOIA), 5 U.S.C. 552, including following the consultation procedures set out in the Departmental FOIA regulations. 49 CFR 7.29. If PHMSA decides to disclose the information over your objections, we will notify you in writing at least five business days before the intended disclosure date.

PART 194—RESPONSE PLANS FOR ONSHORE OIL PIPELINES

■ 4. The authority citation for 49 CFR part 194 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; and 49 CFR 1.53.

■ 5. Revise § 194.3 to read as follows:

§ 194.3 Applicability.

(a) Except for the pipelines listed in paragraph (b) of this section, this part applies to an onshore oil pipeline that, because of its location, the operator determines that oil discharged from any point in the pipeline facility can be expected to adversely affect, within 12 hours after the initiation of the discharge, any navigable waters of the United States or adjoining shorelines, public drinking water intakes, or environmentally sensitive areas.

(b) This part does not apply to an onsore oil pipeline whose line section is 6⅝ inches (168 millimeters) or less in outside nominal diameter and is 10 miles (16 kilometers) or less in length, where the operator determines that it is unlikely that the worst-case discharge from any point on the line section would adversely affect, within 4 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas.

■ 6. Amend § 194.5 as follows:

■ a. Add the definition for ''Area Contingency Plan (ACP)'' in alphabetical order;

■ b. Remove the definition of ''Barrel'' and add the definition for ''Barrel (bbl)'' in its place;

■ c. Revise the definition of ''Contract or other approved means;''

■ d. Add the definition for ''Federal On-scene Coordinator (FOSC)'' in alphabetical order;

■ e. Remove the definitions of ''Major river;''

■ f. Add the definition for ''National Contingency Plan (NCP)'' in alphabetical order;

■ g. Remove the definition of ''On-Scene Coordinator (OSC);''

■ h. Revise the definition of ''Onshore oil pipeline facilities;''

■ i. Remove the definitions of ''Specified minimum yield strength'' and ''Stress level;''

■ j. Add the definition for ''Tertiary Containment'' in alphabetical order; and

■ k. Remove the definition for ''Worst case discharge'' and add the definition for ''Worst-case discharge'' in its place.

The additions and revisions read as follows:

§ 194.5 Definitions.

* * * * *

Area Contingency Plan (ACP) means an Area Contingency Plan prepared in accordance with 33 U.S.C. 1321 (j)(4) and 40 CFR 300.210(c). This is a reference document prepared for the use of all agencies engaged in responding to environmental emergencies within a defined geographic area.

Barrel (bbl) means a unit of volume equivalent to 42 United States gallons (159 liters) at 60 °Fahrenheit (15.6° Celsius).

* * * * *

Contract or other PHMSA-approved means is:

(1) A signed, active contract with an oil spill removal organization (OSRO) identifying and ensuring the availability of the necessary personnel or equipment within the stipulated response time in § 194.115;

(2) A written certification by the owner or operator that the necessary personnel or equipment can and will be made available by the owner or operator within the stipulated response times with supporting documentation to include a summary of any OSRO contracts, if applicable, with contract name, identifier and effective dates; or

(3) Documentation of active membership in an OSRO, cooperative, or mutual aid agreement that ensures the owner or operator's access to the necessary response personnel or equipment within the stipulated times.

* * * * *

Federal On-Scene Coordinator (FOSC) means the Federal official designated by the Administrator of the Environmental Protection Agency (EPA) or by the

Commandant of the United States Coast Guard (USCG) to coordinate and direct Federal response under subpart D of 40 CFR part 300.

* * * * *

National Contingency Plan (NCP) means the National Oil and Hazardous Substances Pollution Contingency Plan codified in 40 CFR part 300. The NCP provides the national-level organization structures and procedures for preparing for and responding to discharges of oil and other pollutants.

* * * * *

Onshore oil pipeline facilities mean new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of oil located landward of the ''coast line,'' as defined under the Submerged Lands Act of 1953 (43 U.S.C. 1301(c)).

* * * * *

Tertiary Containment means a dike, berm or another physical barrier that is outside of a ''secondary containment'' barrier.

Worst-case discharge means the largest foreseeable discharge of oil, including discharge from fire or explosion. This volume will be determined by each pipeline operator for each response zone and is calculated according to § 194.105.

■ 7. Revise § 194.7 to read as follows:

§ 194.7 Operating restrictions and interim operating authorization.

(a) Each operator of a pipeline subject to this part must prepare and submit a response plan to PHMSA as provided in § 194.119.

(b) An operator of a pipeline for which a response plan is required under this part may not handle, store, or transport oil in that pipeline unless the operator has submitted a response plan meeting the requirements of this part.

(c) An operator must operate its onshore pipeline facilities subject to this part in accordance with the response plan submitted to PHMSA.

(d) The operator of a pipeline facility subject to this part may continue to operate the pipeline for two years after the date of submission of a response plan, pending approval of a plan or finding that a plan does not meet all of the requirements of this part, only if the operator has submitted the certification required by § 194.119(e).

■ 8. Add § 194.9 to read as follows:

§ 194.9 What documents are incorporated by reference partly or wholly in this part?

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–4046 *https://www.phmsa.dot.gov/pipeline/regs,* and is available from the sources listed in paragraphs (a) through (c) of this section. It is also available for inspection 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 *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(a) American Petroleum Institute (API), 200 Massachusetts Avenue NW, Suite 1100, Washington, DC 20001, and phone: 202–682–8000, website: *https://www.api.org/.*

(1) ANSI/API Recommended Practice 651, ''Cathodic Protection of Aboveground Petroleum Storage Tanks,'' 3rd edition, January 2007, (ANSI/API RP 651), IBR approved for § 194.105(b).

(2) API Recommended Practice 2350, ''Overfill Protection for Storage Tanks in Petroleum Facilities,'' 3rd edition, January 2005, (API RP 2350), IBR approved for § 194.105(b).

(3) API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks,'' 11th edition February 2008 (including addendum 1 (March 2009), addendum 2 (August 2010), and addendum 3 (March 2012)), (API Std 620), IBR approved for § 194.105(b).

(4) API Standard 650, ''Welded Steel Tanks for Oil Storage,'' 11th edition, June 2007, effective February 1, 2012, (including addendum 1 (November 2008), addendum 2 (November 2009), addendum 3 (August 2011), and errata (October 2011)), (API Std 650), IBR approved for § 194.105(b).

(5) API Standard 653, ''Tank Inspection, Repair, Alteration, and Reconstruction,'' 3rd edition, December 2001, (including addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008)), (API Std 653), IBR approved for § 194.105(b).

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, phone: 617–984–7275, website: *https://www.nfpa.org/.*

(1) NFPA 30 (2012), ''Flammable and Combustible Liquids Code,'' including Errata 30–12–1 (9/27/11), and Errata 30–12–2 (11/14/11), 2012 edition, copyright 2011, (NFPA 30), IBR approved for § 194.105(b).

(2) [Reserved]

(c) United States Coast Guard (USCG), 2703 Martin Luther King Jr. Ave. SE, Washington, DC 20593, phone: 202–372–2231, and website: *https://www.uscg.mil.*

(1) ''Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program'' June 2019, IBR approved for § 194.107(c).

(2) [Reserved]

§ 194.101 [REMOVED AND RESERVED]

■ 9. Section 194.101 is removed and reserved.

§ 194.103 [REMOVED AND RESERVED]

■ 10. Section 194.103 is removed and reserved.

■ 11. Revise § 194.105 to read as follows:

§ 194.105 Worst-case discharge.

(a) Each operator must determine the worst-case discharge (WCD) for each of its response zones and provide the methodology, including all calculations, used to arrive at the volume.

(b) The WCD of each response zone is the largest of the volumes calculated in paragraphs (b)(1) and (2) of this section, as applicable. If a response zone contains both tanks and pipelines, operators must perform and provide the calculations for both, but the WCD remains the largest of the two.

(1) The WCD from a pipeline is calculated using one of the following methods:

(i) The pipeline's maximum release time in hours, plus the maximum shutdown response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) in the response zone expressed in barrels (cubic meters); or

(ii) A spill model that provides a description of the model in the methodology along with inputs and variables used by the model (to include, at a minimum: Pipe diameter, length, maximum flow rates, and detection and shutdown times). An operator must provide model outputs such as graphs or diagrams.

(2) The capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system, expressed in barrels. Operators may claim up to 75 percent prevention credits for breakout tank secondary containment and other specific spill prevention measures as follows:

Prevention measure	Standard (incorporated by reference, *see* § 194.9)	Credit (percent)
(i) Secondary containment >100%	NFPA 30	50
(ii) Built/repaired to API standards	API Std 620, API Std 650, API Std 653	10
(iii) Overfill protection standards	API RP 2350	5
(iv) Testing/cathodic protection	API Std 650, ANSI/API RP 651, API Std 653	5
(v) Tertiary containment or drainage/treatment	NFPA 30 (Drainage/Treatment)	5

■ 12. Revise § 194.107 to read as follows:

§ 194.107 General response plan requirements.

(a) Each response plan must include procedures and identify resources for responding to and mitigating a worst-case discharge from an onshore oil pipeline, including in adverse weather conditions. The operator must immediately carry out the provisions of the response plan whenever there is an oil discharge from the facility.

(b) Each response plan must be consistent with the National Oil and Hazardous Substance Pollution Contingency Plan (NCP) and the appropriate Area Contingency Plan(s) (ACPs). The requirements for consistency with the NCP and appropriate ACPs include the following:

(1) To be consistent with the NCP, a facility response plan must:

(i) Demonstrate an operator's clear understanding of the function of the Federal response structure, by providing procedures to notify the National Response Center that reflect the lead role of the Federal On-Scene Coordinator in pollution response; and

(ii) Establish provisions to ensure the protection of safety at the response site; and

(2) To be consistent with the applicable ACP the plan must:

(i) Identify and list the applicable ACPs;

(ii) Identify environmentally sensitive areas;

(iii) Establish procedures for obtaining permission for in-situ burning from the appropriate State or Federal authorities; and

(iv) If applicable, establish the procedures for obtaining an expedited decision on the use of dispersants or other chemicals.

(c) Each response plan must include:

(1) A core plan consisting of—

(i) An information summary as required in § 194.113;

(ii) Immediate notification procedures, including notification to the National Response Center in accordance with § 195.52;

(iii) Spill detection and mitigation procedures;

(iv) The name, address, and telephone number of the OSRO, if appropriate;

(v) Response activities;

(vi) A list of response resources, unless the operator provides evidence of a signed, current contract with an OSRO classified by the U.S. Coast Guard as a WCD Tier 1 organization, as defined and described in 33 CFR part 154 and ''Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program,'' for the operating environments (''River/Canal,'' ''Inland,'' or ''Great Lakes,'') applicable to the location of the pipeline;

(vii) Names and telephone numbers of Federal, State, and local agencies which the operator expects to have pollution control responsibilities or support;

(viii) Training procedures;

(ix) Equipment testing, if an operator owns its response equipment;

(x) Description of a drill and exercise program. An operator will satisfy the requirement for a drill and exercise program by following the current National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill and exercise program that is equivalent to current PREP guidelines. The operator must describe the drill program in the response plan and PHMSA's Office of Pipeline Safety (OPS) will determine if the program is equivalent to PREP;

(xi) Procedures to provide Safety Data Sheets meeting 29 CFR 1910.1200 to emergency responders and the FOSC within 6 hours of notice of a spill to the National Response Center; and

(xii) Plan review and update procedures;

(2) An appendix for each response zone that includes the information required in paragraphs (c)(1)(i) through (ix) of this section and the worst-case discharge calculations that are specific to that response zone. An operator submitting a response plan for a single response zone does not need to have a core plan and a response zone appendix. The operator of a single response zone must have a single summary in the plan that contains the required information in § 194.113; and

(3) A description of the operator's incident command system including the functional areas of finance, logistics, operations, planning, and command. The plan must demonstrate that the operator's incident command system uses common terminology and has a manageable span of control, a clearly defined chain of command, and sufficient trained personnel to fill each position.

■ 13. Revise § 194.109 to read as follows:

§ 194.109 Submission of state response plans.

(a) An operator may submit a response plan that complies with State law or regulation, if the State law or regulation requires a plan that provides equivalent or greater spill protection than a plan required under this part.

(b) A plan submitted under this section must:

(1) Have an information summary required by § 194.113; and

(2) Ensure through contract or other PHMSA-approved means the necessary private personnel and equipment to respond to a worst-case discharge or a substantial threat of such a discharge.

(c) An operator may submit a response plan prepared to comply with State law or regulation if the operator adds a DOT annex to the plan that meets all additional requirements of this part not addressed in the State plan.

■ 14. In § 194.113:

■ a. Revise paragraphs (a)(2), (b) introductory text, and (b)(3) and (4);

■ b. Remove paragraph (b)(5);

■ c. Redesignate paragraph (b)(6) as paragraph (b)(5); and

■ d. Revise newly redesignated paragraph (b)(5).

The revisions read as follows:

§ 194.113 Information summary.

(a) * * *

(2) A list of the response zone appendices for which the core plan is applicable.

(b) The information summary for each response zone appendix or for plans with a single response zone, required in § 194.107, must include:

* * * * *

(3) The description or map of the response zone, including county(s) and state(s), for each response zone;

(4) A list or map of line sections for each pipeline contained in the response zone, identified by milepost or survey station number, or other operator

designation. If an operator has submitted the PHMSA issued Facility Response Plan (FRP) identification number in its submission to the National Pipeline Mapping System (NPMS) in accordance with § 191.29 of this chapter, they may reference the NPMS to satisfy this requirement; and

(5) The type of oil and volume of the worst-case discharge.

■ 15. Revise § 194.115 to read as follows:

§ 194.115 Response resources.

(a) Each operator must identify and ensure the resources necessary to remove or mitigate to the maximum extent practicable, a worst-case discharge in accordance with 33 CFR part 154, appendix C. Each operator must provide documentation of these resources by contract or other PHMSA-approved means.

(b) When determining the necessary resources for each response tier in accordance with paragraph (a) of this section, an operator must use the response times specified in paragraphs (b)(1) and (2) of this section, rather than the times referenced in 33 CFR part 154, appendix C. Tier 1, Tier 2, and Tier 3 are different levels of response resources; Tier 1 represents the resources available within 12 hours (6 hours in a high-volume area) for an initial local response, while Tier 3 represents national-level resources available within 60 hours (54 hours in a high-volume area) that may be needed for spills with extensive impacts.

	Tier 1—initial local response	Tier 2—regional response	Tier 3—national response
(1) High-volume area	6 hrs.	30 hrs.	54 hrs.
(2) All other areas	12 hrs.	36 hrs.	60 hrs.

■ 16. Revise § 194.119 to read as follows:

§ 194.119 Submission and approval procedures.

(a) Each operator must submit an electronic copy of the response plan required by this part. The response plan must be submitted to *PHMSA.OPA90@DOT.GOV* or other PHMSA-approved electronic means.

(b) If PHMSA determines that a response plan does not meet all the requirements of this part, PHMSA will notify the operator of any alleged deficiencies. The operator has an opportunity to respond to PHMSA's notice within 30 days of issuance, including the opportunity for an informal conference, on any proposed plan revisions and an opportunity to correct any deficiencies.

(c) An operator who disagrees with PHMSA's determination that a plan contains alleged deficiencies may petition PHMSA for reconsideration within 30 days from the date of receipt of PHMSA's notice. After considering all relevant material presented in writing or at an informal conference, PHMSA will notify the operator of its final decision. The operator must comply with the final decision within 30 days of issuance unless PHMSA allows additional time.

(d) PHMSA will approve the response plan if PHMSA determines that the response plan meets all requirements of this part. PHMSA may consult with the EPA or the USCG if a FOSC has concerns about the operator's ability to respond to a worst-case discharge.

(e) If PHMSA has not approved a response plan for a pipeline described in this part, the operator may submit a certification to PHMSA that the operator has obtained, through contract or other approved means, the necessary personnel and equipment to respond to a worst-case discharge or a substantial threat of such a discharge to the maximum extent practicable. The certificate must be signed by the qualified individual or an appropriate corporate officer.

(f) If PHMSA receives a request from an FOSC to review a response plan, PHMSA may provide a copy of the response plan to the FOSC. PHMSA may consider FOSC comments on response techniques, protecting fish, wildlife, and sensitive environments, and on consistency with the ACP. PHMSA remains the approving authority for the response plan.

■ 17. In § 194.121, revise paragraphs (a), (b)(1), (7), and (8), and (c) to read as follows:

§ 194.121 Response plan review and update procedures.

(a) Each operator must update its response plan to address new or different operating conditions or information. In addition, each operator must review and resubmit its response plan in full at least every 5 years from the date of the last approval.

(b) * * *

(1) A new oil pipeline or an extension of an existing pipeline in a response zone where the new or extended pipeline is not covered by a previously approved plan prior to filling the pipeline with oil. An operator must include a list or map of the new oil pipeline or extension if the information is not available in NPMS per § 194.113(b)(4);

* * * * *

(7) A change in the NCP or an ACP that has a significant impact on the equipment appropriate for response activities; and

(8) Any other information relating to circumstances that may affect the full implementation of the plan.

(c) If PHMSA determines that a change to a response plan does not meet the requirements of this part, PHMSA will notify the operator of any alleged deficiencies, and provide the operator an opportunity to respond to PHMSA's notice within 30 days, including an opportunity for an informal conference, to any proposed plan revisions and an opportunity to correct any deficiencies.

* * * * *

■ 18. Amend appendix A to part 194 as follows:

■ a. In ''Response Plan: Section 1. Information Summary,'' revise paragraphs (a)(2) and (b)(3) and (4), remove paragraph (b)(5), redesignate paragraph (b)(6) as paragraph (b)(5), and revise newly redesignated paragraph (b)(5);

■ b. In ''Response Plan: Section 2. Notification Procedures,'' revise paragraph (a);

■ c. In ''Response Plan: Section 4. Response Activities,'' revise paragraph (d);

■ d. In ''Response Plan: Section 5. List of Contacts,'' revise the introductory text;

■ e. In ''Response Plan: Section 7,'' revise the heading and paragraphs (a) and (b)(2); and

■ f. In ''Response plan: Section 9. Response Zone Appendices,'' revise paragraphs (a), (d), (e), and (k)(2).

The revisions read as follows:

Appendix A to Part 194—Guidelines for the Preparation of Response Plans

* * * * *

Response Plan: Section 1. Information Summary

* * * * *

(a) * * *

(2) A list of response zone appendices applicable to the core plan.

(b) * * *

(3) A description or map of the response zone, including county(s) and state(s);

(4) A list of line sections contained in the response zone, identified by milepost or survey station number or other operator designation or statement that the PHMSA assigned FRP identification is provided in the National Pipeline Mapping System; and

(5) The type of oil and volume of the worst-case discharge.

* * * * *

Response Plan: Section 2. Notification Procedures

* * * * *

(a) Notification requirements that apply in each area of operation of pipelines covered by the plan, including notification to the National Response Center and applicable State or local requirements;

* * * * *

Response Plan: Section 4. Response Activities

* * * * *

(d) Oil spill removal organizations available, through contract or other approved means, to respond to a worst-case discharge to the maximum extent practicable; and

* * * * *

Response Plan: Section 5. List of Contacts

Section 5 would include the names and addresses of the following individuals or organizations, with 10-digit telephone numbers at which they can be contacted on a 24-hour basis:

* * * * *

Response Plan: Section 7. Drill and Exercise Procedures

* * * * *

(a) Announced and unannounced exercises;

(b) * * *

(2) Exercises involving emergency actions by assigned operating or maintenance personnel and notification of the qualified individual on pipeline facilities that are normally unattended conducted quarterly.

* * * * *

Response Plan: Section 9. Response Zone Appendices.

* * * * *

(a) The names and 10-digit telephone numbers of the qualified individuals;

* * * * *

(d) Name, address, and telephone number of the OSRO;

(e) Response activities and response resources including—

(1) Equipment and supplies necessary to meet § 194.115;

(2) The trained personnel necessary to sustain operation of the equipment and to staff the OSRO and incident management team for the first 7 days of the response; and

(3) Procedures to obtain permission to use applicable alternative response strategies, such as in-situ burning or dispersants, consistent with applicable ACPs;

* * * * *

(k) * * *

(2) Procedures to provide Safety Data Sheets meeting 29 CFR 1910.1200 to emergency responders and the FOSC within 6 hours of a spill.

Appendix B to Part 194 [Amended]

■ 19. In appendix B to part 194, add ''The Great Lakes'' to the list of ''Other Navigable Waters'' in alphabetical order.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 20. Revise the authority citation for part 195 to read as follows:

Authority: 30 U.S.C. 185(w)(3), 49 U.S.C. 5103, 60101 *et seq.,* and 49 CFR 1.97.

■ 21. In § 195.3, revise paragraphs (a) and (b) introductory text to read as follows:

§ 195.3 What documents are incorporated by reference partly or wholly in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–4046, *https://www.phmsa.dot.gov/pipeline/regs,* and is available from the sources listed in this section. It is also available for inspection 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 *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) American Petroleum Institute (API), 200 Massachusetts Ave NW, Suite 1100, Washington, DC 20001, and phone: 202–682–8000, website: *https://www.api.org/.*

* * * * *

■ 22. In § 195.50, revise paragraph (e) to read as follows:

§ 195.50 Reporting accidents.

* * * * *

(e) Estimated property damage, including the cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $118,000.

■ 23. In § 195.52, revise paragraph (a)(3) to read as follows:

§ 195.52 Immediate notice of certain accidents.

(a) * * *

(3) Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $118,000;

* * * * *

■ 24. In § 195.573, revise paragraph (c) to read as follows:

§ 195.573 What must I do to monitor external corrosion control?

* * * * *

(c) *Rectifiers and other devices.* Any device listed in table 2 to this paragraph (c) must be periodically electrically checked to ensure that adequate amperage and voltage levels needed to provide cathodic protection are maintained. An operator may perform checks at the equipment's physical location or by remote monitoring. The second column of table 2 to this paragraph (c) prescribes minimum frequencies for checks required for devices listed in the first column.

TABLE 2 TO PARAGRAPH (C)

Device	Minimum frequency for checks
Rectifier Reverse current switch Diode.	At least six times each calendar year, but with intervals not exceeding 2½ months between inspections.
Interference bond whose failure would jeopardize structural protection.	
Other interference bond.	At least once each calendar year, but with intervals not exceeding 15 months between inspections.

(1) Inspections may be done through remote measurement or through an onsite inspection of the device.

(2) Each remotely monitored rectifier must be physically inspected for continued safe and reliable operation whenever cathodic protection tests occur pursuant to paragraph (a)(1) of this section.

* * * * *

■ 25. Amend appendix C to part 195 as follows:

■ a. Revise the introductory text and paragraphs I.B(3) and (6) through (11);

■ b. Remove paragraph I.B(12); and

■ c. Revise paragraphs II.A(11), (15), and (17).

The revisions read as follows:

Appendix C to Part 195—Guidance for Implementation of an Integrity Management Program

This appendix gives guidance to help an operator implement integrity management

program requirements in §§ 195.450 and 195.452. This appendix is intended to give advice to operators on how to implement the requirements of the integrity management requirements. This appendix is not legally binding and conformity with this appendix is voluntary only. However, if an operator incorporates parts of this appendix into its integrity management program, the operator must then comply with those provisions. Guidance is provided on:

(1) Information an operator may use to identify a high consequence area and factors an operator can use to consider the potential impacts of a release on an area;

(2) Risk factors an operator can use to determine an integrity assessment schedule;

(3) Safety risk indicator tables for leak history, volume or line size, age of pipeline, and product transported, an operator may use to determine if a pipeline segment falls into a high, medium or low risk category;

(4) Types of internal inspection tools an operator could use to find pipeline anomalies;

(5) Measures an operator could use to measure an integrity management program's performance; and

(6) Types of records an operator will have to maintain.

(7) Types of conditions that an integrity assessment may identify that an operator should include in its required schedule for evaluation and remediation.

I. * * *

B. * * *

(3) Crossing of farm tile fields. Using available information and knowledge, an operator should consider the possibility of spillage in a field following a drain tile into a waterway.

* * * * *

(6) Operating conditions of the pipeline (pressure, flow, mode of operation, etc.).

(7) The hydraulic gradient of the pipeline.

(8) The diameter of the pipeline, the potential release volume, and the distance between the isolation points.

(9) Potential physical pathways between the pipeline and the high-consequence area.

(10) Response capability (time to respond, nature of response).

(11) Potential of terrain and waterways to be flooded and serve as a conduit to a high consequence area.

II. * * *

A. * * *

(11) Location related to potential flooding or ground movement (*e.g.,* flood zones, seismic faults, rock quarries, and coal mines); climatic (permafrost causes settlement—Alaska); geologic (earthquakes, landslides or subsidence areas).

* * * * *

(15) Operating conditions of the pipeline (pressure, stress levels, flow rate, etc.). Consider if the pipeline has been exposed to an operating pressure exceeding the established maximum operating pressure.

* * * * *

(17) Physical support of the pipeline segment such as by a cable suspension bridge. An operator should look for stress indicators on the pipeline (strained supports, inadequate support at towers), atmospheric corrosion, vandalism, and other obvious signs of improper maintenance.

* * * * *

Issued in Washington, DC on March 13, 2020, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–05721 Filed 4–15–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 299

[Docket No. FRA–2019–0068, Notice No. 4]

RIN 2130–AC84

Texas Central Railroad High-Speed Rail Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Proposed rule; announcement of telephonic public hearings and comment period extension.

SUMMARY: On March 10, 2020, FRA published a notice of proposed rulemaking (NPRM) that would establish safety standards for the Texas Central Railroad (TCRR) high speed rail system. On March 12, 2020, FRA announced three public hearings to provide members of the public an opportunity to provide oral comments on the proposed safety requirements, which were subsequently postponed on March 30, 2020. FRA is now announcing the rescheduling of the public hearings. Additionally, FRA is extending the comment period to May 26, 2020, to afford members of the public time to comment on opinions and views expressed during these hearings, that will be captured in a transcript of the proceedings and placed in the rulemaking docket.

DATES: The comment period for the proposed rule published on March 10, 2020 (85 FR 14036), is extended and now closes on May 26, 2020. Written comments in response to views or information provided at the public hearings must be received by May 26, 2020.

The public hearings will be conducted on the following dates at the following times (members of the public will be able to call into each telephonic hearing 30 minutes prior to the start of each hearing):

- *Hearing 1:* May 4, 2020, from 5 p.m. (EDT) to 10 p.m. (EDT).
- *Hearing 2:* May 5, 2020, from 6 p.m. (EDT) to 10 p.m. (EDT).
- *Hearing 3:* May 6, 2020, from 6 p.m. (EDT) to 10 p.m. (EDT).

ADDRESSES: Written comments in response to views or information provided at the public hearings may be submitted by any of the methods listed in the NPRM. *See* 85 FR 14036.

The public hearings will be held telephonically. For more logistical information on the public hearings please visit *https://railroads.dot.gov/legislation-regulations/TCRR-NPRM.* Please note that participation in each hearing will be limited to the first 300 callers.

Dial-in phone numbers and participant access codes for each hearing are as follows:

- *Hearing 1:* Phone number: 844–721–7241; participant access code: 6322460.
- *Hearing 2:* Phone number: 844–721–7241; participant access code: 6441451.
- *Hearing 3:* Phone number: 844–291–5491; participant access code: 8976262.

FOR FURTHER INFORMATION CONTACT: Mr. Kenton Kilgore, Program Analyst, Federal Railroad Administration, Office of Railroad Safety (telephone: (202) 493–6286; email: *Kenton.Kilgore@dot.gov*); or Mr. Michael Hunter, Attorney Adviser, Federal Railroad Administration, Office of Chief Counsel, (telephone: (202) 493–0368; email: *Michael.Hunter@dot.gov*).

SUPPLEMENTARY INFORMATION:

Prior Public Engagement as Part of the Environmental Review Process

In its March 12, 2020, announcement of the public hearings, FRA briefly discussed prior public engagement that was part of the environmental review process. *See* 84 FR 14449. While not repeating that discussion here, FRA still wishes to draw attention to those prior opportunities, reiterate that it is considering all comments received, and make clear that it will provide responses to the comments submitted during the public comment period for the draft environmental impact statement (EIS) in the final EIS. FRA anticipates releasing the final EIS in late Spring of this year.

Public Hearings To Receive Oral Comment on the NPRM—Purpose and Scope

As stated above, FRA published the NPRM proposing safety requirements specific to the TCRR high-speed rail system, and opened the public comment period on March 10, 2020. *See* 85 FR 14036. On March 12, 2020, FRA

announced it had scheduled three public hearings to be conducted in Dallas, Navasota, and Houston, Texas, between March 31 and April 2, 2020. *See* 85 FR 14449.

However, in light of the President's March 13, 2020, Proclamation on Declaring a National Emergency concerning the Novel Coronavirus Disease 2019 (COVID–19) public health emergency, and the Centers for Disease Control and Prevention (CDC) guidance to cancel mass gatherings of people,[1] FRA postponed the three public hearings in a March 30, 2020 **Federal Register** publication (85 FR 17527). FRA is now announcing the rescheduling of those hearings to provide an opportunity for additional public participation. Consistent with CDC guidelines advising against in-person gatherings,[2] FRA has decided to convene three telephonic public hearings. The choice to conduct these hearings telephonically represents merely a change in the manner of public engagement. As the medium of these hearings is telephonic (there is no web-based application being used as part of these hearings), members of the public, regardless of phone technology used, will be able to participate.[3] FRA anticipates being able to accommodate the same number of participants at each telephonic hearing as during the in-person hearings, and does not believe there will be any degradation in the quality of the opinions and views expressed during a telephonic hearing, as compared to an in-person hearing. Further, FRA will consider all comments received during these telephonic hearings just as it would if the comments were received at an in-person hearing.

As with the in-persons hearings, members of the public are invited to present oral statements, and to offer information and views about the technical safety requirements proposed in the NPRM at the upcoming hearings. Unlike the public hearings conducted for the environmental review, the purpose and scope of these hearings is to receive oral comments only on the technical safety requirements proposed in the NPRM and its associated economic analysis. The NPRM public hearings are not a forum for debate on the merits of the project as a whole, or to provide comment on proceedings outside of the NPRM, such as the environmental review process. Rather, the NPRM hearings are meant to help inform FRA's decisions regarding the technical safety requirements proposed in the NPRM and its associated economic analysis. The hearings on the NPRM will be conducted by representatives of FRA designated under FRA's Rules of Practice (49 CFR 211.25). The rules of evidence will not apply. The hearings will be informal, which means that they are non-adversarial proceedings and there will be no cross examination of persons presenting statements or offering evidence. These hearings are an opportunity to provide relevant technical information to FRA regarding the proposed requirements and associated economic analysis, and a mechanism to place that information in the record for review and consideration by FRA.

Exemption for Technological Improvements—Proceedings Under 49 U.S.C. 20306

As a part of only Hearing 1, FRA will conduct proceedings under 49 U.S.C. 20306 to determine whether to invoke its discretionary authority to provide relief to TCRR from certain requirements of 49 U.S.C. ch. 203 for its planned operation of new high-speed trainsets built to the proposed requirements contained in the NPRM. FRA will conduct these proceedings during the first hour of the hearing.

Under 49 U.S.C. 20306, FRA may exempt TCRR from the above-identified statutory requirements based on evidence received and findings developed at a hearing demonstrating that the statutory requirements ''preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.'' Accordingly, to receive such evidence and develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 in this instance, proceedings will be conducted as part of Hearing 1 scheduled for Monday, May 4, 2020 at 5:00 p.m. (EDT). Interested parties are invited to present oral statements at the hearing regarding the technical information presented in the NPRM addressing the application of 49 U.S.C. ch. 203. Again, as mentioned above, this part of the proceedings will be an informal hearing limited in scope to the technical information presented regarding the proposed requirements concerning safety appliances, and is not a forum to generally debate the project or other proceedings outside of the rulemaking.

In its rulemaking petition, submitted April 16, 2016, TCRR requested FRA exercise its authority under 49 U.S.C. 20306 to exempt its high-speed passenger rail trainsets from the requirements of 49 U.S.C. 20302, mandating that railroad vehicles be equipped with (1) secure sill steps and efficient hand brakes; (2) secure grab irons or handholds on vehicle ends and sides for greater security to individuals coupling and uncoupling vehicles; and (3) the standard height of drawbars. *See* 49 U.S.C. 20302(a)(1)(B), (a)(2), and (a)(3).

In support of its request for an exemption, TCRR noted in its petition that safety appliances such as sill steps or end or side handholds are typically used in conventional North American practice by maintenance personnel who ride the side of trainsets in yards or maintenance facilities for marshalling operations. The N700 series trainset, as proposed in the NPRM, is a fixed-consist trainset where trainset make-up only occurs in defined locations where maintenance personnel can safely climb on, under, or between the equipment, consistent with the protections afforded under 49 CFR part 218. Additionally, the leading and trailing ends of the N700 series trainset are equipped with an automatic coupler located behind a removable shroud. These couplers, as proposed by TCRR, will only be used for rescue operations in accordance with TCRR's operating rules, and provide for the safe coupling of one trainset to another (*i.e.,* each end will have automatic self-centering couplers that couple to other trainsets on impact and uncouple by mechanisms that do not require a person to go between trainsets or the activation of a traditional uncoupling lever). Further, as proposed, level boarding will be provided at all locations in trainset maintenance facilities where crew and maintenance personnel are normally required to access or disembark trainsets. Moreover, because the equipment is a fixed-consist trainset in which individual vehicles are semi-permanently coupled and, as noted above, individual vehicles can only be disconnected in repair facilities where personnel can work on, under, or between units under protections consistent with 49 CFR part 218, TCRR asserts that having drawbars at the statutorily prescribed height is unnecessary.

As such, TCRR believes there is not a functional need to equip the ends of the trainsets with sill steps, end or side handholds, or uncoupling levers. As this technology is intended to operate at

[1] *See https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html.*

[2] *Id.*

[3] Please note that FRA is not making any representations about the connection of any one member of the public's individual phone. Technical issues that arise between a member of the public and their individual phone provider are outside of FRA's control.

high-speeds, the inclusion of these appurtenances would have a significant and detrimental impact on the aerodynamics of the trainset. This increase in the aerodynamic footprint would negatively impact both efficiency and aerodynamic noise emissions according to TCRR.

TCRR also noted that trainset securement will be provided using wheel chocks in addition to stringent operating rules and procedures, which will be consistent with the service-proven procedures utilized on the Tokaido Shinkansen. Additionally, as proposed in the NPRM, TCRR will be required to demonstrate, as part of its vehicle qualification procedures, that the procedures effectively secure the trainset (see proposed § 299.607).

In sum, TCRR asserted that requiring compliance with the identified statutory requirements would serve to preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

Procedures for Public Participation in the Hearings on the NPRM

At each NPRM hearing, FRA representatives will make opening statements reiterating the scope of the hearing as described above, and any relevant procedures to be followed at the hearing. Following FRA's opening statements, there will be an opportunity for members of the public to present a brief oral comment on the record. Time permitting, FRA will allow everyone who desires to provide an oral comment at a hearing the opportunity to do so. Those members of the public wishing to make a statement at the hearing will be required to follow those procedures announced at the hearings to indicate a desire to make a statement.

FRA will generally limit the duration of individual presentations, as necessary, to afford all persons who wish to speak the opportunity to do so. However, during the proceedings under 49 U.S.C. 20306, conducted as part of Hearing 1, TCRR may be afforded additional time to present information to support its request for FRA to invoke its discretionary authority under 49 U.S.C. 20306.

At each hearing, FRA will announce additional procedures that may be necessary for the conduct of the hearing, including the specific time limit for individual presentations. FRA reserves the right to limit participation in the hearing of persons who exceed their allotted time, or who discuss topics or issues outside the scope of the proposed rulemaking.

The proceedings will be recorded, with transcripts prepared. FRA will add the transcripts of the hearings to the public docket in this rulemaking proceeding.

For information on services for persons with disabilities, please contact FRA Program Analyst, Mr. Kenton Kilgore, at least 5 working days before the date of the hearing by one of the means listed in the **FOR FURTHER INFORMATION CONTACT** section.

Extension of Comment Period

As the comment period for the NPRM published on March 10, 2020, closes on May 11, 2020, and the public hearings are scheduled for May 4–6, 2020, FRA is extending the comment period so that it now closes on May 26, 2020. FRA is extending the comment period so that members of the public have adequate time to review and provide written comments on the transcripts of the three public hearings conducted. All written comments must now be submitted by May 26, 2020. Written comments submitted after that date will be considered to the extent practicable.

FRA notes that it received numerous requests not to hold ''virtual hearings,'' due to concerns over the lack of reliable high-speed internet access, and/or to indefinitely postpone hearings until they can be safely held in person. In response, FRA has shifted these hearings to telephone-only hearings, which will be able to accommodate the same number of participants as the previously scheduled in-person hearings, in a manner that is consistent with ensuring public health, and that does not require any technology beyond a telephone. We have also extended the comment period to ensure the opportunity to comment on any safety issues raised in the hearing. However, given the extensive public outreach already conducted related to this proposed rule, and the supplementary nature of the public hearings as related to the opportunity to provide detailed written comments on the proposed rule, in consultation with Office of Information and Regulatory Affairs, FRA has determined that there is no need to further postpone the public hearings or further extend the comment period.

Issued in Washington, DC, on April 13, 2020.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–08015 Filed 4–13–20; 4:15 pm]

BILLING CODE 4910–06–P

Notices

Federal Register

Vol. 85, No. 74

Thursday, April 16, 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

Agricultural Marketing Service

[Document No. AMS–LRRS–20–0033]

2020/2021 Rates Charged for AMS Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the 2020/2021 rates it will charge for voluntary grading, inspection, certification, auditing, and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, and cotton and tobacco. The 2020/2021 regular, overtime, holiday, and laboratory services rates will be applied at the beginning of the crop year, fiscal year or as required by law depending on the commodity. Other starting dates are added to this notice based on cotton industry practices. This action establishes the rates for user-funded programs based on costs incurred by AMS. This year, all AMS user fee rates will remain unchanged.

DATES: April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Charles Parrott, AMS, U.S. Department of Agriculture, Room 3070–S, 1400 Independence Ave. SW, Washington, DC 20250; telephone (202) 260–9144, fax (202) 692–0313, email *charles.parrott@usda.gov.*

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as amended, (AMA) (7 U.S.C. 1621–1627), provides for the collection of fees to cover costs of various inspection, grading, certification or auditing services covering many agricultural commodities and products. The AMA also provides for the recovery of costs incurred in providing laboratory services. The Cotton Statistics and Estimates Act (7 U.S.C. 471–476) and the U.S. Cotton Standards Act (7 U.S.C. 51–65) provide for classification of cotton and development of cotton standards materials necessary for cotton classification. The Cotton Futures Act (7 U.S.C. 15b) provides for futures certification services and the Tobacco Inspection Act (7 U.S.C. 511–511s) provides for tobacco inspection and grading. These Acts also provide for the recovery of costs associated with these services.

On November 13, 2014, the Department of Agriculture (Department) published in the **Federal Register** a final rule that established standardized formulas for calculating the fees charged by AMS user-funded programs (79 FR 67313). Every year since then, the Department has published in the **Federal Register** a notice announcing the rates for its user-funded programs.

This notice announces the 2020/2021 fee rates for voluntary grading, inspection, certification, auditing, and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, and cotton and tobacco on a per-hour rate and, in some instances, the equivalent per-unit cost. The per-unit cost is provided to facilitate understanding of the costs associated with the service to the industries that historically used unit-cost basis for payment. The fee rates will be effective at the beginning of the fiscal year, crop year, or as required by specific laws.

The rates reflect direct and indirect costs of providing services. Direct costs include the cost of salaries, employee benefits, and, if applicable, travel and some operating costs. Indirect or overhead costs include the cost of Program and Agency activities supporting the services provided to the industry. The formula used to calculate these rates also includes operating reserve, which may add to or draw upon the existing operating reserves.

These services include the grading, inspection or certification of quality factors in accordance with established U.S. Grade Standards or other specifications; audits or accreditation according to International Organization for Standardization (ISO) standards and/or Hazard Analysis and Critical Control Point (HACCP) principles; and other marketing claims. The quality grades serve as a basis for market prices and reflect the value of agricultural commodities to both producers and consumers. AMS' grading and certification, audit and accreditation, plant process and equipment verification, and laboratory approval services are voluntary tools paid for by the users on a fee-for-service basis. The agriculture industry can use these tools to promote and communicate the quality of agricultural commodities to consumers. Laboratory services are provided for analytic testing, including but not limited to chemical, microbiological, biomolecular, and physical analyses. AMS is required by statute to recover the costs associated with these services.

As required by the Cotton Statistics and Estimates Act (7 U.S.C. 471–476), consultations regarding the establishment of the fee for cotton classification with U.S. cotton industry representatives are held in the beginning of the year when most industry stakeholder meetings take place. Representatives of all segments of the cotton industry, including producers, ginners, bale storage facility operators, merchants, cooperatives, and textile manufacturers were informed of the fees during various industry-sponsored forums.

Rates Calculations

AMS calculated the rate for services, per hour per program employee, using the following formulas (a per-unit base is included for programs that charge for services on a per-unit basis):

(1) *Regular rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours for the previous year, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable,

travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

All rates are per-hour except when a per-unit cost is noted. The specific amounts in each rate calculation are available upon request from the specific AMS program.

2020/2021 RATES

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Cotton Fees					
7 CFR Part 27—Cotton Classification Under Cotton Futures Legislation Subpart A—Regulations; §§ 27.80–27.90 Costs of Classifications and Micronaire					
Cotton Standardization					
Certification for Futures Contract (Grading services for samples submitted by CCC-licensed samplers).	$4.25/bale			X	August 1, 2020.
Transfer of Certification Data to New Owner or Certified Warehouse (Electronic transfer performed).	$0.20/bale			X	August 1, 2020.
7 CFR Part 28—Cotton Classing, Testing, and Standards Subpart A—Regulations Under the United States Cotton Standards Act; §§ 28.115–28.126 Fees and Costs Subpart D—Cotton Classification and Market News Service for Producers; § 28.909 Costs; § 28.910 Classification of Samples and Issuance of Classification Data; § 28.911 Review Classification.					
Cotton Grading					
Form 1: Grading Services for Producers (submitted by licensed sampler).	$2.30/bale			X	July 1, 2020.
Form 1 Review (new sample submitted by licensed sampler).	$2.30/bale			X	July 1, 2020.
Form A Determinations (sample submitted by licensed warehouse).	$2.30/bale			X	July 1, 2020.
Form C Determinations (sample submitted by non-licensed entity; bale sampled under USDA supervision).	$2.30/bale			.....	July 1, 2020.
Form D Determination (sample submitted by owner or agent; classification represents sample only).	$2.30/bale			X	July 1, 2020.
Foreign Growth Classification (sample of foreign growth cotton submitted by owner or agent; classification represents sample only).	$6.00/sample			X	August 1, 2020.
Arbitration (comparison of a sample to the official standards or a sample type).	$6.00/sample			X	August 1, 2020.
Practical Cotton Classing Exam (for non-USDA employees).	Exam: $150/applicant Reexamination: $130/applicant			X	July 1, 2020.
Special Sample Handling (return of samples per request).	$0.50/sample			X	July 1, 2020.
Electronic Copy of Classification Record	$0.05/bale ($5.00/month minimum with any records received)			X	July 1, 2020.
Form A Rewrite (reissuance of Form 1, Form A, or Futures Certification data or combination).	$0.15/bale or $5.00/page minimum			X	August 1, 2020.
Form R (reissuance of Form 1 classification only)	$0.15/bale or $5.00/page minimum			X	July 1, 2020.
International Instrument Level Assessment	$4.00/sample			X	July 1, 2020.

2020/2021 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Dairy Fees					
7 CFR Part 58—Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products; §§ 58.38–58.46 Fees and Charges					
Continuous Resident Grading Service	$76.00	$90.92	$107.24	X	October 1, 2020.
Non-resident and Intermittent Grading Service; State Graders; Equipment Review.	$82.00	$96.76	$116.64	X	October 1, 2020.
Non-resident Services 6pm-6am (10 percent night differential).	$90.20	$106.44	$128.32	X	October 1, 2020.
Export Certificate Services	$82.00	N/A	N/A		October 1, 2020.
Special Handling	$41.00	N/A	N/A		October 1, 2020.
Fax Charge	$4.00	N/A	N/A		October 1, 2020.
Derogation Application	$123.00	N/A	N/A		October 1, 2020.
Specialty Crops Fees					
7 CFR Part 51—Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards) Subpart A—Regulations; §§ 51.37–51.44 Schedule of Fees and Charges at Destination Markets § 51.45 Schedule of Fees and Charges at Shipping Point Areas					
Quality and Condition Inspections for Whole Lots	$210.00 per lot				October 1, 2020.
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots.	$174.00 per lot				October 1, 2020.
Condition—Half Lot	$161.00 per lot				October 1, 2020.
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product.	$96.00 per lot				October 1, 2020.
Dockside Inspections—Each package weighing < 30 lbs..	$0.044 per pkg.				October 1, 2020.
Dockside Inspections—Each package weighing > 30 lbs..	$0.068 per pkg.				October 1, 2020.
Charge per Individual Product for Dockside Inspection	$210.00 per lot				October 1, 2020.
Charge per Each Additional Lot of the Same Product	$96.00 per lot				October 1, 2020.
Inspections for All Hourly Work	$93.00	$125.00	$157.00		October 1, 2020.
Audit Services—Federal	$115.00				October 1, 2020.
Audit Services—State	$115.00				October 1, 2020.
GFSI Certification Fee	$250 per audit				October 1, 2020.
7 CFR Part 52—Processed Fruits and Vegetables, Processed Products Thereof, and Other Processed Food Products Subpart—Regulations Governing Inspection and Certification; §§ 52.41–52.51 Fees and Charges					
Lot Inspections	$75.00	$104.00	$133.00		October 1, 2020.
In-plant Inspections Under Annual Contract (year-round).	$75.00	$103.00	$130.00		October 1, 2020.
Additional Graders (in-plant) or Less Than Year-Round.	$85.00	$114.00	$142.00		October 1, 2020.
Audit Services—Federal	$115.00				October 1, 2020.
Audit Services—State	$115.00				October 1, 2020.

2020/2021 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
GFSI Certification Fee	$250 per audit			.....	October 1, 2020.
Meat Fees					
7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards) Subpart A—Regulations; §§ 54.27–54.28 Charges for Service					
Scheduled Grading	$84.00	$103.00	$121.00	X	October 1, 2020.
Unscheduled Grading	$114.00	$132.00	$154.00	.....	October 1, 2020.
Scheduled Night Differential (6 p.m.–6 a.m.)	$93.00	$113.00	$121.00	X	October 1, 2020.
7 CFR Part 62—Livestock, Meat and Other Agricultural Commodities (Quality Systems Verification Programs) Subpart A—Quality Systems Verification Definitions § 62.300 Fees and Other Costs for Service					
Auditing Activities	$115.00			.....	October 1, 2020.
Poultry Fees					
7 CFR Part 56—Voluntary Grading of Shell Eggs Subpart A—Grading of Shell Eggs; §§ 56.45–56.54 Fees and Charges					
7 CFR Part 70—Voluntary Grading of Poultry and Rabbit Products Subpart A—Grading of Poultry and Rabbit Products; §§ 70.70–70.78 Fees and Charges					
Scheduled Grading	$62.00	$80.00	$97.00	X	October 1, 2020.
Scheduled, Night Differential (6 p.m.–6 a.m.)	$68.00	$89.00	$97.00	X	October 1, 2020.
Scheduled, Sunday Differential	$79.00	$103.00	N/A	X	October 1, 2020.
Scheduled, Sunday and Night Differential	$88.00	$114.00	N/A	X	October 1, 2020.
Unscheduled Grading	$99.00	$122.00	$147.00	.....	October 1, 2020.
Audit Service	$115.00			.....	October 1, 2020.
Science and Technology Fees					
7 CFR Part 91—Services and General Information (Science and Technology) Subpart I—Fees and Charges; §§ 91.37–91.45					
Laboratory Testing Services	$98.00	$115.00	$131.00	.....	October 1, 2020.
Laboratory Approval Services [1]	$188.00	$212.00	$237.00	X	January 1, 2021.
7 CFR Part 75—Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds					
§ 75.41 General					
Laboratory Testing	$58.00	$86.00	$115.00	X	October 1, 2020.
Administrative Fee	$14.50 per certificate			.....	October 1, 2020.

2020/2021 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Tobacco Fees					
7 CFR Part 29—Tobacco Inspection Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets; Subpart B—Regulations; §§ 29.123–29.129 Fees and Charges; § 29.500 Fees and charges for inspection and acceptance of imported tobacco Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Non-quota Tobacco Produced and Marketed in Quota Area; § 29.9251 Fees and Charges					
Domestic Permissive Inspection and Certification (regrading of domestic tobacco for processing plants, retesting of imported tobacco, and grading tobacco for research stations.).	$55.00	$64.00	$72.00	.....	July 1, 2020.
Export Permissive Inspection and Certification (grading of domestic tobacco for manufacturers and dealers for duty drawback consideration).	$0.0025/pound			X	July 1, 2020.
Grading for Risk Management Agency (for Tobacco Crop Insurance Quality Adjustment determinations).	$0.015/pound			X	July 1, 2020.
Pesticide Test Sampling (collection of certified tobacco sample and shipment to AMS National Science Laboratory for testing).	$0.0065/kg or $0.0029/pound			X	July 1, 2020.
Pesticide Retest Sampling (collection of certified tobacco sample from a previously sampled lot for retesting at the AMS National Science Laboratory; fee includes shipping).	$115.00/sample and $55.00/hour			X	July 1, 2020.
Standards Course (training by USDA-certified instructor on tobacco grading procedures).	$1,250.00/person			.....	July 1, 2020.
Import Inspection and Certification (grading of imported tobacco for manufacturers and. dealers)	$0.0170/kg or $0.0080/pound			X	July 1, 2020

[1] Travel costs outside the United States will be added to the fee, if applicable.

Authority: 7 U.S.C. 15b; 7 U.S.C. 473a–b; 7 U.S.C. 55 and 61; 7 U.S.C. 51–65; 7 U.S.C. 471–476; 7 U.S.C. 511, 511s; and 7 U.S.C. 1621–1627.

Bruce Summers,

Administrator.

[FR Doc. 2020–08106 Filed 4–15–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 13, 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. 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 May 18, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

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.

Farm Service Agency

Title: Farm Loan Program—Inventory Property Management.

OMB Control Number: 0560–0234.

Summary of Collection: The Farm Loan Program provides supervised credit in the form of loans to family farmers to purchase real estate and equipment and finance agricultural production. Authority to establish the regulatory requirements contained in 7 CFR 767 is provided under section 302 of the Act (7 U.S.C. 1922) which provides that ''the Secretary is authorized to make and insure under this title to farmers . . .'' Section 339 of the Act (7 U.S.C. 1989) further provides that ''the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for

making . . . loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title.'' The Secretary delegated authority to administer the provisions of the Act applicable to FLP to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

Need and Use of the Information: Information collections are submitted by applicants to the local agency office serving the country in which their business is headquartered. The information is necessary to thoroughly evaluate an applicant's request to purchase inventory property and is used by the agency to determine an applicant's eligibility to lease or purchase inventory property and to ensure payment of the lease or purchase amount. Failure to collect the information would result in the agency not complying with congressional mandates.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 239.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 136.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–08044 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0057]

Decision To Authorize the Importation of Fresh Sand Pears From Japan Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize importation of sand pears from all production areas of Japan into the United States and to revise the conditions under which they may be imported. Based on the findings of a commodity import evaluation document, which we made available to the public for review and comment through a previous notice, we have concluded that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh sand pears from all production areas of Japan.

DATES: The articles covered by this notice may be authorized for importation after April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Roman, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a notice-based process based on established performance standards for authorizing the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed in APHIS' Fruits and Vegetables Import Requirements database (FAVIR) on the internet at *https://epermits.aphis.usda.gov/manual.* It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk analysis and determination available for public comment.

In accordance with that process, we published a notice [1] in the **Federal Register** on September 23, 2019 (84 FR 49709–49710, Docket No. APHIS–2019–0057) announcing the availability, for review and comment, of a pest list and a commodity import evaluation document (CIED) prepared relative to revising the conditions for the importation of fresh sand pears (*Pyrus pyrifolia*) from Japan into the United States. The notice proposed both to revise the conditions for the importation of sand pears from Japan into the United States and to authorize their importation from all prefectures of Japan (excluding the Amami, Bonin, Ryukyu, Tokara, and Volcano Islands) rather than from certain authorized areas of production. We noted in the CIED that no quarantine pests have been intercepted on sand pear at the ports of entry into the United States since market access was granted to Japan in 1985.

We solicited comments on the pest list and CIED for 60 days ending on November 22, 2019. We received five comments by that date. They were from State departments of agriculture, an organization representing tree fruit growers, and the public. The comments that we received are discussed below by topic.

General Comments

One commenter representing a State government expressed concern that there were no mitigations in the revised requirements for importation of sand pears from Japan other than phytosanitary inspection.

We have determined, for the reasons described in the CIED that accompanied the notice, that the conditions in place will effectively mitigate the pest risk associated with the importation of fresh sand pear from Japan. The commenter did not provide any evidence suggesting that the mitigations are not effective. Therefore, we are not taking the action requested by the commenter.

A commenter recommended that APHIS deregulate the importation of sand pear from Japan to a greater extent than as currently proposed, adding that many studies on which we have based our import requirements are outdated and do not account for advancements in selective breeding by the National Agriculture and Food Research Organization of Japan. The commenter noted that, with respect to future breeding, marker-assisted selection for each trait, genome-wide association studies, and genomic selection analyses are currently in progress. The commenter also noted that experimental breeding is underway in Japan to produce disease-resistant cultivars, some of which are being harvested for consumption.

We acknowledge the work underway in Japan to develop disease-resistant varieties of sand pear. However, as the commenter noted, much of this work is experimental or at the research stage and the commenter did not indicate how widely it had been adopted within the Japanese sand pear industry. As the possibility still exists of pests following the pathway of sand pears from Japan to the United States, APHIS will continue to require phytosanitary inspections and

[1] To view the notice, pest list, CIED, economic evaluation assessment, and the comments that we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0057.*

other mitigations as necessary to reduce pest risk. Regarding the commenter's interest in relieving import restrictions, we note that the changes we are making to the import conditions lift restrictions on areas of production in Japan and remove the additional declaration currently required for the phytosanitary certificate. These changes relieve regulatory burden by facilitating market access for consumers of sand pear in the United States while adequately managing plant pest risk.

Another commenter stated that the pests we determined to be reasonably likely to follow the pathway should be detected through a phytosanitary inspection upon leaving Japan or entering the United States, and asked if 100 percent of sand pears imported from Japan would receive a phytosanitary inspection upon arrival in the United States.

Among the import requirements, all consignments of sand pears from Japan must be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Japan and are subject to inspection at the port of entry into the United States. These are current requirements that have not changed. As we noted above, no quarantine pests have been intercepted on sand pear at the ports of entry into the United States since 1985. As to the commenter's question about whether 100 percent of sand pears would receive an inspection, we are unsure as to whether the commenter is asking if all sand pears would receive an inspection, as opposed to all shipments of sand pears. We note that all shipments of sand pear from Japan receive a phytosanitary inspection and that we have determined this practice to be a sufficient mitigation.

Comments Regarding the Pest List

The pest list identified nine insects and two plant pathogens associated with the commodity that could potentially follow the pathway of sand pears imported from Japan into the United States.

Two commenters expressed concerns about the risk potential of several pests not included in the list of pests that have a reasonable likelihood of following the pathway.

One commenter stated that eriophyid mites require microscopy for their identification and could be missed in a visual inspection of fruit.

Although we agree that such mites can only be identified through magnification, workplan requirements for orchard fruit bagging and postharvest washing and brushing are effective mitigations for these pests, and we therefore determined that these pests are not likely to follow the pathway of sand pears imported from Japan into the United States. For this reason, we see no reason to make changes in response to the comment.

The same commenter also raised a concern about the pear blister canker, a viroid, noting that if it can be transmitted mechanically, as we indicate in the pest list, then it could be transferred by that means to other *Pyrus* species. The commenter concluded that expansion of the export area in Japan should not be undertaken before this concern is addressed.

We are making no changes in response to the comment. Mechanical transmission refers to transmission by the use of tools contaminated by crop production or grafting. For transmission to occur, a consumer would first have to cut an infected fruit and then cut a pear tree with the same instrument, and do so during a time when optimal environmental conditions are present. We conclude that such a scenario is highly unlikely.

Another commenter stated that four additional pests—*Bactrocera dorsalis* (Hendel), *Botryosphaeria kuwatsukai* (Hara) (syn. *Guignardia pyricola*), *Monilinia polystroma, and Venturia naschicola*—are likely to enter the export pathway of sand pears from Japan and should be named in the operational workplan and inspection protocols so that growers and packers in Japan, inspectors in Japan, and APHIS inspection personnel can identify and remove them accordingly.

APHIS developed the pest list based on the scientific literature, port-of-entry pest interception data, and information provided by the Government of Japan. It also follows the International Plant Protection Convention (IPPC) guidance for conducting pest risk analyses for quarantine pests. Our conclusions do not indicate that the four additional pests named by the commenter are likely to enter the export pathway of sand pears imported from Japan, and accordingly we are not adding the pests to the pest list. However, we have responded to the commenter's concerns, included below, for each of the four pests.

The commenter stated that as the oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a pest of concern for movement of apples in international trade, it should be considered in pear as well. The commenter advised that mitigation measures included in the 1998 operational workplan should be maintained against oriental fruit fly and that it should be added to the list of quarantine pests.

As indicated in the CABI Invasive Species Compendium,[2] *B. dorsalis* has been eradicated from Japan. Consequently, we have no scientific reason to conclude that the pest is likely to enter the export pathway of sand pears shipped to the United States from Japan under the revised conditions.

The same commenter noted that *Botryosphaeria kuwatsukai* (Hara) has been reported to cause ring rot of fruit in China and Japan and can be observed on harvested parts.

As we noted above, our conclusions do not indicate that *B. kuwatsukai* is likely to enter the export pathway of sand pears imported from Japan. While the pathogen has been found on apples in China, as noted by the commenter, we have no evidence to support the contention that this disease could affect sand pear fruit in the field. Moreover, no harvested parts of *Pyrus pyrifolia* other than the fruit are authorized for import into the United States from Japan.

The commenter also stated that *Monilinia polystroma* is reported on *Pyrus* spp. in Japan and provided a citation as evidence (van Leewen et al. 2002). The commenter asked if APHIS reviewed this citation as part of the pest risk assessment.

While APHIS has reviewed the citation noted by the commenter, we found no evidence that this fungus is associated with the particular species of pear (*Pyrus pyrifolia*) that is the subject of the pest list.

The commenter disagreed with our statement that *V. nashicola* and *M. fructigena* can be found visually during the phytosanitary certification inspection when seasonal growing conditions are conducive for infection. The commenter noted that fruit infected with these fungi can appear normal, as latent infections under the calices of fruit and on stems are not easily visible upon inspection and must be identified microscopically. The commenter added that these latent infections can be prevalent depending upon climate and growing season and expressed concern that they may escape detection by packers and government inspectors. Another commenter concurred with respect to *M. fructigena,* noting that we prescribed no treatment for the pathogen and that symptomatic fruit would not be easily visible at the time of packing.

While the possibility exists that latent infections of these fungi may escape detection during inspections, we have determined that the likelihood of establishment of the disease via fruit is

[2] *https://www.cabi.org/isc/datasheet/17685.*

low. Should commercial shipments of sand pear latently infected with these fungi escape detection, the fruit would still need to be deposited in an orchard with conditions adequate to allow the fungus to grow and sporulate. We consider such a confluence of conditions to be highly unlikely to occur. Moreover, under the systems approach already in place for export of sand pears from Japan there have been no significant pest interceptions; the same measures will be in place for fruit from the approved new growing areas in Japan.

Commenters also noted potential risks regarding pests that we included in the list of pests likely to follow the export pathway and suggested that additional mitigations are warranted.

A commenter expressed concern about two pseudococcidae included in the pest list, *Crisicoccus matsumotoi* (Siraiwa) and *Planococcus kraunhiae* (Kuwana). The commenter stated that pseudococcidae, or mealybugs, are strictly regulated in foreign agricultural trade, and that a potential risk exists of mealybug eggs, nymphs, or adult females going undetected in sheltered areas on imported fruit. The commenter noted that because mealybugs have a protective coating, routine packinghouse procedures may not remove all mealybugs from fruit and cited a study showing that infested apples can retain mealybugs, particularly eggs, on stems after washing and brushing. Finally, the commenter added that mealybugs can survive cold storage and transport.

We note that, in addition to visual inspection, orchard fruit bagging is an effective mitigation for mealybugs and is a requirement in the current operational workplan for sand pear from Japan.

Another commenter reviewed the list of pests that we determined to have a reasonable likelihood of following the pathway of sand pears imported from Japan to the United States. The commenter stated that three of these pests—peach fruit moth, yellow peach moth, and Manchurian fruit moth—are of special concern because they are fruit-borers, allowing them to move in fruit consignments and making them hard to detect. One commenter recommended that APHIS require fruit bagging as a mitigation measure against fruit-borers.

As noted above, we require orchard fruit bagging in the operational workplan for sand pear from Japan. Fruit bagging effectively prevents boring insects from boring into the fruit.

A commenter raised a concern about the introduction into the United States of *Alternaria gaisen* via imports of sand pear from Japan, citing evidence of its interception in imports to the United States and Australia. The commenter noted that this fungal disease invades young fruit via lenticels and shows as a black speck on brown fruit, making it hard to detect visually.

While it is possible that signs of *Alternaria gaisen* may go undetected during inspections, the likelihood of the disease becoming established in the United States through the movement of sand pear fruit is low. As with *M. fructigena* and *V. nashicola,* discussed above, shipped fruit infected with *A. gaisen* would have to be exposed to an orchard under conditions optimal for fungal growth and sporulation, which as we noted with the other fungi is an unlikely situation. Moreover, under the systems approach already in place for export of sand pears from Japan, there have been no interceptions of this fungus, and the same fungus mitigation measures will be in place for the new growing areas in Japan approved to export sand pear to the United States.

Workplan

One commenter noted that the 1998 workplan measures for sand pear exports from Japan to the United States continue to be followed, even though an export conditions document for fresh sand pear dated August 2007 omits many of the mitigations in the workplan. The commenter recommended that we continue to use the workplan measures with the addition of seasonal assessment for fungi and scab.

The operational workplan for exports of sand pears from Japan to the United States has been revised to include the revised pest list. We have also ensured that the necessary mitigations listed in the 1998 workplan are included in the revised workplan to address quarantine pests and diseases of concern. The 2007 export conditions document cited by the commenter was used by exporters, packinghouses, and NPPO officials of Japan as a reference document only. Growers, inspectors, and other involved parties are required to implement requirements in the operational workplan and meet the conditions described before sand pears can be shipped.

The same commenter recommended that specific weather and seasonal guidelines be considered with respect to mitigating fungi (including scab) infections of fruit. The commenter noted that such infections vary year-to-year and are affected by seasonal rainfall and humidity. Accordingly, the commenter suggested that APHIS add requirements to the operational workplan for orchards to assess weather potential for fungi (including scab) in a given season and to assess the fruit for fungi and scab symptoms after an appropriate incubation period has passed. The commenter stated that APHIS could decide at that time whether to allow the block to be part of an export program rather than using inspection of packed fruit.

Scab was not reported as of quarantine concern for sand pears from Japan in the updated pests list. The mitigation measures already in place show efficacy in mitigating fungi (including scab) diseases throughout all seasons of sand pear production in Japan and should continue to be equally efficacious with respect to our proposal to allow export of sand pears from additional growing areas in Japan. For this reason, we are making no changes in response to the commenter.

Site Visits

One commenter stated that after completion of the operational workplan, APHIS should conduct a site visit to regions in Japan to confirm the operational viability of the mitigation measures.

We are making no changes in response to the commenter. In December 2019, APHIS reached an agreement with the NPPO of Japan regarding details of the systems approach in an operational workplan. The NPPO of Japan is obligated to fulfill its responsibilities under the systems approach as a signatory to the IPPC. We have determined that it is not necessary for us to monitor program activities on site unless we have reason to believe that such activities may not be adequately mitigating pest risks. Thus, we do not plan to make periodic site visits. This is consistent with our practice in other import programs. We will, however, provide program oversight by conducting audits if quarantine pests are intercepted or as otherwise warranted. By conducting joint orchard audit inspections with the NPPO of Japan, APHIS reserves the right to verify if the growing conditions of the production areas have been satisfied.

Therefore, in accordance with § 319.56–4(c)(4)(ii) of the regulations, we are announcing our decision to revise the requirements for the importation of fresh sand pears from Japan into the United States. The revised conditions are as follows:

- All sand pears must be bagged on trees to exclude pests in accordance with the operational workplan.
- The sand pears must be accompanied by a phytosanitary

certificate (PC) issued by the NPPO of Japan.[3]

• The sand pears are subject to inspection at the port of entry into the United States.

• Only commercial consignments of Japanese sand pears may be imported into the United States.

• The sand pears must be imported under permit.

These revised conditions will be listed in the Fruits and Vegetables Import Requirements

database (available at *https://epermits.aphis.usda.gov/manual*). In addition to these specific measures, fresh sand pears from Japan will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this notice are covered under the Office of Management and Budget control number 0579–0049.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 1st day of April 2020.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–08030 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–34–P

[3] We note that sand pears from Japan may continue to be imported into Hawaii under permit, and subject to inspection in Hawaii, without any further phytosanitary requirements.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0084]

Agrivida, Inc.; Availability of a Petition for Determination of Nonregulated Status for Maize Genetically Engineered for the Production of Phytase Enzyme

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has received a petition from Agrivida, Inc. (Agrivida) seeking a determination of nonregulated status for maize designated as Maize Event PY203, which has been genetically engineered for the production of phytase enzyme. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Agrivida petition available for review and comment to help us identify potential issues and impacts that APHIS should be considering in our evaluation of the petition.

DATES: We will consider all comments that we receive on or before June 15, 2020.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0084.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0084, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The petition and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0084* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

The petition is also available on the APHIS website at: *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/permits-notifications-petitions/petitions/petition-status* under APHIS petition 19–176–01p.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Eck, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 19–176–01p) from Agrivida, Inc. (Agrivida) seeking a determination of nonregulated status for maize designated as Maize Event PY203, which has been genetically engineered for the production of phytase enzyme. The Agrivida petition states that this maize is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, Maize Event PY203 was grown at six locations across the Midwestern United States including sites in Ohio, Indiana, Iowa, and Nebraska and at two locations in Argentina. Agronomic characteristics of Maize Event PY203 and near isogenic non-transgenic control plants grown at these locations were assessed throughout the life cycle of the plants. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

The agronomic performance and phenotypic data generated demonstrate that the genetic modifications introduced into Maize Event PY203 did not have any unintended effects on seed germination, agronomic characteristics, or yield. These data support the

conclusion that Maize Event PY203 is unlikely to develop into feral persistent populations or to be more weedy or invasive in the environment compared to conventional maize varieties.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review and comment, and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. Any substantive issues identified by APHIS based on our review of the petition and our evaluation and analysis of comments will be considered in the development of our decision-making documents. As part of our decision-making process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment.

Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR part 1500–1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

(Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3)

Done in Washington, DC, this 8th day of April 2020.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–08065 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2020–0014]

Notice of Request for Renewal of an Approved Information Collection (Modernization of Poultry Slaughter Inspection)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request renewal of the approved information collection regarding poultry slaughter inspection. There are no changes to the existing information collection. The approval for this information collection will expire on September 30, 2020.

DATES: Submit comments on or before June 15, 2020.

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

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2020–0014. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Modernization of Poultry Slaughter Inspection.

OMB Number: 0583–0156.

Expiration Date of Approval: 9/30/2020.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). This statute provides that FSIS is to protect the public by verifying that poultry products are safe, wholesome, not adulterated, and properly labeled and packaged.

FSIS is requesting renewal of the approved information collection regarding poultry slaughter inspection. The approval for this information collection will expire on September 30, 2020. There are no changes to the existing information collection.

FSIS requires that all official poultry slaughter establishments, other than establishments that slaughter ratites, maintain as part of their HACCP plan, sanitation SOP, or other prerequisite

program, written procedures addressing: (1) The prevention throughout the entire slaughter and dressing operation of contamination of carcasses and parts by enteric pathogens (*e.g., Salmonella* and *Campylobacter*) and by fecal material, including microbial test results; and (2) the prevention of carcasses and parts contaminated by visible fecal material from entering the chiller.

Each establishment operating under the New Poultry Inspection System (NPIS) is required to collect and maintain additional information concerning poultry slaughter. As part of the HACCP system, establishments operating under NPIS maintain written procedures to prevent carcasses afflicted with septicemia and toxemia from entering the chiller, as well as records that document that the products resulting from slaughter operations meet the definition of ready-to-cook poultry.

Additionally, each establishment operating under the NPIS also needs to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers.

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

Estimate of Burden: FSIS estimates that it will take respondents an average of .125 hours to record results and maintain necessary documentation.

Respondents: Official poultry establishments.

Estimated No. of Respondents: 289.

Estimated No. of Annual Responses per Respondent: 5,291.3.

Estimated Total Annual Burden on Respondents: 19,204 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

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

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

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

USDA Non-Discrimination Statement

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

How To File a Complaint of Discrimination

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

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

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

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

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

Paul Kiecker,

Administrator.

[FR Doc. 2020–08018 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for Information: WIC National Universal Product Code Database Next Steps

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

ACTION: Notice; Reopening of Comment Period.

SUMMARY: The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program or WIC) is issuing this Request for Information to obtain input from WIC State agencies, authorized vendors, food manufacturers, technology partners, and other interested stakeholders regarding the direction of the National Universal Product Code (NUPC) database. The NUPC database can be used by WIC State agencies delivering benefits via Electronic Benefit Transfer (EBT) to develop, update and maintain their Authorized Product Lists (APLs). FNS is specifically interested in obtaining stakeholder perspectives on the role of the NUPC database to the program community, and different options for operating, maintaining, and/or enhancing the database. FNS welcomes comments from all interested stakeholders.

As a background, on January 30, 2020, FNS issued the initial Request for Information, beginning a 60-day public comment period. Public involvement opportunities including public meetings, are now being modified based on considerations for employee and public health and safety. We recognize that there is a need to reopen the

comment period to accommodate meaningful public involvement. FNS is reopening the comment period to provide additional time for interested parties to review this Request for Information.

DATES: The comment period for the Request for Information that was published on January 30, 2020 (82 FR 5368) ended March 30, 2020. To be assured of consideration, comments must be received on or before May 18, 2020.

ADDRESSES: Comments are accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. Comments may also be submitted via email to *Dana.Rasmussen@USDA.gov.* Please enter ''NUPC Database Public Comment'' in the subject line to the email.

FOR FURTHER INFORMATION CONTACT: Dana Rasmussen, Senior Technical Advisor, Supplemental Food Programs Division, at (703) 305–1628.

SUPPLEMENTARY INFORMATION: The WIC Program, authorized under the Child Nutrition Act of 1966, as amended (P.L. 89–642), provides low-income pregnant, breastfeeding, and postpartum women, infants, and children up to age five with nutritious supplemental foods, nutrition education, including breastfeeding promotion and support, and referrals to health and social services. The program is administered by USDA FNS. FNS provides grant funds which are used by WIC State agencies to operate the WIC Program and distribute benefits through local WIC clinics. The program operates throughout the 50 States, the District of Columbia, Guam, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and through 33 Indian Tribal Organizations.

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA, P.L. 111–296) requires all WIC State agencies to implement EBT systems by October 1, 2020, or seek an exemption. To implement EBT, some State agencies must update their management information systems to issue benefits via EBT and must ensure the necessary EBT infrastructure is in place for clinics and vendors. To date, over half of all WIC State agencies have implemented EBT statewide, with the remaining State agencies engaged in the EBT planning and implementation processes pursuant to the statutory mandate.

Section 352(e) of the HHFKA directed the Secretary of Agriculture to establish an NUPC database for use by all WIC State agencies in implementing EBT. HHFKA provides $1 million each fiscal year, to remain available until expended, for NUPC database development, hosting, hardware and software configuration, and database support. Program regulations at 7 CFR 246.12(cc) require WIC State agencies with EBT to use the NUPC database. The NUPC database is intended to be used by WIC State agencies with EBT as a tool to help create and manage their APLs. Only State agencies have access to the NUPC database. The database provides a source of information about WIC-authorized foods which other State agencies may use in creating their APLs.

Each WIC State agency is responsible for developing a list of food items available for WIC participants for purchase consistent with Program requirements defined in 7 CFR 246.10. WIC State agencies determine the types, brands, and physical forms of WIC-eligible foods. State agencies may also consider State-specific nutrition criteria (*e.g.,* only low sodium canned vegetables), packaging methods (*e.g.,* pouch, can, jar) and packaging sizes (*e.g.,* single container, multi-pack case).

For WIC State agencies using EBT, the State agency-approved foods are set forth on an electronic APL, which lists the WIC food item, food category, size, Universal Product Code (UPC), and other technical details. The APL is unique to each State agency. There is no Federal or national APL.

WIC State agencies update their APLs on a regular basis. Consistent with 7 CFR 246.12 and per WIC EBT operating rules, WIC-authorized vendors are required to retrieve a State agency's APL and apply it to their cash register systems at least every 48 hours, but most do so on a nightly basis.

WIC State agencies send a copy of their individual APLs to the NUPC database. After passing a screening and once additional nutritional product information is gathered, the individual products on the State agency's APL are added to the NUPC database. A State agency's raw APL file is not available for download via the NUPC database.

The NUPC database currently includes but is not limited to the following information by food item from WIC EBT State agencies, as applicable: UPC or Price Lookup Code (PLU), the latter for fresh fruits and vegetables; product category (*e.g.,* Bread/Whole Grains) and subcategory (*e.g.,* 100% Whole Wheat); nutrition information and ingredients; package images including product labels; the manufacturer name; manufacturer data sheets when needed; and the State agency authorizing the product. An optional free form comments field is available to State agencies. For fresh fruits and vegetables, a State agency may submit PLUs or UPCs. Appendix A lists current NUPC database elements.

WIC State agencies may optionally choose to submit pricing data into the NUPC database, but this data is for individual State agency use only. Most State agencies do not enter pricing data, due to the significant effort required to enter and maintain it given pricing fluctuations, coupled with the limited benefit of use. Most prices are sensitive to local market conditions.

A WIC State agency can use the NUPC database to obtain product information helpful in developing or modifying its APL. The NUPC database reduces the need to separately gather this same information from manufacturers, food retailers, food distributors or industry food databases.

NUPC does *not:* (1) represent a complete/combined listing of all State-specific APLs, but rather contains individual APL-related data submitted by WIC EBT States (and supplemented with other nutrition-related information); (2) set forth a Federal or national WIC APL; or (3) include up-to-date pricing information.

The original intent of the NUPC database was to support statewide implementation of EBT. As more WIC State agencies achieve statewide EBT, FNS seeks input regarding the use of the NUPC database by the program community and different options for operating, maintaining, and/or enhancing the database. FNS poses the questions below to prompt stakeholder responses.

USDA FNS is seeking information from stakeholders on the following questions:

1. For WIC State agency input only, is the current NUPC database useful in its current form in creating and managing APLs and implementing EBT? Please explain.

2. Within HHFKA statutory requirements, should USDA FNS re-envision its approach to the NUPC database to the benefit of program stakeholders? Please explain.

3. Given currently available NUPC database information, what are the advantages and disadvantages of providing NUPC database access to, or sharing WIC State agency NUPC-related information with, other entities such as food manufacturers and/or WIC authorized vendors?

4. Although current statute requires USDA to operate an NUPC database for use by WIC EBT States, do WIC State agencies prefer to create and manage

their APLs without the use of the Federal NUPC database? Please explain.

FNS appreciates your thoughtful and responsive replies to all questions. Your feedback is essential to help FNS ensure administration of the WIC Program is effective and efficient as possible. Together, we can strive to improve operations and outcomes to best serve participants, stakeholders, and American taxpayers.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

Appendix A:

Current NUPC Database Elements

1. National UPC Database Core Fields

The Core Fields contain information that is set on the National level and cannot be edited at the WIC State Agency level. Only FNS staff or the FNS contractor may edit these fields.

National Core Fields

UPC/PLU Number
Manufacturer Code
Manufacturer Name
[Food] Category
[Food] Subcategory
Default Filtered
Comments

2. WIC State Agency Fields, including Editable Fields

These fields are generally specific to each WIC State Agency and can only be edited by that State agency. Some of these fields (Product Size through Benefit Unit Description Type) may be adopted from a national entry or an entry by another State agency and then edited to reflect current State-specific authorized foods. These fields generally do not have any national attributes—they are specific to each State agency. The only State agency field that cannot be edited by the WIC State agency is the Product Unit of Measure (UOM). Most fields, *e.g.,* price, are optional.

WIC State Agency Fields

Product Size
Product UOM *
Product Name
Benefit Unit Description Type
Short Product Name
Benefit Unit Description
Container Size
Container Type
Price
Price Type
Broadband Flag
Agency Effective Date
Agency End Date
Package Size
Rebate Flag
Manual Voucher Indicator
Filter for State Agency Search
* Cannot be edited by State agency

[FR Doc. 2020–08041 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notices by the Rocky Mountain Region, Which Includes Colorado, Kansas, Nebraska, and Parts of South Dakota and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by the Ranger Districts, Forests, and Regional Office of the Rocky Mountain Region to publish legal notices. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions and notices of decision. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment, object or appeal, and establish the date that the Forest Service will use to determine if comments or appeals/objections were timely.

DATES: Publication of legal notices in the listed newspapers will begin on the date of this publication and continue until further notice.

FOR FURTHER INFORMATION CONTACT: Lucy Maldonado, Regional Administrative Review Coordinator (Acting), Rocky Mountain Region, 1617 Cole Blvd., Bldg. 17, Lakewood, CO 80401; or by phone at (303) 275–5188 or email at *lucy.g.maldonado@usda.gov.*

SUPPLEMENTARY INFORMATION: The administrative procedures at 36 CFR 214, 218, and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR 214, 218, and 219. In general, the notices will identify: The decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or appeals/objections. The date the notice is published will be used to establish the official date for the beginning of the comment or appeal/objection period. The newspapers to be used are as follows:

Regional Forester, Rocky Mountain Region

Regional Forester decisions affecting National Forests in Colorado, Kansas, Nebraska and those portions of South Dakota and Wyoming within the Rocky Mountain Region: *The Denver Post*

Arapaho and Roosevelt National Forests and Pawnee National Grassland

Forest Supervisor decisions: *Coloradoan*
Canyon Lakes District Ranger decisions: *Coloradoan*
Pawnee District Ranger decisions: *Greeley Tribune*
Boulder District Ranger decisions: *Daily Camera*
Clear Creek District Ranger decisions: *Clear Creek Courant*
Sulphur District Ranger decisions: *Middle Park Times*

Bighorn National Forest

Forest Supervisor and District Ranger decisions: *Casper Star-Tribune*

Black Hills National Forest

Forest Supervisor and District Ranger decisions: *The Rapid City Journal*

Grand Mesa, Uncompahgre, and Gunnison National Forests

Forest Supervisor decisions: *Grand Junction Daily Sentinel*
Grand Valley District Ranger decisions: *Grand Junction Daily Sentinel*
Paonia District Ranger decisions: *Delta County Independent*
Gunnison District Ranger decisions: *Gunnison Country Times*
Norwood District Ranger decisions: *Telluride Daily Planet*
Ouray District Ranger decisions: *Montrose Daily Press*

Medicine Bow-Routt National Forests and Thunder Basin National Grassland

Forest Supervisor decisions: *Laramie Daily Boomerang*
Laramie District Ranger decisions: *Laramie Daily Boomerang*
Douglas District Ranger decisions: *Casper Star-Tribune*
Brush Creek—Hayden District Ranger decisions: *Rawlins Daily-Times*
District Ranger decisions for Hahns Peak-Bears Ears and Yampa: *Steamboat Pilot*
Parks District Ranger decisions: *Jackson County Star*

Nebraska National Forest, Nebraska and South Dakota

Forest Supervisor decisions: *The Rapid City Journal*
Bessey District/Charles E. Bessey Tree Nursery District Ranger decisions: *The North Platte Telegraph*
Pine Ridge District Ranger decisions: *The Rapid City Journal*
District Ranger decisions for Samuel R. McKelvie National Forest: *The North Platte Telegraph*
District Ranger decisions for Fall River and Wall Districts, Buffalo Gap National Grassland: *The Rapid City Journal*

District Ranger decisions for Fort Pierre National Grassland: *The Capital Journal*

Pike and San Isabel National Forests and Cimarron and Comanche National Grasslands

Forest Supervisor decisions: *Pueblo Chieftain*
San Carlos District Ranger decisions: *Pueblo Chieftain*
Comanche District—Carrizo Unit District Ranger decisions: *Plainsman Herald*
Comanche District—Timpas Unit District Ranger decisions: *Tribune Democrat*
Cimarron District Ranger decisions: *Tri-State News*
South Platte District Ranger decisions: *Douglas County News Press*
Leadville District Ranger decisions: *Herald Democrat*
Salida District Ranger decisions: *The Mountain Mail*
South Park District Ranger decisions: *Fairplay Flume*
Pikes Peak District Ranger decisions: *The Gazette*

Rio Grande National Forest

Forest Supervisor and District Ranger decisions: *Valley Courier*

San Juan National Forest

Forest Supervisor decisions: *Durango Herald*
Columbine District Ranger decisions: *Durango Herald*
Pagosa District Ranger decisions: *Pagosa Sun*
Dolores District Ranger decisions: *Cortez Journal*

Shoshone National Forest

Forest Supervisor decisions: *Cody Enterprise*
Clarks Fork District Ranger decisions: *Powell Tribune*
Wapiti and Greybull Districts Ranger decisions: *Cody Enterprise*
Wind River District Ranger decisions: *The Dubois Frontier*
Washakie District Ranger decisions: *Lander Journal*

White River National Forest

Forest Supervisor decisions: *The Glenwood Springs Post Independent*
Aspen-Sopris District Ranger decisions: *Aspen Times*
Blanco District Ranger decisions: *Rio Blanco Herald Times*
Dillon District Ranger decisions: *Summit Daily*
Eagle-Holy Cross District Ranger decisions: *Vail Daily*
Rifle District Ranger decisions: *Citizen Telegram*

Allen Rowley,

Associate Deputy Chief, National Forest System.

[FR Doc. 2020–07963 Filed 4–15–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of the Land Management Plan for the Chugach National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of approval of the Revised Land Management Plan for Chugach National Forest.

SUMMARY: Jeff E. Schramm, the Forest Supervisor for the Chugach National Forest, Alaska Region, has signed the Record of Decision (ROD) for the Revised Land Management Plan (Land Management Plan) for the Chugach National Forest. The ROD documents the rationale for approving the Land Management Plan and is consistent with the Objection Review Official's response to objections and instructions.

DATES: The Revised Land Management Plan for the Chugach National Forest will become applicable May 18, 2020 (36 CFR 219.17(a)(1)). To view the final ROD, final environmental impact statement (FEIS), the Revised Land Management Plan, and other related documents, please visit the Chugach National Forest Revision project website at: *https://www.fs.usda.gov/project/?project=40816.* A legal notice of approval is also being published in Chugach National Forest's newspaper of record, the *Anchorage Daily News.* A copy of this legal notice will be posted on the website listed above.

FOR FURTHER INFORMATION CONTACT: David Fitz-Enz, Forest Planner, Chugach National Forest at 907–743–9595 or *david.fitz-enz@usda.com.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday. Written requests for information may be sent to the Chugach National Forest, ATTN. David Fitz-Enz, Chugach National Forest Supervisor's Office, 161 E 1st Ave., Door 8, Anchorage, AK 99501.

SUPPLEMENTARY INFORMATION: The Forest encompasses 5.4 million acres in Southcentral Alaska and includes a 1.9-million-acre Wilderness Study Area (WSA). Inventoried roadless areas comprise 99% of the Chugach National Forest. Glaciers cover 30% of the Chugach National Forest and 20% is forested. From its largely intact ecosystems, the Chugach National Forest plays a key role in supporting local economies with abundant populations of Pacific salmon and wildlife, forest products, fuelwood, diverse recreation opportunities, mining, subsistence, and clean air and water. Between its contributions to commercial salmon harvests, recreation opportunities, fishing, hunting, and special use authorizations, the Forest generates over 4,000 jobs, worth approximately $36 million to local economies annually.

Since 2012, the Chugach National Forest has worked with Alaska Native Tribes, Alaska Native Corporations, the State of Alaska, local communities, and the public to develop a plan that supports local economies, reduces community wildfire risk, supports adaptive management, and prioritizes ecosystem health and resilience to stressors such as drought and climate variability. The Land Management Plan fosters collaborative relationships, facilitates special use permitting, assures access, emphasizes hazardous fuels management, maintains properly functioning watersheds, supports subsistence and traditional uses, identifies 1.4 million acres to recommend for inclusion in the National Wilderness Preservation System within the WSA, carries forward the 2002 National Wild and Scenic Rivers System recommendation, and provides for the viability and persistence of two species of conservation concern within the planning area.

The Chugach National Forest released its FEIS, 2019 Land Management Plan, and draft ROD on August 30, 2019. The 60-day objection period ended on October 29, 2019. The Forest Service received 43 eligible objections. The Objection Review Official issued his written responses to the objection issues on January 27, 2020. The Regional Forester (Objection Review Official) provided the Forest Supervisor with instruction to add rationale in errata to the FEIS or final ROD, define and describe actions more clearly in the Land Management Plan and ROD, and remove and modify some plan components in the Land Management Plan.

As instructed by the Objection Review Official, the Forest modified the FEIS (through errata in the ROD), the Land Management Plan, the ROD, and the planning record. All modifications are completed and are responsive to issues

the public identified, particularly issues identified by the State of Alaska, Alaska Native Tribes, and Alaska Native Corporations. Modifications include deleting, editing, and adding plan components and clarifying language in the FEIS, Land Management Plan, and ROD.

The final ROD to approve the Revised Land Management Plan for Chugach National Forest has now been signed by the Responsible Official and is available at the website listed above.

Responsible Official

The responsible official for the revision of the Land Management Plan for the Chugach National Forest is Jeff E. Schramm, the Forest Supervisor, Chugach National Forest, 161 E 1st Ave., Door 8, Anchorage, AK 99501.

Allen Rowley,

Associate Deputy Chief, National Forest System.

[FR Doc. 2020–07965 Filed 4–15–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request To Reinstate an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to reinstate an information collection to gather data related to the production and marketing of foods directly from farm producers to consumers or retailers. In addition NASS will collect some whole-farm data to be used to classify and group operations for summarizing and publication of results.

DATES: Comments on this notice must be received by June 15, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0259, by any of the following methods:

- *Email: omboffficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *omboffficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Local Foods Survey.

OMB Control Number: 0535–0259.

Type of Request: Intent to seek approval to reinstate an information collection for a period of three years.

Abstract: Interest continues to grow in support of local agricultural economies through the purchase of foods from sources that are geographically close to the consuming areas, via channels that are direct from farm to consumer or at most one step removed. Significant policy support for local food systems began with the institution of the USDA Know Your Farmer, Know Your Food Initiative (KYF2) in September 2009. The KYF2 Initiative was designed to eliminate organizational barriers to improve coordination and availability of resources for the promotion of local food systems. This initiative is in response to the consumer and producer interests. Many community and farm advocacy groups are requesting changes in the next major agricultural program legislation (the Farm Bill) that will directly target local foods producers, consumers, and markets. The Local Food Marketing Practices Survey was initially conducted in 2015. This reinstatement will allow NASS to collect data to measure changes and growth within the local food industry on a national basis. The results of the initial survey can be found at the following link *https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/Local_Food/index.php.*

In preparation for this next round of data collection, NASS included a question in the 2017 Census of Agriculture to capture data needed to identify farm operators who sold products through direct marketing channels. As a follow-on survey to the 2017 Census of Agriculture, the target population will focus on respondents who reported product sales directly to consumers or to retail outlets that in turn sold directly to consumers. NASS intends to use mandatory reporting authority (Title 7 U.S. Code § 2204g) for the 2020 Local Food Marketing Practices Survey.

Authority: The data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*), and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response. NASS plans to mail out publicity materials with the questionnaires to inform producers of the importance of this survey. NASS will also use multiple mailings, followed up with phone and limited personal enumeration to increase response rates and to minimize data collection costs.

Respondents: Farmers and Ranchers.

Estimated Number of Respondents: 31,000.

Estimated Total Annual Burden on Respondents: 17,500 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

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

Signed at Washington, DC, April 8, 2020.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2020–08003 Filed 4–15–20; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Mississippi Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting time.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of Tuesday March 17, 2020, concerning a meeting of the Mississippi Advisory Committee. The document contained a meeting time that is now changed.

FOR FURTHER INFORMATION CONTACT: Corrine Sanders, (202) 780–1042, *csanders@usccr.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of Tuesday, March 17, 2020, in FR Doc. 2020–05510, on page 15111–15112, third column of 15111 and first column of 15112, correct the time to read: 11:30 a.m. Central Time

Dated: April 13, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–08060 Filed 4–15–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/25/2020 through 4/7/2020]

Firm name	Firm address	Date accepted for investigation	Product(s)
DJ Fabricators, Inc	94 Turnpike Road, Ipswich, MA 01938	3/26/2020	The firm manufactures sheet metal components from aluminum and steel.
Rogan Corporation	3455 Woodhead Drive, Northbrook, IL 60062	3/27/2020	The firm manufactures plastic knobs, levers, and pull handles.
Victor Insulators, Inc	280 Maple Avenue, Victor, NY 14564	4/2/2020	The firm manufactures high-voltage electrical insulators, primarily of porcelain and rubber.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2020–07979 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–32–2020]

Approval of Subzone Status; Waters Technologies Corporation; Milford, Massachusetts

On February 18, 2020, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Massachusetts Port Authority, grantee of FTZ 27, requesting subzone status subject to the existing activation limit of FTZ 27, on behalf of Waters Technologies Corporation, in Milford, Massachusetts.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (85 FR 11048–11049, February 26, 2020). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 27P was approved on April 13, 2020, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 27's 129-acre activation limit.

Dated: April 13, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–08012 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–76–2019]

Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts; Authorization of Production Activity; Waters Technologies Corporation (Chromatography Tubing Assemblies), Milford, Massachusetts

On December 13, 2019, Waters Technologies Corporation submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 27, in Milford, Massachusetts.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 70932, December 26, 2019). On April 13, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: April 13, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–08013 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA124]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting via webinar.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee via webinar 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 webinar will be held on Monday, May 4, 2020 at 9.30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/26431566132608012.*

ADDRESSES: *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 Ecosystem-Based Fishery Management (EBFM) Committee will receive from GreenFinStudio and provide feedback on draft public outreach communication products for the Georges Bank example Fishery Ecosystem Plan (eFEP). From the EBFM Plan Development Team, the committee will also receive an update on tangible worked example development. Other business will be discussed as necessary

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council 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. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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.

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

Dated: April 13, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08050 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA100]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold public hearings via webinar pertaining to Regulatory Amendment 34 to the Snapper Grouper Fishery Management Plan for the South Atlantic Region. The amendment would designate artificial reefs in the federal waters off the coasts of North Carolina and South Carolina as Special Management Zones (SMZs) and implement fishing gear restrictions within the SMZs.

DATES: The public hearings will be held via webinar on May 4 and 5, 2020.

ADDRESSES: *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The public hearings will be conducted via webinar beginning at 6 p.m. Registration for the webinars is required. Registration information will be posted on the Council's website at *https://safmc.net/safmc-meetings/public-hearings-scoping-meetings/* as it becomes available.

Regulatory Amendment 34 to the Snapper Grouper Fishery Management Plan

The draft regulatory amendment contains proposed actions to: Designate 30 artificial reefs in federal waters off North Carolina as Special Management Zones. Within the SMZs, harvest of snapper grouper species would be allowed with handline, rod and reel, and spear. All harvest by spear would be limited to the applicable recreational bag limit.

Designate four additional artificial reefs in federal waters off South Carolina as SMZs. Within the SMZs, harvest of snapper grouper species would only be allowed with handline, rod and reel, and spear (without

powerheads) and all harvest would be limited to the applicable recreational bag limit.

During the public hearings, Council staff will present an overview of the draft amendment and will be available for informal discussions and to answer questions via webinar. A public comment form will also be available online. The comment form, a copy of the Regulatory Amendment 34 Public Hearing Document, and additional information will be posted on the Council's website as it becomes available at: *https://safmc.net/safmc-meetings/public-hearings-scoping-meetings/.*

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the public hearings.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: April 13, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08047 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR106]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Floating Dry Dock Project at Naval Base San Diego in San Diego, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the Floating Dry Dock Project at Naval Base San Diego in San Diego, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 18, 2020.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Piniak@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Wendy Piniak, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On November 26, 2019, NMFS received a request from the Navy for an IHA to take marine mammals incidental to the Floating Dry Dock Project at Naval Base San Diego in San Diego, California. We received a revised application on February 10, 2020. The application was deemed adequate and complete on March 17, 2020. The Navy's request is for take of a small number of California sea lions by Level B harassment only. Neither the Navy nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Navy has requested authorization for take of marine mammals incidental to in-water activities associated with the Floating Dry Dock Project at Naval Base San Diego in San Diego, California. The Navy proposes to construct a floating dry dock and associated pier-side access in the south-central portion of San Diego Bay. The floating dry dock is needed to ensure the Base's capability to conduct berth-side repair and maintenance of vessels. Implementation of the proposed project requires installation of two mooring dolphins, including vertical and angled structural piles, as well as fender piles, installation of a concrete ramp wharf and vehicle bridge, and dredging at the proposed floating dry dock location. In-water construction will include installation of a maximum of 56 24-inch concrete piles using impact pile driving and high-pressure water jetting and a maximum of 10 24-inch steel pipe piles using impact and vibratory pile driving. Sounds produced by these activities may result in take, by Level B harassment, of marine mammals located in San Diego Bay, California. In-water pile-driving activities are anticipated to occur for 50 days during the period from September 15, 2020 to September 14, 2021.

Dates and Duration

In-water activities (pile installation) associated with the project are anticipated to begin September 15, 2020, and be completed by September 14, 2021. Pile driving activities would occur for 50 days during the proposed project dates. In-water activities will occur during daylight hours only.

Specific Geographic Region

The activities would occur in the south-central portion of San Diego Bay (Figure 1). San Diego Bay is a narrow, crescent-shaped natural embayment oriented northwest-southeast with an approximate length of 24 kilometers (km) (15 miles (mi)) and a total area of roughly 4 km^2 (11,000 acres; Port of San Diego, 2007). The width of the Bay ranges from 0.3 to 5.8 km (0.2 to 3.6 mi), and depths range from 23 m (74 ft) Mean Lower Low Water (MLLW) near the tip of Ballast Point to less than 1.2 m (4 ft) at the southern end (Merkel and Associates, Inc., 2009). Approximately half of the Bay is less than 4.5 meters (m) (15 feet (ft)) deep and much of it is less than 15 m (50 ft) deep (Merkel and Associates, Inc., 2009). The northern and central portions of the Bay have been shaped by historical dredging and filling to support large ship navigation and shoreline development. The United States Army Corps of Engineers dredges the main navigation channel in the Bay to maintain a depth of 14 m (47 ft) MLLW and is responsible for providing safe transit for private, commercial, and military vessels within the bay (NOAA 2012). Outside of the navigation channel, the bay floor consists of platforms at depths that vary slightly (Merkel and Associates, Inc., 2009). Within the Central Bay, typical depths range from 10.7–11.6 m (35–38 ft) MLLW to support large ship turning and anchorage, and small vessel marinas are typically dredged to depths of 4.6 m (15 ft) MLLW (Merkel and Associates, Inc., 2009). The area around the proposed project site is approximately 0.01 km^2 (2.72 acres) with bathymetry ranging from 2.5–4 m (8–13 ft) MLLW (Triton Engineers 2019). Proposed dredging in the project area in preparation for the floating dry dock would increase this depth at the project site to 12 m (39 ft).

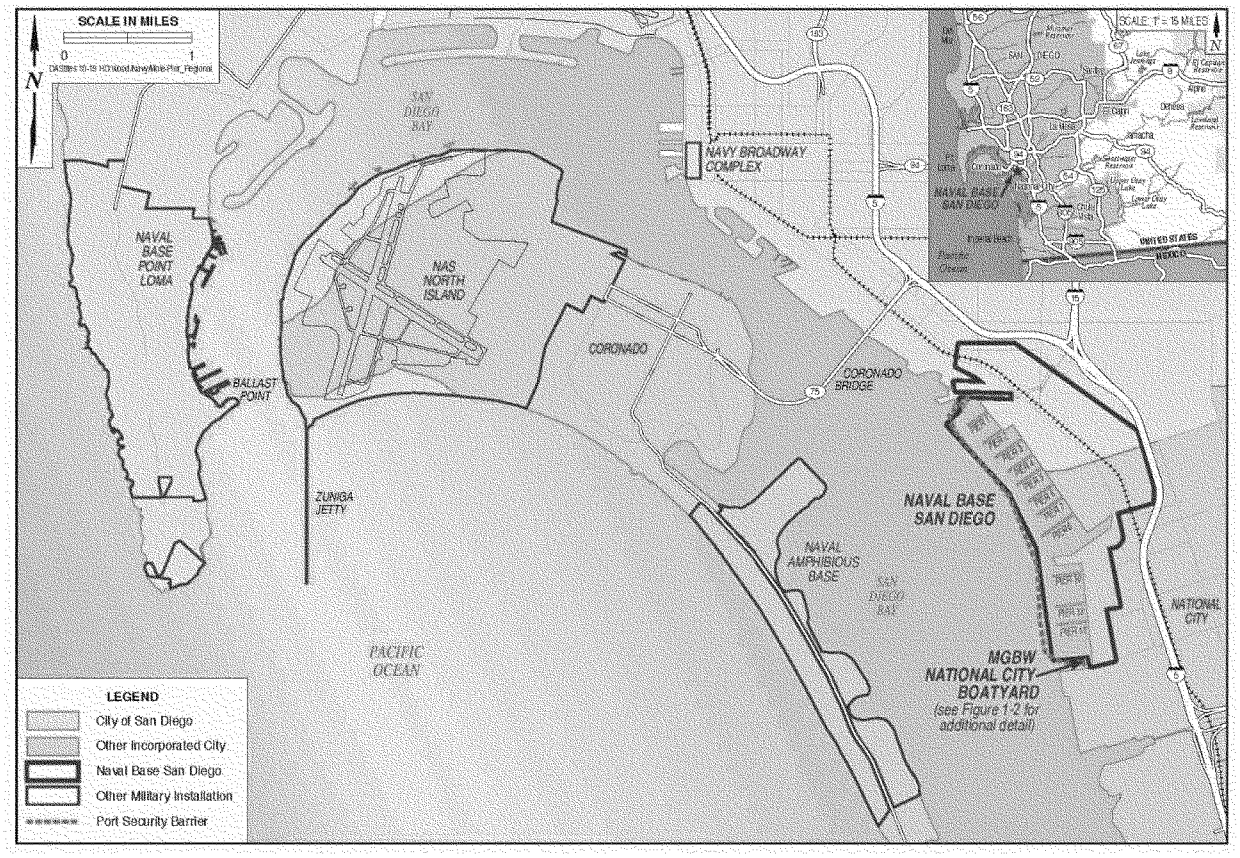

Figure 1. Map of the Regional Location of Naval Base San Diego in San Diego Bay, California. The proposed project would occur at the Marine Group Boat Works (MGBW) at the southern end of the Naval Base San Diego.

Benthic substrate in San Diego Bay is largely sand (Naval Facilities Engineering Command, Southwest and Port of San Diego Bay, 2013) as tidal currents tend to keep the finer silt and clay fractions in suspension, except in harbors and elsewhere in the lee of structures where water movement is diminished. Much of the shoreline consists of riprap and manmade structures. The project site is a shallow subtidal area and contains an eelgrass bed less 1-acre in size (Triton Engineers, 2019; Merkel and Associates, Inc., 2018). Over-water structures such as the existing MGBW piles and dock structures provide substrates for the growth of algae and invertebrates off the bottom and support abundant fish populations. Eelgrass present within the project site is important habitat for invertebrates, fish, and birds (Naval Facilities Engineering Command, Southwest and Port of San Diego Bay, 2013).

San Diego Bay is heavily used by commercial, recreational, and military vessels, with an average of 82,413 vessel movements (in or out of the Bay) per year (approximately 225 vessel transits per day), a majority of which are presumed to occur during daylight hours. This number of transits does not include recreational boaters that use San Diego Bay, estimated to number 200,000 annually (San Diego Harbor Safety Committee 2009). Background (ambient) noise in the south-central San Diego Bay was an average of 126 decibels (dB) (L50) in 2019 (Dahl and Dall'Osto 2019). This is similar to ambient noise levels measured in the northern San Diego Bay which ranged from 126 to 137 dB (L50) in 2014, 2015, and 2016 (Naval Facilities Engineering Command, Southwest, 2018). Sound levels in the south-central San Diego Bay are likely lower due to the reduced ship traffic relative to the north San Diego Bay. Noise from non-impulsive sources associated with the proposed activities is, therefore assumed to become indistinguishable from background noise as it diminishes to 126 dB re: 1 micropascal (μPa) with distance from the source (Dahl and Dall'Osto, 2019).

Detailed Description of Specific Activity

The Navy proposes to construct a floating dry dock and associated pier-side access in the south-central portion of San Diego Bay. The floating dry dock is needed in order to address current and projected shortfall of dry dock space required for maintenance of the Pacific Fleet, and ensure the Naval Base San Diego's capability to conduct berth-side repair and maintenance of vessels. The proposed activities will allow for the emplacement and operation of a floating dry dock and associated pier-side access at MGBW Commercial Out Lease (COL) in the southern edge of Naval Base San Diego. The proposed project site is located immediately adjacent to the MGBW National City Boatyard, a full-service facility that specializes in refits, repairs, and new construction.

Implementation of the proposed project requires in-water activities that will produce sounds that may result in take of marine mammals located in the San Diego Bay including dredging, installation of two mooring dolphins,

including vertical and angled structural piles, as well as fender piles, and installation of a concrete ramp wharf and vehicle bridge. Two mooring dolphins would be located forward and aft of the proposed dry dock. The mooring dolphins would each be supported by up to 16 vertical 24-inch octagonal concrete piles (32 total) installed using impact pile driving and high-pressure water jetting. The aft mooring dolphin would also require approximately 2 24-inch angled steel pipe piles. Up to 8 additional 24-inch steel pipe piles are anticipated to be required for the forward and aft mooring dolphins. Cast-in-place reinforced concrete caps, 9.1 by 9.1 m (30 by 30 ft), would be installed at each mooring dolphin location. Grippers would be secured to the dolphins' concrete pile caps and used to hold the floating dry dock in position. Construction materials would be delivered by truck and the piles would be installed using a floating crane and an impact or vibratory pile driver aided by jetting methods. Fender piles associated with the aft mooring dolphin would consist of 2 steel pipe piles, 24-inches in diameter or less. All steel pipe piles would initially be installed using vibratory pile driving, followed by the use of an impact pile driver.

Two pedestrian bridges and a vehicle bridge would be constructed to provide landside access and servicing to the proposed floating dry dock. The port-side pedestrian bridge, which would provide access to the port wing deck, would be 35 m (115 ft) long and supported by a landside concrete abutment. The proposed ramp wharf would be approximately 17 by 24 m (80 by 55 ft) long and would support an 18-m (60-ft) long vehicle bridge that would provide vehicle access to the MGBW COL floating dry dock. The ramp wharf would also support the starboard pedestrian bridge, which would provide access to the starboard wing deck. The concrete ramp wharf and vehicle bridge would cover approximately 0.12 acres (5,360 ft^2) and would be supported by 24 24-inch octagonal concrete piles installed using vibratory pile driving and high-pressure water jetting. These access structures, which would be similar to those currently provided at the south berth of the Mole Pier and other Navy piers in the vicinity, would allow for construction vehicles and heavy equipment to be used during maintenance of Navy vessels.

Proposed pile driving activities are planned to occur from September 15, 2020 through September 14, 2021. The total number of pile driving days would not exceed 50 days during this time period.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Proposed Monitoring and Reporting*).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments)* and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2019). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific Stock Assessment Reports (*e.g.,* Carretta *et al.,* 2019). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2018 Final SARs (Carretta *et al.,* 2019) (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*).

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT WITHIN CENTRAL SAN DIEGO, CALIFORNIA, DURING THE SPECIFIED ACTIVITY

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S.	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable. California sea lion population size was estimated from a 1975–2014 time series of pup counts (Lowry *et al.* 2017), combined with mark-recapture estimates of survival rates (DeLong *et al.* 2017, Laake *et al.* 2018).

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

NOTE—*Italicized species are not expected to be taken or proposed for authorization.*

As indicated above, one species (with one managed stock) in Table 1 temporally and spatially co-occurs with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. The most frequently observed marine mammal species in San Diego Bay are the California sea lion (*Zalophus californianus*), which often rests on buoys and other structures and occurs throughout the North to North-Central Bay; coastal bottlenose dolphin (*Tursiops truncatus*), which is regularly seen in the North Bay; Pacific harbor seal (*Phoca vitulina*), which frequently enters the North Bay; and common dolphins (*Delphinus* spp.), which are rare visitors in the North Bay. Gray whales (*Eschrichtius robustus*) are occasionally sighted near the mouth of San Diego Bay during their winter migration (Naval Facilities Engineering Command, Southwest and Port of San Diego Bay, 2013). Based on many years of observations and numerous Navy-funded surveys in San Diego Bay (Merkel and Associates, Inc., 2008; Sorensen and Swope, 2010; Graham and Saunders, 2014; Tierra Data Inc., 2016), marine mammals rarely occur south of the Coronado Bay Bridge, are not known to occur near Naval Base San Diego with any regularity, and any occurrence in the project area would be very rare. Therefore, while coastal bottlenose dolphins, Pacific harbor seals, common dolphins, and gray whales have been reported in San Diego Bay, they are not anticipated to occur in the project area and no take of these species is anticipated. The only species that is anticipated to occur south of the Coronado Bridge with any regularity is the California sea lion, based on the sighting of two individuals during 2010 surveys (Sorensen and Swope, 2010). Therefore, only impacts to the California sea lion are evaluated in this IHA.

Pinnipeds

California Sea Lion

California sea lions inhabit the eastern North Pacific Ocean from Islas Marias north of Puerto Vallarta, Mexico, north throughout the Gulf of California, and along the Baja California Peninsula north to the Gulf of Alaska. The U.S. stock ranges from the U.S./Mexico border to Canada. They occupy shallow ocean waters and prefer sandy beaches or rocky coves for breeding and haul-out sites, however they also commonly haul out on marina docks, jetties, and buoys. Pupping and breeding occur from May through July outside of the proposed project timeframe. Rookery sites in Southern California include San Miguel Island and to the more southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Lowry *et al.* 2017). California sea lions commonly forage on a variety of prey including fish and squid, and exhibit annual migratory movements between breeding and foraging habitats. From August to December, adult and sub-adult males migrate north along the U.S. west coast to foraging areas along the coasts of California, Oregon, Washington, British Columbia, Canada, and southeast Alaska. In the spring, males migrate southward to breeding rookeries in the Channel Islands and Mexico. Females and pups/juveniles commonly stay near breeding areas (Lowry *et al.* 2017), but some females may migrate as far north as San Francisco Bay in winter, and during El Niño events, have been observed as far north as central Oregon. The California sea lion molts gradually over several months during late summer and fall.

As with most sea lions, a complete population count of all harbor seals in California is not possible as all members of the population are not ashore simultaneously. Population estimates for the U.S. stock have increased since the 1970s and are derived from 3 primary data sources: 1) annual pup counts (Lowry *et al.* 2017); 2) annual survivorship estimates from mark-recapture data (DeLong *et al.* 2017); and 3) estimates of human-caused serious injuries, mortalities, and bycatch (Carretta and Enriquez 2012a, 2012b, Carretta *et al.* 2016, Carretta *et al.* 2018a, 2018b). Using a logistic growth model and reconstructed population size estimates from 1975–2014, Laake *et al.* (2018) estimated a net productivity rate of 7 percent per year. The population is considered within the range of its optimum sustainable population (OSP) size (Laake *et al.* 2018).

From January 2013 through September 2016, a greater than expected number of young malnourished California sea lions stranded along the coast of California and NMFS declared this an Unusual Mortality Event. Sea lions stranding from an early age (6–8 months old) through two years of age (hereafter referred to as juveniles) were consistently underweight without other disease processes detected. The primary cause of the UME was malnutrition of sea lion pups and yearlings due to ecological factors. These factors included shifts in distribution, abundance and/or quality of sea lion prey items around the Channel Island rookeries during critical sea lion life history events (nursing by adult females, and transitioning from milk to prey by young sea lions). Threats to the U.S. stock include interactions with fisheries, entanglement in marine debris, entrainment in power plant intakes, oil exposure, vessel strikes, dog attacks, and human interactions/harassment (shootings, direct removals) (Carretta *et al.,* 2019).

In San Diego Bay, in general, California sea lions regularly occur on rocks, buoys and other structures, and especially on bait barges, although numbers vary greatly. California sea lion occurrence in the project area is expected to be rare based on sighting of only two individuals in the water off of Navy Base San Diego during one 2010 survey (Sorensen and Swope, 2010). The Sorenson and Swope (2010) survey is the only known survey to provide marine mammal observation data below the San Diego Coronado Bridge (in mid San Diego Bay). The single survey was on February 16, 2010. During this survey one single sea lion was observed off Pier 3 and one single sea lion was observed ~600m from the proposed project site.

Habitat

No ESA-designated critical habitat or Biologically Important Areas overlap with the project area.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms

derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (i.e., all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall et al. 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. One marine mammal species (otariid pinniped species) has the reasonable potential to co-occur with the proposed activities. Please refer to Table 1.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis and Determination* section considers the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far (ANSI, 1995). The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving, and high pressure water jetting. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive. Impulsive sounds (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998; ANSI, 2005; NMFS, 2018). Non-impulsive sounds (*e.g.* aircraft, vessels, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with raid rise/decay time that impulsive sounds do (ANSI, 1995; NIOSH, 1998; NMFS, 2018). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007).

Two types of pile hammers would be used on this project: Impact and vibratory. Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push the pile into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure level (SPL) may be 180 dB or greater,

but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

The likely or possible impacts of Navy's proposed activity on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors include effects of heavy equipment operation during pile installation.

Acoustic Impacts

The introduction of anthropogenic noise into the aquatic environment from pile driving is the primary means by which marine mammals may be harassed from Navy's specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.,* 2007). Exposure to in-water construction noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior) and/or lead to non-observable physiological responses such an increase in stress hormones (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *et al.,* 2009). Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), the species, age and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.,* 2004; Southall *et al.,* 2007). Here we discuss physical auditory effects (threshold shifts), followed by behavioral effects and potential impacts on habitat.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that Navy's activities would result in such effects (see below for further discussion). NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.,* 2014b), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.,* 1958, 1959; Ward, 1960; Kryter *et al.,* 1966; Miller, 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). PTS levels for marine mammals are estimates, as with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.* 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS 2018).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). Based on data from cetacean TTS measurements (see Southall *et al.,* 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000, 2002). As described in Finneran (2016), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and Table 5 in NMFS (2018). Installing piles requires a combination of impact pile driving and vibratory pile driving. For the project, these activities would not occur at the same time and there would likely be pauses in activities producing the sound during each day. Given these pauses and that many marine mammals are likely moving through the action area and not remaining for extended periods of time, the potential for TS declines.

Behavioral Harassment—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure.

As noted above, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Costa *et al.,* 2003; Ng and Leung 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and

alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales (Eubalaena glacialis) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales (*Eschrictius robustus*) are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al,,* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,*

1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* pile driving, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (*e.g.* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. San Diego Bay is an active, industrialized harbor and hosts numerous recreational and commercial vessels; therefore, background sound levels in the San Diego Bay are already elevated by these activities.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Underwater Acoustic Effects

Potential Effects of High-Pressure Water Jetting Sound

High-pressure water jetting may be used to assist with installation of concrete piles. Based on existing reference values, high-pressure water jetting noise was estimated to be 158 dB re: 1 μPa (rms) at 10 m based on Naval Facilities Engineering Command, Southwest (2018) measures of high pressure jetting used on 16-inch round and 24x30-inch concrete piles. As previously described, San Diego Bay is an industrialized harbor and hosts numerous recreational and commercial vessels; therefore, background sound levels in the San Diego Bay are elevated by sounds produced by these vessels. The sounds produced by this activity are of similar frequencies to the sounds produced by vessels, and are anticipated to diminish to background noise levels (or be masked by background noise levels) in the Bay relatively close to the project site. Further, these activities are anticipated to occur on the same day as other installation methods. These animals would previously have been 'taken' because of exposure to underwater sounds produced by pile driving. Thus, in these cases, behavioral harassment of these animals would already accounted for in these estimates of potential take. Therefore, for the reasons described above, we do not believe that authorization of incidental take resulting from high-pressure water jetting is warranted, and impacts of water jetting are not discussed further.

Potential Effects of Pile Driving Sound

The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately

decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.,* 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.,* 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007).

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause non-auditory physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. We do not expect any non-auditory physiological effects because of mitigation that prevents animals from approach the source too closely, as well as source levels with very small Level A harassment isopleths. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur on-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for less than fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately 10 minutes per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis. Active pile driving is anticipated to occur for less than two hours per day and for 50 days between September 15, 2020 and September 14, 2021, so we do not anticipate masking to significantly affect marine mammals.

Airborne Acoustic Effects

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities.

Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. Based on the lack of any pinniped haul-outs in the immediate vicinity of the project site, airborne noise associated with construction are not expected to have any impact on pinnipeds. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes

in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' because of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals would already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Marine Mammal Habitat Effects

The area likely impacted by the project is relatively small compared to the available habitat for California sea lions, and does not include any known areas of important habitat. Navy's proposed construction activities in San Diego Bay are of short duration and would not result in permanent negative impacts to habitats used directly by marine mammals, but could have localized, temporary impacts on marine mammal habitat and their prey by increasing underwater and airborne SPLs and slightly decreasing water quality. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During pile driving, elevated levels of underwater noise would ensonify the San Diego Bay where both fish and mammals occur and could affect foraging success.

There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving in the area. Physical impacts to the environment such as construction debris are unlikely.

In-water pile driving activities would also cause short-term effects on water quality due to increased turbidity. Silt curtains were considered but not included as a mitigation measure for turbidity because: (1) The sediments of the project site are sandy and will settle out rapidly when disturbed; (2) fine sediment that remains suspended would be rapidly dispersed by tidal currents; and (3) tidal currents would tend to collapse the silt curtains and make them ineffective. The waters of San Diego Bay are degraded and turbidity levels vary greatly depending on location, season, and tidal state. Navy would employ standard construction best management practices (BMPs; see Section 11 of the application), thereby reducing any potential impacts. Therefore, the impact from increased turbidity levels is expected to be discountable.

In-water Construction Effects on Potential Foraging Habitat

Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. In general, turbidity associated with pile installation is localized to about a 25-foot (7.6 m) radius around the pile (Everitt *et al.* 1980). Pinnipeds could avoid these localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals.

Essential Fish Habitat (EFH) for several species or groups of species overlaps with the project area including: Groundfish, coastal pelagic species, krill, finfish, dorado, and common thresher shark. NMFS (West Coast Region) is currently reviewing the proposed action for potential effects to EFH pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.

Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

The duration of the construction activities is relatively short. Pile driving activities would occur for 50 days during the proposed project dates. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

In-water Construction Effects on Potential Prey (Fish)—Construction activities would produce continuous (*i.e.,* vibratory pile driving) and pulsed (*i.e.* impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution (summarized in Popper and Hastings, 2009). Hastings and Popper (2005) reviewed several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented physical and behavioral effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality (summarized in Popper *et al.,* 2014).

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small and currently industrialized areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal

stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual California sea lions resulting from exposure to pile driving activities. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutdown)—discussed in detail below in Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re: 1 μPa root mean square (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re: 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Navy's proposed activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re: 1 μPa (rms) thresholds are applicable. As previously discussed, background (ambient) noise in the south-central San Diego Bay was measured at 126 dB re: 1 μPa (L50) in 2019 (Dahl and Dall'Osto 2019), therefore, 126 dB re: 1 μPa was used to calculate the Level B harassment isopleth.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Navy's proposed activity includes the use includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{p,0\text{-}pk,flat}$: 219 dB; $L_{E,p,LF,24h}$: 183 dB	$L_{E,p,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	$L_{p,0\text{-}pk,flat}$: 230 dB; $L_{E,pMF,24h}$: 185 dB	$L_{E,p,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	$L_{p,0\text{-}pk,flat}$: 202 dB; $L_{E,p,HF,24h}$: 155 dB	$L_{E,p,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	$L_{p,0\text{-}pk.flat}$: 218 dB; $L_{E,p,PW,24h}$: 185 dB	$L_{E,p,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	$L_{p,0\text{-}pk,flat}$: 232 dB; $L_{E,p,OW,24h}$: 203 dB	$L_{E,p,OW,24h}$: 219 dB.

* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0\text{-}pk}$) has a reference value of 1 μPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1μPa^{2}s. In this table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript "flat" is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.,* 7 Hz to 160 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. The maximum (underwater) area ensonified is determined by the topography of the San Diego Bay including hard structures directly to the south of the project site. Additionally, vessel traffic and other commercial and industrial activities in the project area may contribute to elevated background noise levels which may mask sounds produced by the project.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * Log_{10} (R_1/R_2)$,

Where

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R_1= the distance of the modeled SPL from the driven pile, and

R_2= the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions, such as the project site where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate distances to the Level A harassment and Level B harassment thresholds for the 24-inch octagonal concrete piles and the 24-inch steel pipe piles proposed in this project, acoustic monitoring data from other locations were used. Empirical data from recent sound source verification (SSV) studies reported in CALTRANS (2015) were used to estimate sound source levels (SSLs) for impact pile driving. For impact pile driving of 24-inch octagonal concrete piles measurements from San Francisco Bay, California were used (SELs-s: 166 dB re: 1 μPa²s; SPLrms: 176 dB re: 1 μPa; SPLpeak: 188 dB re: 1 μPa) (CALTRANS, 2015). For impact pile driving of 24-inch steel pipe piles measurements from Carquinez Bay, California were used (SELs-s: 178 dB re: 1 μPa²s; SPLrms: 194 dB re: 1 μPa; SPLpeak: 207 dB re: 1 μPa) (CALTRANS, 2015). For vibratory pile driving of 24-inch steel pipe piles measurements, average data collected from four projects (3 in Washington and 1 in California) reported by United States Navy (2015) were used. The highest project average SPLrms of 162 dB re: 1 μPa was selected as the most reasonable proxy for 24-inch steel pipe piles.

For piles requiring use of vibratory pile driving, it is anticipated that 10 minutes (min) per pile will be required. The number of final strikes via impact pile driving for each pile installed would be dependent on the underlying geology and the exact placement of the pile. For example, pile-driving activities associated with the Pier 12 replacement required between 500 and 600 blows per pile (Alberto Sanchez 2019, personal communication). To be conservative, 600 strikes per pile is estimated for impact pile driving.

Navy used NMFS' Optional User Spreadsheet, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*, to input project-specific parameters and calculate the isopleths for the Level A harassment zones for impact and vibratory pile driving. When the NMFS Technical Guidance (2018) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources pile driving, the NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

Table 4 provides the sound source values and input used in the User Spreadsheet to calculate harassment isopleths for each source type. For impact pile driving, isopleths calculated using the cumulative SEL metric (SELs-s) will be used as it produces larger isopleths than SPLpeak. Isopleths for Level B harassment associated with impact pile driving (160 dB) and vibratory pile driving (126 dB) were also calculated and are can be found in Table 5.

TABLE 4—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS

User Spreadsheet parameter	Impact pile driving 24-inch octagonal concrete piles	Impact pile driving 24-inch steel pipe piles	Vibratory pile driving 24-inch steel pipe piles
Spreadsheet Tab Used	(E.1) Impact pile driving	(E.1) Impact pile driving	(A.1) Vibratory pile driving.
Source Level (SELs-s or SPL rms)	166 SELs-s[a]	178 SELs-s[a]	162 dB SPL rms[b].
Source Level (SPLpeak)	188	207	N/A.

TABLE 4—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS—Continued

User Spreadsheet parameter	Impact pile driving 24-inch octagonal concrete piles	Impact pile driving 24-inch steel pipe piles	Vibratory pile driving 24-inch steel pipe piles
Weighting Factor Adjustment (kHz)	2	2	2.5.
Number of piles per day	3	1	1.
Number of strikes per pile	600	600	N/A.
Number of strikes per day	1,800	600	N/A.
Estimate driving duration (min) per pile	N/A	N/A	10.
Activity Duration (h) within 24-h period	N/A	N/A	0.167.
Propagation (xLogR)	15 Log R	15 Log R	15 Log R.
Distance of source level measurement (meters)	10	10	10.

[a] CATRANS, 2015.
[b] United States Navy, 2015.

TABLE 5—CALCULATED DISTANCES TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS DURING PILE DRIVING

Source	Level A harassment zone (meters)	Level B harassment zone (meters)	Level B harassment zone ensonified area (km^2)
	Otariid pinnipeds	Pinnipeds	Pinnipeds
Impact Pile Driving 24-inch octagonal concrete piles	4	117	0.043
Impact Pile Driving 24-inch steel pipe piles	13	1,848	3.68
Vibratory Pile Driving 24-inch steel pipe piles	<1	2,512	6.94
Source	PTS onset Isopleth—peak (meters)		
Impact Pile Driving 24-inch octagonal concrete piles	N/A		
Impact Pile Driving 24-inch steel pipe piles	N/A		

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations, and how this information is brought together to produce a quantitative take estimate.

No California sea lion density information is available for south San Diego Bay. Potential exposures to impact and vibratory pile driving noise for each threshold for California sea lions were estimated using data collected during a 2010 survey as reported in Sorensen and Swope (2010). The Sorenson and Swope (2010) survey is the only known survey to provide marine mammal observation data below the San Diego Coronado Bridge (in mid San Diego Bay). The single survey was on February 16, 2010. During this survey one single sea lion was observed off Pier 3 and one single sea lion was observed ~600m from the proposed project site.

Level B harassment Calculations

The estimation of takes by Level B harassment uses the following calculation:

Level B harassment estimate = N (number of animals in the ensonified area) * Number of days of noise generating activities.

The available survey data suggests from Sorenson and Swope (2010) suggests 2 California sea lions could be present each day in the project area, however given the limited data available, to be conservative we have estimated 4 California sea lions could be present each day.

Level B harassment estimate = 4 (number of animals in the ensonified area) * 50 (Number of days of noise generating activities) = 200.

Level A Harassment Calculations

Navy intends to avoid Level A harassment take by shutting down activities if a California sea lion approaches with 25 m of the project site, which encompasses all Level A harassment (PTS onset) ensonification zones described in Table 5. Therefore, no take by Level A harassment is anticipated or proposed for authorization.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the

least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, Navy will employ the following standard mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, etc.), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);
- Though not required, Navy has indicated that in-water pile driving will only be conducted at least 30 minutes after sunrise and up to 30 minutes before sunset, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, in-water pile driving will shut down immediately if such species are observed within or entering the monitoring zone (*i.e.,* Level B harassment zone); and
- If take reaches the authorized limit for an authorized species, pile installation will be stopped as these species approach the Level B harassment zone to avoid additional take.

The following measures would apply to Navy's mitigation requirements:

Establishment of Shutdown Zone for Level A Harassment—For all pile driving activities, Navy would establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Conservative shutdown zones of 25 m for impact and vibratory pile driving activities would be implemented for California sea lions. The placement of PSOs during all pile driving activities (described in detail in the *Monitoring and Reporting Section*) will ensure shutdown zones are visible.

Establishment of Monitoring Zones for Level B Harassment—Navy would establish monitoring zones to correlate with Level B harassment zones which are areas where SPLs are equal to or exceed the 160 dB re: 1 μPa (rms) threshold for impact pile driving and the 126 dB re: 1 μPa (rms) threshold during vibratory pile driving (Table 6). Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone.

TABLE 6—MONITORING AND SHUTDOWN ZONES FOR EACH PROJECT ACTIVITY

Source	Monitoring zone (m)	Shutdown zone (m)
Impact pile driving 24-inch octagonal concrete piles	120	25
Impact Pile Driving 24-inch steel pipe piles	1,850	25
Vibratory Pile Driving 24-inch steel pipe piles	2,515	25

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B harassment monitoring zone. When a marine mammal permitted for take by Level B harassment is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment and shutdown zone will commence again.

Due to strong tidal fluctuations and associated currents in San Diego Bay, bubble curtains would not be implemented as they would not be effective in this environment.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the

proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

Marine Mammal Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Pile driving activities include the time to install a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

At least 1 land-based PSO will be located at the project site, and for the Navy has indicated that when possible and appropriate during vibratory pile driving activities, 1 additional boat-based PSO would be located at the edge of the Level B harassment isopleth (see Figure 1–2 of the Marine Mammal Monitoring Plan dated March, 2020).

PSOs would scan the waters using binoculars, and/or spotting scopes, and would use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Navy would adhere to the following PSO qualifications:

(i) Independent observers (*i.e.,* not construction personnel) are required;

(ii) At least one observer must have prior experience working as an observer;

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience;

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(v) Navy shall submit observer CVs for approval by NMFS.

Additional standard observer qualifications include:

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals, including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Observers will be required to use approved data forms (see proposed data collection forms in the applicant's Marine Mammal Mitigation and Monitoring Plan). Among other pieces of information, Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, Navy will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

• Dates and times (begin and end) of all marine mammal monitoring;

• Construction activities occurring during each daily observation period, including how many and what type of

piles were driven or removed and by what method (*i.e.,* impact or vibratory);

• Weather parameters and water conditions during each monitoring period (*e.g.,* wind speed, percent cover, visibility, sea state);

• The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting;

• Age and sex class, if possible, of all marine mammals observed;

• PSO locations during marine mammal monitoring;

• Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);

• Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level A and Level B harassment zones while the source was active;

• Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate);

• Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any;

• Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals;

• An extrapolation of the estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible; and

• Submit all PSO datasheets and/or raw sighting data (in a separate file from the Final Report referenced immediately above).

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets), and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder shall report the incident to the Office of Protected Resources (OPR) (301–427–8401), NMFS and to the West Coast Region Stranding Coordinator (562–980–3230) as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

• Species identification (if known) or description of the animal(s) involved;

• Condition of the animal(s) (including carcass condition if the animal is dead);

• Observed behaviors of the animal(s), if alive;

• If available, photographs or video footage of the animal(s); and

• General circumstances under which the animal was discovered.

NMFS will work with Navy to determine what, if anything, is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy must not resume their activities until notified by NMFS.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities associated with the Floating Dry Dock Project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) from underwater sounds generated from impact and vibratory pile driving. Potential takes could occur if individuals of California sea lions are present in the ensonified zone when these activities are underway.

No mortality or Level A harassment is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see *Proposed Mitigation* section).

Navy's proposed activities are localized and of relatively short duration (a maximum of 50 days of pile driving for 66 piles). The project area is also very limited in scope spatially, as all work is concentrated on a single pier. Localized and short-term noise exposures produced by project activities may cause short-term behavioral modifications in pinnipeds. Moreover, the proposed mitigation and monitoring measures are expected to further reduce the likelihood of injury, as it is unlikely an animal would remain in close proximity to the sound source, as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014; ABR, 2016). Most likely, individuals will move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving.

The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in California, which have taken place with no known long-term adverse consequences from behavioral harassment. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory pile driving associated with the proposed project may produce sounds above ambient at distances of several kilometers from the project site, thus intruding on some habitat, the project site itself is located in an industrialized bay, and sounds produced by the proposed activities are anticipated to quickly become indistinguishable from other background noise in Bay as they attenuate to near ambient SPLs moving away from the project site. Therefore, we expect that animals annoyed by project sound would simply avoid the area and use more-preferred habitats.

The project also is not expected to have significant adverse effects on affected marine mammal habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities, the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or Level A harassment is anticipated or proposed for authorization;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The specified activity and ensonification area is very small relative to the overall habitat ranges of California sea lions and does not include habitat areas of special significance (BIAs); and
- The presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The *Marine Mammal Occurrence and Take Calculation and Estimation* section describes the number of California sea lions that could be exposed to received noise levels that could cause Level B harassment for the Navy's proposed activities in the project area site relative to the total stock abundance. Based on the estimated stock abundance presented in the 2018 Final SARs (257,606), our analysis shows that less than 1 percent of the affected stock could be taken by harassment.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Navy for conducting the Floating Dry Dock Project at Naval Base San Diego in San Diego, California from September 15, 2020 to September 14, 2021, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed [action]. We also request at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the Dates and Duration section of this

notice, provided all of the following conditions are met:

• A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);

• The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized; and

• Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 10, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–08006 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR010]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off of New York and New Jersey

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Atlantic Shores Offshore Wind, LLC (Atlantic Shores) to incidentally harass, by Level B harassment only, marine mammals during marine site characterization surveys off the coasts of New York and New Jersey in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0499) and along potential submarine cable routes to a landfall location in New York or New Jersey.

DATES: This authorization is valid from April 20, 2020 through April 19, 2021.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the internet at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On November 5, 2019, NMFS received a request from Atlantic Shores for an IHA to take marine mammals incidental to marine site characterization surveys off the coast of New York and New Jersey in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0499) and along potential submarine cable routes to a landfall location in either New York or New Jersey. A revised application was received on December 30, 2019. NMFS deemed that request to be adequate and complete. Atlantic Shores' request is for the take of 12 marine mammal species by Level B harassment. Neither Atlantic Shores nor NMFS expects serious injury or mortality to result from this activity and the activity is expected to last no more than one year, therefore, an IHA is appropriate.

Description of the Proposed Activity

Atlantic Shores proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) and geotechnical surveys, in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf #OCS–A 0499 (Lease Area) and along potential submarine cable routes to landfall locations in either New York or New Jersey.

The purpose of the planned surveys is to support the preliminary site characterization, siting, and engineering design of offshore wind project facilities including wind turbine generators, offshore substations, and submarine cables within the Lease Area and along export cable routes (ECRs). As many as three survey vessels may operate concurrently as part of the planned surveys. Underwater sound resulting from Atlantic Shores' planned site characterization surveys has the potential to result in incidental take of marine mammals in the form of behavioral harassment (*i.e.,* Level B harassment only). The estimated duration of the surveys is expected to be up to 350 total days (including 210 survey days within the Lease Area and 140 survey days within the ECR areas; see Table 1) between April 2020 and April 2021. This schedule is based on 24-hour operations and includes

potential down time due to inclement weather.

TABLE 1—SUMMARY OF PROPOSED HRG SURVEY SEGMENTS

Survey segment	Duration (survey days)
Lease Area	210
Northern ECR	80
Southern ECR	60
All areas combined	350

Atlantic Shores' geotechnical survey activities are described in detail in the notice of proposed IHA (85 FR 7926; February 12, 2020). As described in that notice, the geotechnical survey activities not expected to result in the take of marine mammals and are therefore not analyzed further in this document. The HRG survey activities planned by Atlantic Shores are also described in detail in the notice of proposed IHA (85 FR 7926; February 12, 2020). The HRG equipment that may be used by Atlantic Shores are shown in Table 2. The literature sources for the sound source levels shown in Table 2 are in Table 2–2 in the IHA application.

TABLE 2—SUMMARY OF HRG SURVEY EQUIPMENT PROPOSED FOR USE BY ATLANTIC SHORES

HRG equipment category	Specific HRG equipment	Operating frequency range (kHz)	Source level (dB rms)	Beamwidth (degrees)	Typical pulse duration (ms)	Pulse repetition rate
Single Beam Echosounders	Kongsberg EA 400	38 to 200	222.8	31	0.3	10
	Teledyne ODOM Echotrac CVM.	24	224.6	20	0.3	10
Sparker	Applied Acoustics Dura-Spark 240.	0.25 to 5	211.4	180	2.5	1.6
Sub-Bottom Profiler	Edgetech 2000–DSS	2 to 16	178	24	6.3	10
	Edgetech 216	2 to 16	179	17, 20, or 24	10	10
	Edgetech 424	4 to 24	180	71	4	2
	Edgetech 512i	0.5 to 12	180	80	10	10
	Teledyne Benthos Chirp III	2 to 7	197	100	15	10
		10 to 20	205	30	15	10
	Kongsberg GeoPulse	2 to 12	214	30, 40, or 55	16	10
	Innomar SES–2000 Medium-100 Parametric.	85 to 115	241	2	2	40
Boomer	Applied Acoustics S-Boom Triple Plate.	0.01 to 20	203	80	0.8	3
	Applied Acoustics S-Boom	0.01 to 20	195	98	0.8	3

As described above, detailed description of Atlantic Shores' planned surveys is provided in the notice of proposed IHA (85 FR 7926; February 12, 2020). Since that time, no changes have been made to the activities. Therefore, a detailed description is not provided here. Please refer to that notice for the detailed description of the specified activity. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting below).

Comments and Responses

A notice of proposed IHA was published in the **Federal Register** on February 12, 2020 (85 FR 7926). During the 30-day public comment period, NMFS received comment letters from the Marine Mammal Commission (Commission) and the New Jersey Council of Diving Clubs. NMFS has posted the comments online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* Please see the Commission's letter for full details regarding their recommendations.

Comment 1: The Commission recommends that NMFS incorporate the actual beamwidth of 100° rather than 180° for the Teledyne Benthos Chirp III and 98° rather than 180° for the Applied Acoustics S-Boom and re-estimate the Level A and B harassment zones accordingly.

Response: None of the HRG sources specified by the Commission's comment were determined to be the dominant source in terms of Level A/B harassment zones and therefore were not used for estimating relevant ensonified zones. Additionally, the Commission's recommendations would result in harassment zone sizes for these particular sources that would be equal to, or lesser than, those described in the proposed IHA, and therefore would not result in a change to the dominant source used to estimate marine mammal exposures. As re-modeling these specific sources would not result in any changes to marine mammal exposure estimates, Level A or Level B harassment take numbers, or our determinations, we have determined that taking these steps is not warranted for this authorization. NMFS will take the Commission's comments into consideration for future ITAs for similar activities and sources.

Comment 2: The Commission recommends that NMFS use the out-of-beam source level of 187 dB re 1 μPa at 1 m from Subacoustech (2018) for the Innomar SES–2000 Medium-100 parametric SBP and re-estimate the Level A and B harassment zones accordingly. Otherwise, the Commission states that NMFS should use the in-beam source level and beamwidth to revise the harassment zones accordingly for the parametric SBP.

Response: With respect to the Innomar SES–2000 Medium-100 parametric SBP, NMFS has determined that, based on the very narrow beam width of this source (*i.e.,* 2 degrees), it is extremely unlikely that a marine mammal would be exposed to sound emitted from this particular source. In addition, baleen whales are unlikely to hear signals from this source, which operates at 85–115 kHz. Therefore, we have determined the potential for this source to result in take of marine mammals is so low as to be discountable, and re-modeling harassment isopleths for this source is therefore not warranted.

Comment 3: The Commission recommends that NMFS incorporate water depth when considering the beam width for all sources, including in this instance single-beam echosounders, shallow-penetration SBPs and boomers, and revise the Level A and B harassment zones accordingly.

Response: NMFS agrees with the Commission that water depth should be incorporated in acoustic modeling for HRG sources and acknowledges that depth was not incorporated in the modeling of HRG sources that was used for modeling exposure estimates in the notice of proposed IHA (85 FR 7926; February 12, 2020). However, NMFS has confirmed using a recently-developed spreadsheet tool that accompanies our interim HRG guidance (NMFS, 2019),which incorporates water depth, that the incorporation of water depth in modeling the HRG sources planned for use by Atlantic Shores would result only in smaller harassment zones for some sources, and would not result in larger zones for any sources. In addition, for the source that was determined to be the dominant source in terms of the Level B harassment zone and was therefore used to model acoustic exposures (the AA DuraSpark 240), using our interim guidance (NMFS, 2019) we determined incorporation of depth resulted in no change to the modeled Level B harassment isopleth. As a result, NMFS will take the Commission's comments into consideration for future ITAs for similar activities and sources to ensure action proponents incorporate depth into acoustic modeling (as we agree is appropriate). However, as taking this step would not change the modeled distances to relevant isopleths for dominant sources, and therefore would result in no change to exposure estimates, authorized take numbers, or our determinations, NMFS has determined that taking this step for this particular authorization is not warranted. We note that the recently-developed spreadsheet tool that accompanies the NMFS interim HRG guidance, referred to above, was not publicly available at the time the Atlantic Shores IHA application was submitted, but is now available to the public upon request. We also note that the NMFS interim HRG guidance did not previously incorporate water depth, but a revised version has been developed since the notice of proposed IHA (85 FR 7926; February 12, 2020) was published, and this version will be shared with applicants from this point onward. These recent developments will ensure water depth will be incorporated in future IHAs issued for HRG surveys.

Comment 4: The Commission recommends that NMFS and BOEM expedite efforts to develop and finalize, in the next six months, methodological and signal processing standards for HRG sources. Those standards should be used by action proponents that conduct HRG surveys and that either choose to conduct in-situ measurements to inform an authorization application or are required to conduct measurements to fulfill a lease condition set forth by BOEM.

Response: NMFS agrees with the Commission that methodological and signal processing standards for HRG sources is warranted and is working on developing such standards. However, NMFS cannot ensure such standards will be developed within the Commission's preferred time frame.

Comment 5: The Commission recommends that NMFS (1) prohibit Atlantic Shores and other action proponents from using the impulsive Level A harassment thresholds for estimating the extents of the Level A harassment zones for non-impulsive sources (*i.e.,* echosounders, shallow-penetration SBPs, pingers, etc.) and (2) require action proponents to use the correct Level A harassment thresholds in all future applications.

Response: NMFS concurs with the Commission's recommendation. As described in the notice of proposed IHA, NMFS does not agree with Atlantic Shores' characterization of certain HRG sources as impulsive sources. However, this characterization results in more conservative modeling results. Thus, we have assessed the potential for Level A harassment to result from the proposed activities based on the modeled Level A harassment zones with the acknowledgement that these zones are likely conservative. This approach allows us to assess the impacts of the proposed activity conservatively and is appropriate in this case. Therefore, it is unnecessary to make any changes to the analysis for this proposed activity. However, we will proactively work with action proponents to require use of the correct Level A harassment thresholds in all future applications.

Comment 6: The Commission recommends that NMFS (1) re-estimate all of the Level A and B harassment zones using its user spreadsheet that incorporates the operating frequency and beam width and (2) provide the spreadsheet to all action proponents that conduct HRG surveys, post it on NMFS's website, and require all action proponents to use it for all future HRG-related authorizations.

Response: NMFS appreciates the Commission's comments and concurs with this recommendation. However, the current Level A harassment User Spreadsheet does not incorporate operating frequency or beam width as inputs for assessing Level A harassment zones. The tool referenced by the Commission is in development and will not be available for use prior to making a decision regarding the issuance of this IHA. In addition, re-estimating the isopleth distances for Level A harassment with the incorporation of operating frequency and beam width would result in smaller Level A zones and would therefore not result in any change in our determination as to whether Level A harassment is a likely outcome of the activity. Therefore, the Level A harassment zones will not be recalculated. Note that the current User Spreadsheet is available on our website. The current interim guidance for determining Level B harassment zones does incorporate operating frequency and beam width. We strongly recommend that applicants employ these tools, as we believe they are best currently available methodologies. However, applicants are free to develop additional models or use different tools if they believe they are more representative of real-world conditions.

Comment 7: The Commission recommends that NMFS (1) continue to prohibit action proponents, including Atlantic Shores, from using a 100-msec integration time to adjust the SPLrms-based source levels when estimating the Level B harassment zones, (2) ensure that the **Federal Register** notice for the final authorization does not incorrectly state that pulse duration was considered in the estimation of the Level B harassment zones, and (3) require action proponents to omit any related discussions regarding integration time from all future applications to avoid unnecessary confusion and errors in future **Federal Register** notices.

Response: As the Commission is aware, NMFS does not have the authority to require action proponents to omit the discussion of particular topics in ITA applications. We will, however, continue to prohibit applicants from using a 100-msec integration time to adjust the SPLrms-based source levels when estimating the Level B harassment zones, as we have done in this IHA. NMFS has removed references to the use of pulse duration for the estimation of Level B harassment zones.

Comment 8: The Commission recommends that NMFS evaluate the impacts of sound sources consistently across all action proponents and deem

sources *de minimis* in a consistent manner for all proposed incidental harassment authorizations and rulemakings. This has the potential to reduce burdens on both action proponents and NMFS.

Response: NMFS concurs with the Commission's recommendation and agrees that sound sources should be analyzed in a consistent manner and agrees that sources determined to result in *de minimis* impact should generally be considered unlikely to result in take under the MMPA. As an example, NMFS has determined that most types of geotechnical survey equipment are generally unlikely to result in the incidental take of marine mammals (in the absence of site-specific or species-specific circumstances that may warrant additional analysis). NMFS has not made such a determination with respect to all HRG sources. As NMFS has not made a determination that sound from all HRG sources would be considered *de minimis* we cannot rule out the potential for these sources to result in the incidental take of marine mammals.

Comment 9: The Commission recommends that NMFS consider whether, in such situations involving HRG surveys, incidental harassment authorizations are necessary given the small size of the Level B harassment zones, the proposed shut-down requirements, and the added protection afforded by the lease-stipulated exclusion zones. Specifically, the Commission states that NMFS should evaluate whether taking needs to be authorized for those sources that are not considered *de minimis,* including sparkers and boomers, and for which implementation of the various mitigation measures should be sufficient to avoid Level B harassment takes.

Response: NMFS has evaluated whether taking needs to be authorized for those sources that are not considered *de minimis,* including sparkers and boomers, factoring into consideration the effectiveness of mitigation and monitoring measures, and we have determined that implementation of mitigation and monitoring measures cannot ensure that all take can be avoided during all HRG survey activities under all circumstances at this time. If and when we are able to reach such a conclusion, we will re-evaluate our determination that incidental take authorization is warranted for these activities.

Comment 10: The Commission recommends that NMFS authorize up to two Level B harassment takes of sei whales based on group size.

Response: Based on survey data from 2010 through 2018 from the Annual Reports of Comprehensive Assessments of Marine Mammal, Marine Turtle, and Seabird Abundance and Spatial Distribution in U.S. waters of the Western North Atlantic Ocean (AMAPPS), published by the NOAA Fisheries Northeast and Southeast Fisheries Science Centers, the mean group size for sei whales was determined to be 1.3 whales (NOAA Fisheries Northeast and Southeast Fisheries Science Centers, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011). However, to be conservative, we have authorized two takes of sei whales to account for the fact that sei whales may be encountered in pairs.

Comment 11: The Commission recommends that NMFS authorize up to 30 Level B harassment takes of Risso's dolphins for Atlantic Shores based on group size.

Response: Based on AMAPPS survey data from 2010 through 2018, the mean group size for Risso's dolphins was determined to be 5.9 dolphins (NOAA Fisheries Northeast and Southeast Fisheries Science Centers, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011). We have therefore not followed the recommendation of the Commission and have authorized 6 takes of Risso's dolphins based on group size as proposed in our notice of proposed IHA (85 FR 7926; February 12, 2020).

Comment 12: The Commission recommends that NMFS require Atlantic Shores to report as soon as possible and cease project activities immediately in the event of an unauthorized injury or mortality of a marine mammal from a vessel strike until the NMFS Office of Protected Resources and the NMFS New England/Mid-Atlantic Regional Stranding Coordinator determine whether additional measures are necessary to minimize the potential for additional unauthorized takes.

Response: NMFS has imposed a suite of measures in this IHA to reduce the risk of vessel strikes and has not authorized any takes associated with vessel strikes. However, NMFS does not concur and does not adopt the recommendation. NMFS does not agree that a blanket requirement for project activities to cease would be practicable for a vessel that is operating on the open water, and it is unclear what mitigation benefit would result from such a requirement in relation to vessel strike. The Commission does not suggest what measures other than those prescribed in this IHA would potentially prove more effective in reducing the risk of strike. Therefore, we have not included this requirement in the authorization. NMFS retains authority to modify the IHA and cease all activities immediately based on a vessel strike and will exercise that authority if warranted.

Comment 13: The Commission recommends that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process. That process is similarly expeditious and fulfills NMFS's intent to maximize efficiencies, and that NMFS (1) stipulate that a renewal is a one-time opportunity (a) in all **Federal Register** notices requesting comments on the possibility of a renewal, (b) on its web page detailing the renewal process, and (c) in all draft and final authorizations that include a term and condition for a renewal and, (2) if NMFS refuses to stipulate a renewal being a one-time opportunity, explain why it will not do so in its **Federal Register** notices, on its web page, and in all draft and final authorizations.

Response: NMFS does not agree with the Commission and, therefore, does not adopt the Commission's recommendations. NMFS believes IHA renewals can be appropriate in certain limited circumstances. NMFS will provide a more detailed response within 120 days, as required by section 202(d) of the MMPA.

Comment 14: The Commission recommends that, for all authorizations and rulemakings, NMFS provide separate, detailed explanations for not following or adopting any Commission recommendation.

Response: NMFS agrees that section 202(d) of the MMPA requires that any recommendations made by the Commission be responded to within 120 days of receipt, and that response to recommendations that are not followed or adopted must be accompanied by a detailed explanation of the reasons why. Therefore, NMFS concurs with the Commission's recommendation that NMFS provide detailed explanations for not following or adopting any Commission recommendation.

However, NMFS disagrees with the Commission's underlying allegation that we have not provided the necessary responses, as required by the MMPA. Section 202(d) requires NMFS to provide detailed explanations of the reasons why recommendations are not adopted within 120 days, however it does not provide the Commission with the authority to assess the adequacy of NMFS' response, and NMFS believes that the explanations provided are sufficient. Regarding certain examples where NMFS does acknowledge having yet to provide the requisite detailed explanation, the Commission notes that it has been ''over a month'' with no

response. However, as noted accurately by the Commission, the statute requires only that the explanation be provided within 120 days.

Comment 15: The New Jersey Council of Diving Clubs recommended that Atlantic Shores take steps to safeguard sport divers that are in the area of proposed surveys.

Response: The commenter's letter focused on specific issues that are not germane to our consideration of requested action under the MMPA, and provided recommendations relating to mitigation of potential impacts to recreational divers. NMFS's proposed action—the issuance of an IHA authorizing incidental take of marine mammals—necessarily results in impacts only to marine mammals and marine mammal habitat. Therefore, the comments are not relevant to NMFS's proposed action. Although NMFS does not have the authority to require measures specific to diver safety, we have provided the commenter's letter to Atlantic Shores for their consideration.

Changes From the Proposed IHA to Final IHA

As described above, the following revision has been made to authorized take numbers:

- Authorized Level B harassment takes of sei whales has been revised from one to two.

Description of Marine Mammals in the Area of Specified Activity

Sections 3 and 4 of the IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

Table 3 summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2019). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR is included here as a gross indicator of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs. All values presented in Table 3 are the most recent available at the time of publication and are available in the 2019 draft Atlantic SARs (Hayes *et al.,* 2019), available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region*.

TABLE 3—MARINE MAMMALS KNOWN TO OCCUR IN THE SURVEY AREA THAT MAY BE AFFECTED BY ATLANTIC SHORES' ACTIVITY

Common name (scientific name)	Stock	MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Annual M/SI [4]	Occurrence in project area
Toothed whales (Odontoceti)							
Sperm whale *(Physeter macrocephalus)*.	North Atlantic	E; Y	4,349 (0.28; 3,451; n/a)	5,353 (0.12)	6.9	0.0	Rare.
Long-finned pilot whale *(Globicephala melas)*.	W North Atlantic ...	-; N	39,215 (0.3; 30,627; n/a)	[5] 18,977 (0.11)	306	21	Rare.
Atlantic white-sided dolphin *(Lagenorhynchus acutus)*.	W North Atlantic ...	-; N	93,233 (0.71; 54,443; n/a)	37,180 (0.07)	544	26	Common.
Bottlenose dolphin *(Tursiops truncatus)*.	W North Atlantic, Offshore.	-;N	62,851 (0.23; 51,914; 2011)	[5] 97,476 (0.06)	519	28	Common off-shore.
	W North Atlantic, Northern Coastal Migratory.	-;N	6,639 (0.41; 4,759; 2015)		48	6.1–13.2	Common near-shore.
Common dolphin *(Delphinus delphis)*.	W North Atlantic ...	-;N	172,825 (0.21; 145,216; 2011)	86,098 (0.12)	1,452	419	Common.
Atlantic spotted dolphin *(Stenella frontalis)*.	W North Atlantic ...	-;N	39,921 (0.27; 32,032; 2012)	55,436 (0.32)	320	0	Common.
Risso's dolphin *(Grampus griseus)*.	W North Atlantic ...	-;N	35,493 (0.19; 30,289; 2011)	7,732 (0.09)	303	54.3	Rare.

TABLE 3—MARINE MAMMALS KNOWN TO OCCUR IN THE SURVEY AREA THAT MAY BE AFFECTED BY ATLANTIC SHORES' ACTIVITY—Continued

Common name (scientific name)	Stock	MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Annual M/SI [4]	Occurrence in project area
Harbor porpoise *(Phocoena phocoena)*.	Gulf of Maine/Bay of Fundy.	-;N	95,543 (0.31; 74,034; 2011)	* 45,089 (0.12)	851	217	Common.
Baleen whales (Mysticeti)							
North Atlantic right whale *(Eubalaena glacialis)*.	W North Atlantic ...	E; Y	428 (0; 418; n/a)	* 535 (0.45)	0.8	6.85	Occur seasonally.
Humpback whale *(Megaptera novaeangliae)*.	Gulf of Maine	-;N	1,396 (0; 1,380; n/a)	* 1,637 (0.07)	22	12.15	Common year round.
Fin whale *(Balaenoptera physalus)*.	W North Atlantic ...	E; Y	7,418 (0.25; 6,025; n/a)	4,633 (0.08)	12	2.35	Year round in continental shelf and slope waters.
Sei whale *(Balaenoptera borealis)*.	Nova Scotia	E; Y	6,292 (1.015; 3,098; n/a)	* 717 (0.30)	6.2	1.0	Year round in continental shelf and slope waters.
Minke whale *(Balaenoptera acutorostrata)*.	Canadian East Coast.	-;N	24,202 (0.3; 18,902; n/a)	* 2,112 (0.05)	8.0	7.0	Year round in continental shelf and slope waters.
Earless seals (Phocidae)							
Gray seal [6] *(Halichoerus grypus)*.	W North Atlantic ...	-;N	27,131 (0.19; 23,158; n/a)	.....	1,389	5,410	Common.
Harbor seal *(Phoca vitulina)*.	W North Atlantic ...	-;N	75,834 (0.15; 66,884; 2012)	.....	2,006	350	Common.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] Stock abundance as reported in NMFS marine mammal stock assessment reports (SAR) except where otherwise noted. SARs available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate. All values presented here are from the 2019 draft Atlantic SARs (Hayes *et al.,* 2019).

[3] This information represents species- or guild-specific abundance predicted by recent habitat-based cetacean density models (Roberts *et al.,* 2016, 2017, 2018). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Atlantic Ocean, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area. For those species marked with an asterisk, the available information supported development of either two or four seasonal models; each model has an associated abundance prediction. Here, we report the maximum predicted abundance.

[4] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP). Annual M/SI, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI values often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the draft 2019 SARs (Hayes *et al.,* 2019).

[5] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016, 2017, 2018) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. Roberts *et al.* (2016, 2017, 2018) produced density models to genus level for *Globicephala* spp. and produced a density model for bottlenose dolphins that does not differentiate between offshore and coastal stocks.

[6] NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 505,000.

Four marine mammal species that are listed under the Endangered Species Act (ESA) may be present in the survey area and are included in the take request: The North Atlantic right whale, fin whale, sei whale, and sperm whale. We consulted under section 7 of the ESA with the NMFS Greater Atlantic Regional Fisheries Office (GARFO) on our authorization of take for these species; please see the Endangered Species Act section below.

A detailed description of the species likely to be affected by Atlantic Shores' surveys, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the notice of proposed IHA (85 FR 7926; February 12, 2020). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that notice for these descriptions. Please also refer to NMFS' website (*www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from Atlantic Shores' survey activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (85 FR 7926; February 12, 2020) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from Atlantic Shores' survey activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (85 FR 7926; February 12, 2020).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to HRG sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* exclusion zones and shutdown measures), discussed in detail below in the Mitigation section, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 μPa (rms) for impulsive and/or intermittent sources (*e.g.,* impact pile driving) and 120 dB rms for continuous sources (*e.g.,* vibratory driving). Atlantic Shores' proposed activity includes the use of impulsive and intermittent sources (geophysical survey equipment) therefore use of the 160 dB re 1 μPa (rms) threshold is applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The components of Atlantic Shores' proposed activity that may result in the take of marine mammals include the use of impulsive sources. We note that sources that operate with a repetition rate greater than 10 Hz were assessed by Atlantic Shores with the non-impulsive (intermittent) source criteria and sources with a repetition rate equal to or less than 10 Hz were assessed with the impulsive source criteria. This resulted in all echosounders, sparkers, boomers and sub-bottom profilers (with the exception of one: The Innomar SES–2000 Medium-100 parametric sub-bottom profiler) being categorized as impulsive for purposes of modeling Level A harassment zones.

These thresholds are provided in Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The proposed survey would entail the use of HRG equipment. The distance to the isopleth corresponding to the threshold for Level B harassment was calculated for all HRG equipment with the potential to result in harassment of marine mammals. NMFS has developed an interim methodology for determining the rms sound pressure level (SPL_{rms}) at the 160-dB isopleth for the purposes of estimating take by Level B harassment resulting from exposure to HRG survey equipment (NMFS, 2019). This methodology incorporates frequency and some directionality to refine estimated ensonified zones. Atlantic Shores used the methods specified in the interim methodology (NMFS, 2019) with additional modifications to incorporate a seawater absorption formula and a method to account for energy emitted outside of the primary beam of the source. For sources that operate with different beam widths, the maximum beam width was used. The lowest frequency of the source was used when calculating the absorption coefficient. The formulas used to apply the methodology are described in detail in Appendix B of the IHA application. As described above, NMFS acknowledges that water depth should also be incorporated in modeling of HRG sources but was not incorporated in the modeling of HRG sources in the notice of proposed IHA (85 FR 7926; February 12, 2020). However, also as noted above, NMFS has confirmed using a recently-developed spreadsheet tool that accompanies the NMFS interim HRG guidance (NMFS, 2019), which incorporates water depth, that the incorporation of water depth in modeling the HRG sources proposed for use by Atlantic Shores would result only in smaller harassment zones for some sources, and would not result in larger zones for any sources.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and therefore recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to the Level B harassment threshold. In cases when the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends that either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 shows the HRG equipment types that may be used during the planned surveys and the sound levels associated with those HRG equipment types. Table 2–2 in the IHA application shows the literature sources for the sound source levels that are shown in Table 2 and that were incorporated into the modeling of isopleth distances to the Level B harassment threshold.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment planned for use by Atlantic Shores that has the potential to result in harassment of marine mammals, sound produced by the Applied Acoustics Dura-Spark 240 sparker would propagate furthest to the Level B harassment threshold (Table 5); therefore, for the purposes of the exposure analysis, it was assumed the Applied Acoustics Dura-Spark 240 would be active during the entire duration of the surveys. Thus the distance to the isopleth corresponding to the threshold for Level B harassment for the Applied Acoustics Dura-Spark 240 (estimated at 372 m; Table 5) was used as the basis of the take calculation for all marine mammals. Note that this results in a conservative estimate of the total ensonified area resulting from the proposed activities as Atlantic Shores may not operate the Applied Acoustics Dura-Spark 240 during the entire survey, and for any survey segments in which it is not ultimately operated the distance to the Level B harassment threshold would be less than 372 m (Table 5). However, as Atlantic Shores cannot predict the precise number of survey days that will require the use of the Applied Acoustics Dura-Spark 240, it was assumed that it would operated during the entire duration of the planned surveys.

TABLE 5—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS

Sound source	Radial distance to Level A harassment threshold (m)*				Radial distance to Level B harassment threshold (m)
	Low frequency cetaceans	Mid frequency cetaceans	High frequency cetaceans	Phocid pinnipeds (underwater)	All marine mammals
Kongsberg EA 400	<1	2	213	<1	172
Teledyne ODOM Echotrac CVM	<1	1	220	<1	173
Applied Acoustics Dura-Spark 240	1	<1	9	1	372
Edgetech 2000–DSS	<1	<1	<1	<1	4
Edgetech 216	<1	<1	<1	<1	5
Edgetech 424	<1	<1	<1	<1	6
Edgetech 512i	<1	<1	<1	<1	7
Teledyne Benthos Chirp III	n/a	n/a	n/a	n/a	71
Kongsberg GeoPulse	n/a	n/a	n/a	n/a	231
Innomar SES–2000 Medium-100 Parametric	<1	<1	60	<1	116
Applied Acoustics S-Boom Triple Plate	<1	<1	38	<1	97
Applied Acoustics S-Boom	<1	<1	13	<1	56

*Distances to the Level A harassment threshold based on the larger of the dual criteria (peak SPL and SEL_{cum}) are shown. For the Applied Acoustics Dura-Spark 240 the peak SPL metric resulted in larger isopleth distances; for all other sources the SEL_{cum} metric resulted in larger isopleth distances.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups (Table 4), were also calculated. The updated acoustic thresholds for impulsive sounds (such as HRG survey equipment) contained in the Technical Guidance (NMFS, 2018) were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* the metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group.

Modeling of distances to isopleths corresponding to the Level A harassment threshold was performed for all types of HRG equipment proposed for use with the potential to result in harassment of marine mammals. Atlantic Shores used a new model developed by JASCO to calculate distances to Level A harassment isopleths based on both the peak SPL and the SEL_{cum} metric. For the peak SPL metric, the model is a series of equations that accounts for both seawater absorption and HRG equipment beam patterns (for all HRG sources with beam widths larger than 90°, it was assumed these sources were omnidirectional). For the SEL_{cum} metric, a model was developed that accounts for the hearing sensitivity of the marine mammal group, seawater absorption, and beam width for downwards-facing transducers. Details of the modeling methodology for both the peak SPL and SEL_{cum} metrics are provided in Appendix A of the IHA application. This model entails the following steps:

1. Weighted broadband source levels were calculated by assuming a flat spectrum between the source minimum and maximum frequency, weighted the spectrum according to the marine mammal hearing group weighting function (NMFS 2018), and summed across frequency.
2. Propagation loss was modeled as a function of oblique range.
3. Per-pulse SEL was modeled for a stationary receiver at a fixed distance off a straight survey line, using a vessel transit speed of 3.5 knots and source-specific pulse length and repetition rate. The off-line distance is referred to as the closest point of approach (CPA) and was performed for CPA distances between 1 m and 10 km. The survey line length was modeled as 10 km long (analysis showed longer survey lines increased SEL by a negligible amount). SEL is calculated as $SPL + 10 \log_{10} T/15$ dB, where T is the pulse duration.
4. The SEL for each survey line was calculated to produce curves of weighted SEL as a function of CPA distance.
5. The curves from Step 4 above were used to estimate the CPA distance to the impact criteria.

We note that in the modeling methods described above and in Appendix A of the IHA application, sources that operate with a repetition rate greater than 10 Hz were assessed with the non-impulsive (intermittent) source criteria while sources with a repetition rate equal to or less than 10 Hz were assessed with the impulsive source criteria. This resulted in all echosounders, sparkers, boomers and sub-bottom profilers (with the exception of one: The Innomar SES–2000 Medium-100 parametric sub-bottom profiler) being categorized as impulsive for purposes of modeling Level A harassment zones. As noted above, NMFS does not agree with this step in the modeling assessment, which results in nearly all HRG sources being classified as impulsive. However, we note that the classification of the majority of HRG sources as impulsive results in more conservative modeling results. Therefore, we are retaining the analysis of Level A harassment zones from the notice of proposed IHA (85 FR 7926; February 12, 2020), though this analysis does incorporate a 10 Hz repetition rate as a cutoff between impulsive and non-impulse sources. We acknowledge that this modeling approach results in zones are likely conservative for some sources.

Modeled isopleth distances to Level A harassment thresholds for all types of HRG equipment and all marine mammal functional hearing groups are shown in Table 5. The dual criteria (peak SPL and SEL_{cum}) were applied to all HRG sources using the modeling methodology as described above, and the largest isopleth distances for each functional hearing group were then carried forward in the exposure analysis to be conservative. For the Applied Acoustics Dura-Spark 240 the peak SPL metric resulted in larger isopleth distances; for all HRG sources other than the Applied Acoustics Dura-Spark 240, the SEL_{cum} metric resulted in larger isopleth distances. Distances to the Level A harassment threshold based on the larger of the dual criteria (peak SPL and SEL_{cum}) are shown in Table 5.

Modeled distances to isopleths corresponding to the Level A harassment threshold are very small (< 3 m) for three of the four marine mammal functional hearing groups that may be impacted by the proposed activities (*i.e.,* low frequency and mid frequency cetaceans, and phocid pinnipeds; see Table 5). Based on the very small Level A harassment zones for these functional hearing groups, the potential for species within these functional hearing groups to be taken by Level A harassment is considered so low as to be discountable. These three functional hearing groups encompass all but one of the marine mammal species listed in Table 3 that may be impacted by the proposed activities. There is one species (harbor porpoise) within the high frequency functional hearing group that may be impacted by the proposed activities. The largest modeled distance to the Level A harassment threshold for the high frequency functional hearing group was 220 m (Table 5). However, as noted above, modeled distances to isopleths corresponding to the Level A harassment threshold are assumed to be conservative. Level A harassment would also be more likely to occur at close approach to the sound source or as a result of longer duration exposure to the sound source, and mitigation measures—including a 100-m exclusion zone for harbor porpoises—are expected to minimize the potential for close approach or longer duration exposure to active HRG sources. In addition, the two HRG sources with the large calculated Level A zones are highly directional (Table 5), which lessens significantly the likelihood of exposure. Finally, harbor porpoises are a notoriously shy species which is known to avoid vessels, and would also be expected to avoid a sound source prior to that source reaching a level that would result in injury (Level A harassment). Therefore, we have determined that the potential for take by Level A harassment of harbor porpoises is so low as to be discountable. As NMFS has determined that the likelihood of take of any marine mammals in the form of Level A harassment occurring as a result of the planned surveys is so low as to be discountable, we therefore do not propose to authorize the take by Level A harassment of any marine mammals.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

The habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018) represent the best available information regarding marine mammal densities in the proposed survey area. The density data presented by Roberts *et al.* (2016, 2017, 2018) incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016). In subsequent years, certain models have been updated on the basis of additional data as well as certain methodological improvements. Our evaluation of the changes leads to a conclusion that these represent the best scientific evidence available. More information is available online at *seamap.env.duke.edu/models/Duke-EC-GOM-2015/*. Marine mammal density estimates in the project area (animals/km^2) were obtained using these model results (Roberts *et al.,* 2016, 2017, 2018). The updated models incorporate additional sighting data, including sightings from the NOAA Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys from 2010–2014 (NEFSC & SEFSC, 2011, 2012, 2014a, 2014b, 2015, 2016).

For the exposure analysis, density data from Roberts *et al.* (2016, 2017, 2018) were mapped using a geographic information system (GIS). The density coverages that included any portion of the survey areas were selected for all potential survey months. For each of the survey areas (*i.e.,* Lease Area, CER North and ECR South), the densities of each species as reported by Roberts *et al.* (2016, 2017, 2018) were averaged by season; thus, a density was calculated for each species for spring, summer, fall and winter. To be conservative, the greatest seasonal density calculated for each species was then carried forward in the exposure analysis. Estimated seasonal densities (animals per km^2) of all marine mammal species that may be taken by the planned survey, for all survey areas are shown in Tables B–1, B–2 and B–3 in Appendix C of the IHA application. The maximum seasonal density values used to estimate take numbers are shown in Table 6 below.

For bottlenose dolphin densities, Roberts *et al.* (2016, 2017, 2018) does not differentiate by stock. The Western North Atlantic northern migratory coastal stock only occurs in coastal waters from the shoreline to approximately the 20-m isobath (Hayes *et al.* 2018). As the Lease Area is located within depths exceeding 20-m, where the offshore stock would typically be expected to occur, all calculated bottlenose dolphin exposures within the Lease Area were assigned to the offshore stock. However, both stocks have the potential to occur in the ECR North and ECR South survey areas. To account for the potential for mixed stocks within ECR North and South, the survey areas ECR North and South were divided approximately along the 20-m depth isobath, which roughly corresponds to the 10-fathom contour on NOAA navigation charts. As approximately 33 percent of ECR North and ECR South are 20-m or less in depth, 33 percent of the estimated take calculation for bottlenose dolphins was applied to the Western North Atlantic northern migratory coastal stock and the remaining 67 percent was applied to the offshore stock. Similarly, Roberts *et al.* (2018) produced density models for all seals and did not differentiate by seal species. Because the seasonality and habitat use by gray seals roughly overlaps with that of harbor seals in the survey areas, it was assumed that modeled takes of seals could occur to either of the respective species, thus the total number of modeled takes for seals was applied to each species. This approach represents a double-counting of expected total seal takes and is therefore conservative.

TABLE 6—MAXIMUM SEASONAL MARINE MAMMAL DENSITIES (NUMBER OF ANIMALS PER 100 KM$_2$) IN THE SURVEY AREAS

Species	Lease area	ECR North	ECR South
North Atlantic right whale	0.087	0.068	0.073
Humpback whale	0.076	0.082	0.103
Fin whale	0.100	0.080	0.057
Sei whale	0.004	0.004	0.002
Minke whale	0.055	0.017	0.019
Sperm Whale	0.013	0.005	0.003

TABLE 6—MAXIMUM SEASONAL MARINE MAMMAL DENSITIES (NUMBER OF ANIMALS PER 100 KM_2) IN THE SURVEY AREAS—Continued

Species	Lease area	ECR North	ECR South
Long-finned pilot whale	0.036	0.012	0.009
Bottlenose dolphin (W. N. Atlantic Coastal Migratory)	.....	21.675	58.524
Bottlenose dolphin (W. N. Atlantic Offshore)	21.752	21.675	58.524
Common dolphin	3.120	1.644	1.114
Atlantic white-sided dolphin	0.487	0.213	0.152
Atlantic spotted dolphin	0.076	0.059	0.021
Risso's dolphin	0.010	0.001	0.002
Harbor porpoise	2.904	7.357	2.209
Gray seal	4.918	9.737	6.539
Harbor seal	4.918	9.737	6.539

Note: All density values derived from Roberts *et al.* (2016, 2017, 2018). Densities shown represent the maximum seasonal density values calculated.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to harassment thresholds are calculated, as described above. Those distances are then used to calculate the area(s) around the HRG survey equipment predicted to be ensonified to sound levels that exceed harassment thresholds. The area estimated to be ensonified to relevant thresholds in a single day is then calculated, based on areas predicted to be ensonified around the HRG survey equipment and the estimated trackline distance traveled per day by the survey vessel.

Atlantic Shores estimates that planned surveys will achieve a maximum daily track line distance of 85 km per day. This distance accounts for the vessel traveling at approximately 3.5 kn and accounts for non-active survey periods. Based on the maximum estimated distance to the Level B harassment threshold of 372 m (Table 5) and the maximum estimated daily track line distance of 85 km, an area of 63.675 km^2 would be ensonified to the Level B harassment threshold per day during Atlantic Shores' planned surveys. As described above, this is a conservative estimate as it assumes the HRG source that results in the greatest isopleth distance to the Level B harassment threshold would be operated at all times during the entire survey, which may not ultimately occur.

The number of marine mammals expected to be incidentally taken per day is then calculated by estimating the number of each species predicted to occur within the daily ensonified area (animals/km^2), incorporating the estimated marine mammal densities as described above. Estimated numbers of each species taken per day are then multiplied by the total number of survey days (*i.e.,* 350). The product is then rounded, to generate an estimate of the total number of instances of harassment expected for each species over the duration of the survey. A summary of this method is illustrated in the following formula:

$$\text{Estimated Take} = D \times ZOI \times \#\text{ of days}$$

Where: D = average species density (per km^2) and ZOI = maximum daily ensonified area to relevant thresholds.

TABLE 7—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS AUTHORIZED AND TAKES AS A PERCENTAGE OF POPULATION

Species	Takes by Level A harassment authorized	Estimated takes by Level B harassment	Takes by Level B harassment authorized	Total takes authorized	Total instances of take as a percentage of population [1]
North Atlantic right whale	0	18	9	9	2.2
Humpback whale	0	18	18	18	1.1
Fin whale	0	20	20	20	0.4
Sei whale [2]	0	1	2	2	0.3
Minke whale	0	9	9	9	0.4
Sperm whale [2]	0	2	3	3	0.1
Long-finned pilot whale	0	6	6	6	0.0
Bottlenose dolphin (W.N. Atlantic Coastal Migratory)	0	1,102	1,102	1,102	16.6
Bottlenose dolphin (W.N. Atlantic Offshore)	0	5,113	5,113	5,113	8.1
Common dolphin	0	544	544	544	0.6
Atlantic white-sided dolphin	0	82	82	82	0.2
Atlantic spotted dolphin [2]	0	14	100	100	0.2
Risso's Dolphin [2]	0	2	6	6	0.1
Harbor porpoise	0	115	115	115	0.3
Harbor seal	0	1,404	1,404	1,404	1.9

TABLE 7—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS AUTHORIZED AND TAKES AS A PERCENTAGE OF POPULATION—Continued

Species	Takes by Level A harassment authorized	Estimated takes by Level B harassment	Takes by Level B harassment authorized	Total takes authorized	Total instances of take as a percentage of population [1]
Gray seal	0	1,404	1,404	1,404	0.3

[1] Calculations of percentage of stock taken are based on the best available abundance estimate as shown in Table 3. In most cases the best available abundance estimate is provided by Roberts *et al.* (2016, 2017, 2018), when available, to maintain consistency with density estimates derived from Roberts *et al.* (2016, 2017, 2018). For North Atlantic right whales the best available abundance estimate is derived from the North Atlantic Right Whale Consortium 2019 Annual Report Card (Pettis *et al.,* 2019). For bottlenose dolphins and seals, Roberts *et al.* (2016, 2017, 2018) provides only a single abundance estimate and does not provide abundance estimates at the stock or species level (respectively), so abundance estimates used to estimate percentage of stock taken for bottlenose dolphins, gray and harbor seals are derived from NMFS SARs (Hayes *et al.,* 2019).

[2] The number of authorized takes (Level B harassment only) for these species has been increased from the estimated take number to mean group size (*i.e.,* Risso's dolphin, sperm whale and Atlantic spotted dolphin) or to account for the fact that the species may be encountered in pairs despite estimated mean group size being less than two (*i.e.,* sei whale). Sources for mean group size estimates are as follows: Risso's dolphin: (NOAA Fisheries Northeast and Southeast Fisheries Science Centers, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011); Atlantic spotted dolphin: Herzing and Perrin (2018); sperm whale: Barkaszi and Kelly (2019).

The numbers of takes authorized are shown in Table 7. Atlantic Shores did not request take authorization for four marine mammal species for which takes by Level B harassment were calculated based on the modeling approach described above: North Atlantic right, fin, sei, and sperm whale. Though the modeling resulted in estimates of take for these species as shown in Table 7, Atlantic Shores determined that take of these species could be avoided due to mitigation. However, given the size of the modeled Level B harassment zone, the duration of the planned surveys, and the fact that surveys will occur 24 hours per day, NMFS is not confident that all takes of these species could be avoided due to mitigation, and we therefore authorize the number of Level B harassment takes shown in Table 7. For fin whales we authorize the number of takes modeled. For sei and sperm whales we authorize takes based on the numbers modeled but increased the numbers based on mean group size for the species (described further below). For North Atlantic right whale, we authorize one half of the takes modeled, as we expect that mitigation measures, including a 500-m exclusion zone for right whales (which exceeds the Level B harassment zone by over 100-m and will be implemented during daylight hours) will be at least that effective in reducing the potential for takes by Level B harassment.

As described above, Roberts *et al.* (2018) produced density models for all seals and did not differentiate by seal species. The take calculation methodology as described above resulted in an estimate of 1,404 total seal takes. Based on this estimate, Atlantic Shores requested 1,404 takes each of harbor and gray seals, based on an assumption that the modeled takes could occur to either of the respective species. Although this is a conservative approach, we authorize the requested take numbers for seals as shown in Table 7.

Using the take methodology approach described above, the take estimates for Risso's dolphin, spotted dolphin and sperm whale were less than the average group sizes estimated for these species (Table 7). However, information on the social structures of these species indicates these species are likely to be encountered in groups. Therefore it is reasonable to conservatively assume that one group of each of these species will be taken during the planned survey. We therefore authorize the take of the average group size for these species to account for the possibility that the planned survey encounters a group of either of these species (Table 7).

Using the take methodology approach described above, the take estimate for sei whale resulted in an estimate of one take. While the mean group size estimate from AMAPPS survey data from 2010 through 2018 was 1.3 whales (NOAA Fisheries Northeast and Southeast Fisheries Science Centers, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011), to be conservative we have authorized the take of two sei whales to account for the fact that the species may be encountered in pairs (NOAA Fisheries Northeast and Southeast Fisheries Science Centers, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011) (Table 7).

As described above, NMFS has determined that the likelihood of take of any marine mammals in the form of Level A harassment occurring as a result of the planned surveys is so low as to be discountable; therefore, we do not authorize the take of any marine mammals by Level A harassment.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation Measures

NMFS has required that the following mitigation measures be implemented during Atlantic Shores' planned marine site characterization surveys.

Marine Mammal Exclusion Zones, Buffer Zone and Monitoring Zone

Marine mammal exclusion zones (EZ) would be established around the HRG survey equipment and monitored by protected species observers (PSO) during HRG surveys as follows:

- A 500-m EZ would be required for North Atlantic right whales; and
- A 100-m EZ would be required for all other marine mammals.

If a marine mammal is detected approaching or entering the EZs during the survey, the vessel operator would adhere to the shutdown procedures described below. In addition to the EZs described above, PSOs would visually monitor a 200 m Buffer Zone. During use of acoustic sources with the potential to result in marine mammal harassment (*i.e.,* anytime the acoustic source is active, including ramp-up), occurrences of marine mammals within the Buffer Zone (but outside the EZs) would be communicated to the vessel operator to prepare for potential shutdown of the acoustic source. The Buffer Zone is not applicable when the EZ is greater than 100 meters. PSOs would also be required to observe a 500-m Monitoring Zone and record the presence of all marine mammals within this zone. In addition, observation of any marine mammals within the Level B harassment zone will be documented. The zones described above would be based upon the radial distance from the active equipment (rather than being based on distance from the vessel itself).

Visual Monitoring

A minimum of one NMFS-approved PSO must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of HRG equipment. Visual monitoring would begin no less than 30 minutes prior to ramp-up of HRG equipment and would continue until 30 minutes after use of the acoustic source ceases or until 30 minutes past sunset. PSOs would establish and monitor the applicable EZs, Buffer Zone and Monitoring Zone as described above. Visual PSOs must ensure 360° visual coverage around the vessel from the most appropriate observation posts, and would conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs would estimate distances to marine mammals located in proximity to the vessel and/or relevant using range finders. It would be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and enforce the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. Position data would be recorded using hand-held or vessel global positioning system (GPS) units for each confirmed marine mammal sighting.

Pre-Clearance of the Exclusion Zones

Prior to initiating HRG survey activities, Atlantic Shores would implement a 30-minute pre-clearance period. During pre-clearance monitoring (*i.e.,* before ramp-up of HRG equipment begins), the Buffer Zone would also act as an extension of the 100 m EZ in that observations of marine mammals within the 200 m Buffer Zone would also preclude HRG operations from beginning. During this period, PSOs would ensure that no marine mammals are observed within 200 m of the survey equipment (500 m in the case of North Atlantic right whales). HRG equipment would not start up until this 200 m zone (or, 500 m zone in the case of North Atlantic right whales) is clear of marine mammals for at least 30 minutes. The vessel operator would notify a designated PSO of the planned start of HRG survey equipment as agreed upon with the lead PSO; the notification time should not be less than 30 minutes prior to the planned initiation of HRG equipment order to allow the PSOs time to monitor the EZs and Buffer Zone for the 30 minutes of pre-clearance. A PSO conducting pre-clearance observations would be notified again immediately prior to initiating active HRG sources.

If a marine mammal were observed within the relevant EZs or Buffer Zone during the pre-clearance period, initiation of HRG survey equipment would not begin until the animal(s) has been observed exiting the respective EZ or Buffer Zone, or, until an additional time period has elapsed with no further sighting (*i.e.,* minimum 15 minutes for small odontocetes and seals, and 30 minutes for all other species). The pre-clearance requirement would include small delphinoids that approach the vessel (*e.g.,* bow ride). PSOs would also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure would be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. The ramp-up procedure would be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the survey area by allowing them to detect the presence of the survey and vacate the area prior to the commencement of survey equipment operation at full power. Ramp-up of the survey equipment would not begin until the relevant EZs and Buffer Zone has been cleared by the PSOs, as described above. HRG equipment would be initiated at their lowest power output and would be incrementally increased to full power. If any marine mammals are detected within the EZs or Buffer Zone prior to or during ramp-up, the HRG equipment would be shut down (as described below).

Shutdown Procedures

If an HRG source is active and a marine mammal is observed within or entering a relevant EZ (as described above) an immediate shutdown of the HRG survey equipment would be required. When shutdown is called for by a PSO, the acoustic source would be immediately deactivated and any dispute resolved only following deactivation. Any PSO on duty would have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable EZ. The vessel operator would establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the HRG source(s) to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. Subsequent restart of the HRG equipment would only occur after the marine mammal has either been observed exiting the relevant EZ, or, until an additional time period has elapsed with no further sighting of the animal within the relevant EZ (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for large whales).

Upon implementation of shutdown, the HRG source may be reactivated after the marine mammal that triggered the shutdown has been observed exiting the

applicable EZ (*i.e.,* the animal is not required to fully exit the Buffer Zone where applicable), or, following a clearance period of 15 minutes for small odontocetes and seals and 30 minutes for all other species with no further observation of the marine mammal(s) within the relevant EZ. If the HRG equipment shuts down for brief periods (*i.e.,* less than 30 minutes) for reasons other than mitigation (*e.g.,* mechanical or electronic failure) the equipment may be re-activated as soon as is practicable at full operational level, without 30 minutes of pre-clearance, only if PSOs have maintained constant visual observation during the shutdown and no visual detections of marine mammals occurred within the applicable EZs and Buffer Zone during that time. For a shutdown of 30 minutes or longer, or if visual observation was not continued diligently during the pause, pre-clearance observation is required, as described above.

The shutdown requirement would be waived for certain genera of small delphinids (*i.e., Delphinus, Lagenorhynchus, Stenella, and Tursiops*) under certain circumstances. If a delphinid(s) from these genera is visually detected approaching the vessel (*i.e.,* to bow ride) or towed survey equipment, shutdown would not be required. If there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs would use best professional judgment in making the decision to call for a shutdown.

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the area encompassing the Level B harassment isopleth (372 m), shutdown would occur.

Vessel Strike Avoidance

Vessel strike avoidance measures would include, but would not be limited to, the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- All vessel operators and crew will maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop their vessel to avoid striking these protected species;
- All survey vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes: Any Dynamic Management Areas (DMA) when in effect, and the Mid-Atlantic Seasonal Management Area (SMA) off the entrance to New York harbor (from November 1 through April 30);
- All vessel operators will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, large assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;
- All survey vessels will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;
- All vessels will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped; and
- All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped.

Atlantic Shores will ensure that vessel operators and crew maintain a vigilant watch for marine mammals by slowing down or stopping the vessel to avoid striking marine mammals. Project-specific training will be conducted for all vessel crew prior to the start of survey activities. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey activities.

Seasonal Operating Requirements

As described above, the section of the survey area partially overlaps with a portion of a North Atlantic right whale SMA off the port of New York/New Jersey. This SMA is active from November 1 through April 30 of each year. All survey vessels, regardless of length, would be required to adhere to vessel speed restrictions (<10 kn) when operating within the SMA during times when the SMA is active. In addition, between watch shifts, members of the monitoring team would consult NMFS' North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. Members of the monitoring team would also monitor the NMFS North Atlantic right whale reporting systems for the establishment of DMA. If NMFS should establish a DMA in the survey area while surveys are underway, Atlantic Shores would contact NMFS within 24 hours of the establishment of the DMA to determine whether alteration of survey activities was warranted to avoid right whales to the extent possible.

The mitigation measures are designed to avoid some instances of Level B harassment, and to minimize the potential for vessel strikes. Further, we believe the mitigation measures are practicable for the applicant to implement. Atlantic Shores plans to implement mitigation measures in addition to the measures described above; for information on these additional measures, see Section 11 of the IHA application.

There are no known marine mammal rookeries or mating or calving grounds in the survey area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat (or both). The survey would occur in an area that has been identified as a biologically important area for

migration for North Atlantic right whales. However, given the small spatial extent of the survey area relative to the substantially larger spatial extent of the right whale migratory area, the survey is not expected to appreciably reduce migratory habitat nor to negatively impact the migration of North Atlantic right whales, thus mitigation to address the survey's occurrence in North Atlantic right whale migratory habitat is not warranted.

Based on our evaluation of the required measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Monitoring Measures

As described above, visual monitoring would be performed by qualified and NMFS-approved PSOs. Atlantic Shores would use independent, dedicated, trained PSOs, meaning that the PSOs must be employed by a third-party observer provider, must have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and must have successfully completed an approved PSO training course appropriate for their designated task. Atlantic Shores would provide resumes of all proposed PSOs (including alternates) to NMFS for review and approval.

During survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty and conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and nighttime ramp-ups of HRG equipment. Visual monitoring would begin no less than 30 minutes prior to initiation of HRG survey equipment and would continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. PSOs would coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and would conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 2 hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all survey vessels.

PSOs would be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the monitoring of marine mammals. Position data would be recorded using hand-held or vessel GPS units for each sighting. Observations would take place from the highest available vantage point on the survey vessel. General 360-degree scanning would occur during the monitoring periods, and target scanning by the PSO would occur when alerted of a marine mammal presence.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs would conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods. Any observations of marine mammals by crew members aboard any vessel associated with the survey would be relayed to the PSO team.

Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal take that occurs (*e.g.,* noted behavioral disturbances).

Reporting Measures

Within 90 days after completion of survey activities, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals estimated to have been taken during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS.

In addition to the final technical report, Atlantic Shores will provide the reports described below as necessary during survey activities. In the unanticipated event that Atlantic

Shores' activities lead to an injury (Level A harassment) of a marine mammal, Atlantic Shores would immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (OPR) Permits and Conservation Division and the NMFS New England/Mid-Atlantic Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with Atlantic Shores to minimize reoccurrence of such an event in the future. Atlantic Shores would not resume activities until notified by NMFS.

In the event that Atlantic Shores personnel discover an injured or dead marine mammal, Atlantic Shores would report the incident to the OPR Permits and Conservation Division and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, Atlantic Shores would report the incident to the NMFS OPR Permits and Conservation Division and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 3, given that NMFS expects the anticipated effects of the planned survey to be similar in nature. NMFS does not anticipate that serious injury or mortality would occur as a result of Atlantic Shores' survey, even in the absence of mitigation. Thus the authorization does not authorize any serious injury or mortality. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section, non-auditory physical effects and vessel strike are not expected to occur. Additionally and as discussed previously, given the nature of activity and sounds sources used and especially in consideration of the required mitigation, Level A harassment is neither anticipated nor authorized. We expect that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area, reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring). Most likely, individuals will simply move away from the sound source and temporarily avoid the area where the survey is occurring. We expect that any avoidance of the survey area by marine mammals would be temporary in nature and that any marine mammals that avoid the survey area during the survey activities would not be permanently displaced. Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In addition to being temporary and short in overall duration, the acoustic footprint of the survey is small relative to the overall distribution of the animals in the area and their use of the area. Potential impacts to marine mammal habitat were discussed in the notice of proposed IHA (85 FR 7926; February 12, 2020). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. There are no areas of notable biological significance for marine mammal feeding known to exist in the project area. Feeding behavior is not likely to be significantly impacted, as prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating areas or calving areas known to be biologically important to marine mammals within the survey area. The survey area overlaps a portion of a biologically important migratory area for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LaBrecque, *et al.,* 2015). Off the coasts of New York and New Jersey, this biologically important migratory area extends from the coast to beyond the shelf break. Due to the fact that that the survey is temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the area, right whale migration is not expected to be impacted by the survey. There is no designated critical habitat for any ESA-listed marine mammals in the survey area.

North Atlantic right, humpback, and minke whales, and gray and harbor seals are experiencing ongoing UMEs. For North Atlantic right whales, as described above, no injury as a result of the survey is expected or authorized, and Level B harassment takes of right whales are expected to be in the form of avoidance of the immediate area of the survey. In addition, the number of takes authorized above the Level B harassment threshold are minimal (*i.e.,* 9). As no injury or mortality is expected or authorized, and Level B harassment of North Atlantic right whales will be reduced to the level of least practicable adverse impact through use of mitigation measures, the authorized takes of right whales would not exacerbate or compound the ongoing UME in any way.

Similarly, no injury or mortality is expected or authorized for any of the other species with UMEs, Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures, and the authorized takes would not exacerbate or compound the ongoing UMEs. For minke whales, although the ongoing UME is under investigation (as occurs for all UMEs), this event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales. Even though the PBR value is based on an abundance for U.S. waters that is negatively biased and a small fraction of the true population abundance, annual M/SI does not exceed the calculated PBR value for minke whales. With regard to humpback whales, the UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains healthy. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. The status review identified harmful algal blooms, vessel collisions, and fishing gear entanglements as relevant threats for this DPS, but noted that all other threats are considered likely to have no or minor impact on population size or the growth rate of this DPS (Bettridge *et al.,* 2015). As described in Bettridge *et al.* (2015), the West Indies DPS has a substantial population size (*i.e.,* approximately 10,000; Stevick *et al.,* 2003; Smith *et al.,* 1999; Bettridge *et al.,* 2015), and appears to be experiencing consistent growth. With regard to gray and harbor seals, although the ongoing UME is under investigation, the UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (345) is well below PBR (2,006) (Hayes *et al.,* 2018). For gray seals, the population abundance in the United States is over 27,000, with an estimated abundance including seals in Canada of approximately 505,000, and abundance is likely increasing in the U.S. Atlantic EEZ as well as in Canada (Hayes *et al.,* 2019).

The mitigation measures are expected to reduce the number and/or severity of takes by giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy and by establishing zones that will prevent animals from being exposed to higher sound levels that may otherwise result in injury or more severe behavioral responses. No Level A harassment, which involves the potential for injury, has been authorized. Additional vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the survey area.

NMFS concludes that exposures to marine mammal species and stocks due to Atlantic Shores' survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Marine mammals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the authorized takes to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality, serious injury, or Level A harassment is anticipated or authorized;
- The anticipated impacts of the activity on marine mammals would primarily be in the form of temporary behavioral changes due to avoidance of the area around the survey vessel;
- The availability of alternate areas of similar habitat value (for foraging, etc.) for marine mammals that may temporarily vacate the survey area during the survey to avoid exposure to sounds from the activity;
- The survey area does not contain known areas of significance for mating or calving;
- Effects on species that serve as prey species for marine mammals from the survey would be minor and temporary and would not be expected to reduce the availability of prey or to affect marine mammal feeding;
- The mitigation measures, including visual and acoustic monitoring, exclusion zones, and shutdown measures, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The numbers of marine mammals that we authorize to be taken, for all species and stocks, would be considered small relative to the relevant stocks or populations (less than one third of the best available population abundance for all species and stocks) (see Table 7). Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the proposed action qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS GARFO, whenever we propose to authorize take for endangered or threatened species.

The NMFS OPR Permits and Conservation Division is authorizing the incidental take of four species of marine mammals which are listed under the ESA: The North Atlantic right, fin, sei and sperm whale. We requested initiation of consultation under Section 7 of the ESA with NMFS GARFO on February 12, 2020, for the issuance of this IHA. BOEM consulted with NMFS GARFO under section 7 of the ESA on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. The NMFS GARFO issued a Biological Opinion concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of the North Atlantic right, fin, and sperm whale. The Biological Opinion can be found online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* Upon request from the NMFS Office of Protected Resources, NMFS GARFO issued an amended incidental take statement associated with this Biological Opinion to include the takes of the ESA-listed marine mammal species authorized through this IHA in April, 2020.

Authorization

NMFS has issued an IHA to Atlantic Shores for conducting marine site characterization surveys offshore of New Jersey and New York, for a period of one year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 10, 2020.

Donna Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–07969 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA117]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold joint public meeting of the Council and the Atlantic States Marine Fisheries Commission (ASMFC).

DATES: The meeting will be held Wednesday, May 6, 2020. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar at the following registration URL: *https://attendee.gotowebinar.com/register/6204543422027821581,* Webinar ID 918–539–707.

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The proposed agenda is as follows, though time blocks are approximate based on the pace of discussion, and agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Wednesday, May 6, 2020

10 a.m.–12 p.m.: Bluefish Allocation and Rebuilding Amendment (with ASMFC Bluefish Board)

- Review Public Comment Summary on the Bluefish Allocation and Rebuilding Amendment Public Information and Scoping Document
- Provide guidance to the Fishery Management Action Team for the Bluefish Allocation and Rebuilding Amendment

12 p.m.–1:15 p.m.: Lunch

1:15–3:15 p.m.: Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment (with ASMFC Summer Flounder, Scup, and Black Sea Bass Board)

- Review Public Comment Summary from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment Public Information and Scoping Document
- Provide guidance to the FMAT for the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: April 13, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08048 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA118]

Western Pacific Fishery Management Council (Council); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Western Pacific Stock Assessment Review (WPSAR) Steering Committee will convene a public meeting to discuss and approve the 5-year calendar for stock assessments, and to address any other concerns related to the WPSAR process.

DATES: The Steering Committee will meet from 1 to 4 p.m. on April 30, 2020.

ADDRESSES: The meetings will be held by web conference. Audio and visual portions of the web conference can be accessed at: *https://wprfmc.webex.com/join/info.wpcouncilnoaa.gov.* Web conference access information will also be posted on the Council's website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Marlowe Sabater, (808) 522–8143, or *marlowe.sabater@noaa.gov.*

SUPPLEMENTARY INFORMATION: The WPSAR steering committee consists of the Council's Executive Director, the Director of the NMFS Pacific Islands Fisheries Science Center, and the Regional Administrator of the NMFS Pacific Islands Regional Office. You may read more about WPSAR at *https://www.pifsc.noaa.gov/peer_reviews/wpsar/index.php.*

The public will have an opportunity to comment during the meeting. The agenda order may change. The meeting will run as late as necessary to complete scheduled business.

Meeting Agenda

1. Introductions.
2. Stock assessment prioritization process.
3. Modernizing Recreational Fisheries Management Act of 2018, Section 201 process on data call out.
4. Scheduling of data preparation meetings.
5. Discuss and update 5-year stock assessment review schedule, including any changes to the scheduling of reviews for stock assessments already on the calendar, and any new additions to the schedule.
6. Discuss and update review levels, *i.e.,* whether the stock assessments on the calendar will be reviewed as benchmark assessments (new assessments) or assessment updates (updates of existing models with recent data).
7. Discuss EFH 5 year reviews and inclusion of this review in the WPSAR schedule.
8. Review the upcoming schedule and nominate additional products for review by the Center for Independent Experts, if necessary.
9. Other business.
10. Public comment.

Special Accommodations

The meeting is physically accessible to people with disabilities. Make direct requests for sign language interpretation or other auxiliary aids to Marlowe Sabater at (808) 522–8143 or *marlowe.sabater@noaa.gov,* at least 5 days prior to the meeting date.

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

Dated: April 13, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08049 Filed 4–15–20; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Academic Research Council Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Academic Research Council (ARC or Council) of the Bureau of Consumer Financial Protection (Bureau). The notice also describes the functions of the Council.

DATES: The meeting date is Friday, May 1, 2020, from approximately 2:00 p.m. to 4:15 p.m. eastern daylight time. The meeting will take place via conference call.

Access: This meeting will be conducted via conference call and is open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Kim George, Outreach and Engagement Associate, at 202–450–8617, or *CFPB_CABandCouncilsEvents@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 2 of the of the ARC Charter provides that pursuant to the executive and administrative powers conferred on the Bureau by section 1012 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Director established the Academic Research Council under agency authority. Section 3 of the ARC Charter states: The committee will (1) provide the Bureau with advice about its strategic research planning process and research agenda, including views on the research that the Bureau should conduct relating to consumer financial products or services, consumer behavior, cost-benefit analysis, or other topics to enable the agency to further its statutory

purposes and objectives; and (2) provide the Office of Research with technical advice and feedback on research methodologies, data collection strategies, and methods of analysis, including methodologies and strategies for quantifying the costs and benefits of regulatory actions.

II. Agenda

The ARC will discuss impacts on consumers related to the COVID–19 pandemic.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, l–855–233–0362, or 202–435–9742 (TTY) at least ten (10) business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. The Bureau will strive to provide but cannot guarantee that accommodation will be provided for late requests.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the ARC members for consideration. Individuals who wish to join the ARC must RSVP via this link *https://surveys.consumerfinance.gov/jfe/form/SV_9n9ID9YIWCehylL* by noon, April 30, 2020. Members of the public must RSVP by the due date.

III. Availability

The Council's agenda will be made available to the public on Thursday, April 16, 2020, via *consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and transcript of this meeting will be available after the meeting on the Bureau's website *consumerfinance.gov.*

Dated: April, 2020.

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2020–07993 Filed 4–15–20; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER FINANCIAL PROTECTION BUREAU

Consumer Advisory Board Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Consumer Advisory Board (CAB or Board) of the Bureau of Consumer Financial Protection (Bureau). The notice also describes the functions of the Board.

DATES: The meeting date is Friday, May 1, 2020, from approximately 2:00 p.m. to 4:15 p.m. eastern daylight time. This meeting will take place via conference call.

Access: This meeting will be conducted via conference call and is open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Kim George, Outreach and Engagement Associate, Advisory Board and Councils Office, External Affairs, at 202–450–8617, or email: *CFPB_CABandCouncilsEvents@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 3 of the Charter of the Board states that: The purpose of the Board is outlined in section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which states that the Board shall ''advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws'' and ''provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.''

To carry out the Board's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the Bureau. The Board will generally serve as a vehicle for market intelligence and expertise for the Bureau. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services.

II. Agenda

The Board will discuss impacts on consumers related to the COVID–19 pandemic.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten (10) business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. The Bureau will strive to provide, but cannot guarantee that accommodation will be provided for late requests.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the CAB members for consideration. Individuals who wish to join the Board must RSVP via this link *https://surveys.consumerfinance.gov/jfe/form/SV_9n9ID9YIWCehylL* by noon, April 30, 2020. Members of the public must RSVP by the due date.

III. Availability

The Board's agenda will be made available to the public on Thursday, April 16, 2020, via *consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and summary of this meeting will be available after the meeting on the Bureau's website *consumerfinance.gov.*

Dated: April, 2020.

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2020–07997 Filed 4–15–20; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Community Bank Advisory Council Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Community Bank Advisory Council (CBAC or Council) of the Bureau of Consumer Financial Protection (Bureau). The notice also describes the functions of the Council.

DATES: The meeting date is Friday, May 1, 2020, from approximately 2:00 p.m. to 4:15 p.m. eastern daylight time. This meeting will take place via conference call.

Access: This meeting will be conducted via conference call and is open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Kim George, Outreach and Engagement Associate, Consumer Advisory Board and Councils Office, External Affairs, at 202–450–8617, *CFPB_CABandCouncils Events@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_ Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 2 of the CBAC Charter provides that pursuant to the executive and administrative powers conferred on the Bureau by section 1012 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Director established the Community Bank Advisory Council under agency authority.

Section 3 of the CBAC Charter states: ''The purpose of the Advisory Council is to advise the Bureau in the exercise of its functions under the Federal consumer financial laws as they pertain to community banks with total assets of $10 billion or less.''

II. Agenda

The Council will discuss impacts on consumers related to the COVID–19 pandemic.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten (10) business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. The Bureau will strive to provide but cannot guarantee that accommodation will be provided for late requests.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_ CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the CBAC members for consideration. Individuals who wish to join the Council must RSVP via this link *https://surveys.consumerfinance.gov/ jfe/form/SV_9n9ID9YIWCehylL* by noon, April 30, 2020. Members of the public must RSVP by the due date.

III. Availability

The Council's agenda will be made available to the public on Thursday, April 16, 2020, via *consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and summary of this meeting will be available after the meeting on the Bureau's website *consumerfinance.gov.*

Dated: April, 2020.

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2020–08000 Filed 4–15–20; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Credit Union Advisory Council Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Credit Union Advisory Council (CUAC or Council) of the Bureau of Consumer Financial Protection (Bureau). The notice also describes the functions of the Council.

DATES: The meeting date is Friday, May 1, 2020, from approximately 2:00 p.m. to 4:15 p.m. eastern daylight time. This meeting will be held via conference call.

Access: This meeting will be conducted via conference call and is open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Kim George, Outreach and Engagement Associate, Consumer Advisory Board and Councils Office, External Affairs, at 202–450–8617, *CFPB_ CABandCouncilsEvents@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 2 of the CUAC Charter provides that pursuant to the executive and administrative powers conferred on the Bureau by section 1012 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Director established the Credit Union Advisory Council under agency authority.

Section 3 of the CUAC Charter states: ''The purpose of the Advisory Council is to advise the Bureau in the exercise of its functions under the Federal consumer financial laws as they pertain to credit unions with total assets of $10 billion or less.''

II. Agenda

The Council will discuss impacts on consumers related to the COVID–19 pandemic.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten (10) business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. The Bureau will strive to provide but cannot guarantee that accommodation will be provided for late requests.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_ CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the CUAC members for consideration. Individuals who wish to join the CUAC must RSVP via this link *https://surveys.consumerfinance.gov/ jfe/form/SV_9n9ID9YIWCehylL* by noon, April 30, 2020. Members of the public must RSVP by the due date.

III. Availability

The Council's agenda will be made available to the public on Thursday, April 16, 2020 via *consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and summary of this meeting will be available after the meeting on the Bureau's website *consumerfinance.gov.*

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2020–07996 Filed 4–15–20; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Notice of Intent To Prepare Supplemental Environmental Impact Statement for the Yazoo Area Pump Project

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (''USACE''), Vicksburg District, is announcing its intent to prepare a Supplemental Environmental Impact Statement (SEIS) for the Yazoo Basin Reformulation Study, Yazoo Backwater Area, 58 FR 52, 103 (October 6, 1993). Recent floods and new data on the environment in the Yazoo

Backwater Area prompted this new project proposal. In 9 out of the last 10 years, the Yazoo Backwater Area has experienced significant flooding. In particular, the historic flood of 2019 caused two deaths, caused hundreds of millions of dollars in damages, flooded over 600 homes, and significantly adversely affected the aquatic and terrestrial environment. The recurring flooding has demonstrated the need to complete the Yazoo Area Pump Project feature. New, previously unavailable data indicates that the environmental impacts to wetlands and other resources from a pumping plant would be far less than calculated in the 2007 FSEIS. The Supplemental Environmental Impact Statement will tier from and update the 2007 FSEIS with new data. It will not reformulate the broad array of alternatives previously examined in the 2007 FSEIS, but will analyze a new project proposal to build the pump project (the Proposed Action) in light of the new data. The Supplemental Environmental Impact Statement will also examine environmental measures to mitigate the low dissolved oxygen content in the Yazoo Backwater Area, which is currently detrimental to aquatic species.

ADDRESSES: U.S. Army Corps of Engineers, Vicksburg District, ATTN: CEMVK–PPMD, 4155 East Clay Street, Room 248, Vicksburg, MS 39183.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the Supplement should be submitted to USACE by email to *YazooBackwater@usace.army.mil;* or by postal mail to the above address; or by phone to Mr. Kenneth Parrish at 601–631–5006. For additional information, including but not limited to a copy of the 2007 FSEIS, please visit the Project website at the following link: *https://www.mvk.usace.army.mil/Missions/Programs-and-Project-Management/Project-Management/Yazoo-Backwater-Report/.*

SUPPLEMENTARY INFORMATION:

1. Project Background and Authorization. The Yazoo Basin, Yazoo Backwater, Mississippi, Project, of which the Yazoo Area Pump Project is a part, was authorized by the Flood Control Act (FCA) of 18 August 1941 House Document (HD) 359/77/1, as amended by the Acts of 22 December 1944 and 27 October 1965 (HD 308/88/2) and the Water Resources Development Act (WRDA) of 1986 and 1996. In 2020, Congress provided funding for environmental documentation. One of the authorized features, the Yazoo Backwater Levee, was completed in 1978 to reduce flood risks from Mississippi River. Though it prevents Mississippi River floodwaters from entering the Yazoo Backwater Area, it also prevents water from leaving the area, often trapping the water from the 4,093 square mile drainage area for extended periods of time. This trapped water effectively creates an artificial lake that is uninhabitable by nearly all species. The historic 2019 flood inundated over a half million acres of the Yazoo Backwater Area from February to August. The Yazoo Backwater area also has experienced significant flooding 9 out of the last 10 years. Aquatic species are acutely affected by low dissolved oxygen created by the stagnant conditions. Terrestrial species must flee or face mortality by the significant depth of the water and lack of food. The human population of the Yazoo Backwater Area also suffers significantly. In 2019, hundreds were displaced from their flooded homes for over six months and the entire crop season was lost for farmers in the affected area. The effects on terrestrial and aquatic life were also devastating. The event would have been several feet lower and lasted for fewer months if the Yazoo Area Pump Project feature had been completed, averting impacts to both natural resources and reducing non-agricultural economic damages by more than 50%, and reducing damages to homes from flooding. Other completed features of the Yazoo Backwater Project include the Steele Bayou, Little Sunflower, and Muddy Bayou control structures along with a 15 mile long connecting channel between the Steel Bayou and Little Sunflower Control Structures. These features were completed between 1969 and 1978. The Yazoo Area Pump Project is the only feature of the Yazoo Backwater Project that remains unconstructed, and the Yazoo Backwater Area is the only major backwater area in the Mississippi River and Tributaries Project (MR&T) that does not have a pumping plant. The Yazoo Area Pump Project has been extensively reformulated over the past six decades to balance flood risk reduction with environmental concerns. Previous recommended plans called for pumping nearly double the amount of water and activating the pumps at a much lower elevations in the Yazoo Backwater Area to address flooding. The 2007 FSEIS Plan combined structural and nonstructural means to strike a balance of flood risk reduction and environmental effects. The following is a brief summary of the timeline: In 1982 USACE filed an EIS for the Yazoo Area Pump Project. Construction was initiated in 1986 but was halted by WRDA 1986, which required construction and operation and maintenance to be cost shared by a non-federal sponsor. Guidance from OMB in fiscal year 1991 Budget Pass-backs directed the Corps to reformulate Yazoo Basin Projects to provide: (1) Greater levels of flood protection to urban areas, (2) reduce levels of agricultural intensification, and (3) reduced adverse impacts to the environment. In 1993 USACE filed a Notice of Intent to file a Supplemental EIS and initiated reformulation of the project according to the above guidelines. WRDA 1996 changed the cost sharing requirements back to those in the original authorization. In 2000 USACE released the draft SEIS for comment. In 2007, after completing additional analyses and revisions in response to comments, USACE completed the Final Report, which included the Reformulation Study and FSEIS. In August 2008 it was vetoed by the EPA under 404(c) of the Clean Water Act due to adverse environmental effects.

2. Proposed Action. The Proposed Action is a new project proposal to complete the Yazoo Area Pump Project feature to alleviate the flood damage in the Yazoo Backwater Area. The structural component consists of a 14,000 cubic feet per second (cfs) pump activated at elevation 87 feet (ft). National Geodetic Vertical Datum (NGVD). The proposed location being considered for the pumping station will be near Deer Creek in Warren County, MS. The Proposed Action's nonstructural component is to purchase easements from willing sellers on cleared agricultural lands below elevation 87 ft. NGVD and subsequent reforestation. A new environmental mitigation feature of the Proposed Action will be the installation of well fields adjacent to the Mississippi River levee upstream of the backwater area. The augmented flow will improve aquatic habitat, particularly for endangered mussel species. New data shows that previously calculated adverse impacts to wetlands in the 2007 FSEIS overestimated the potential impacts of the proposed pumping plant given available data at the time. For further information refer to ''Forested Wetland Hydrology in a Large Mississippi River Tributary System'' by Berkowitz, J.F., D.R. Johnson, and J.J. Price, published in the Wetlands Journal in December 2019 and available at *https://link.springer.com/article/10.1007/s13157-019-01249-5* or at the Project website. The Supplemental Environmental Impact Statement will

include a new 404(b)1 evaluation under the Clean Water Act.

3. Alternatives. The 2007 FSEIS evaluated a broad array of alternatives, including the No-Action alternative, nonstructural alternatives, structural alternatives, and combinations of structural and nonstructural alternatives. Reformulation will not be included in the Supplemental Environmental Impact Statement. The Supplemental Environmental Impact Statement will focus primarily on updating the 2007 FSEIS where necessary and incorporating the new, previously unavailable, scientific data to analyze the Proposed Action and compare it to the 2007 FSEIS.

4. Scoping. USACE conducted extensive scoping for the 2007 FSEIS so scoping will be comparatively limited and there will not be any additional public scoping meetings. However, the public is invited to provide scoping comments at the project email address: *YazooBackwater@usace.army.mil* (or via post mail). Please provide comments by June 15, 2020. Potential participating local, state, and Federal agencies and affected Indian tribes that have an interest in the area are being contacted. The purpose of this Notice of Intent is to provide public notice on the Vicksburg District's intent to prepare a Supplemental Environmental Impact Statement based on new data. The Supplement will also provide further information on the humanitarian and ecological damage caused by backwater flooding in the Yazoo Backwater Area, and analyze how the Proposed Action will lessen those impacts.

5. Public Meeting: During the COVID–19 public health emergency, USACE must consider the health and safety of employees, federal, state, and local stakeholders, and the general public. It is anticipated that a virtual public meeting will be held in conjunction with publishing the Draft Supplemental Environmental Impact Statement for public comment, which is planned for October 2020. The exact date, time, and location of the public meeting will be publicly announced in advance by USACE on the Project website and by any other means deemed appropriate. The public meeting will be streamed via live video through official USACE social media channels, which will allow USACE to present information to a larger audience, and to receive additional comments. Notices of the public meeting will be sent by USACE through email distribution lists; posted on the Project website and official USACE social media channels; and mailed to public libraries, government agencies, and interested groups and individuals. The public meeting date will also be advertised in local newspapers. Members of the public are encouraged to submit written comments in accordance with established timeframes.

6. Potentially Significant Issues. The Supplemental Environmental Impact Statement will provide updated data and analyses on the following resources: bottomland hardwoods, wetlands, endangered species, waterfowl, fisheries, water quality, downstream effects, cultural resources, environmental justice, recreation, and more. Wetlands, downstream effects, aquatics and environmental justice are discussed briefly below.

Wetlands: Wetlands impacts were a substantial source of concern among commenters and the primary reason for the EPA 404(c) veto in 2008. The 2019 flood demonstrated that prolonged flooding can result in significant adverse effects to wildlife populations and natural habitats associated with wetland areas. Unlike typical river flooding, backwater floods in the Yazoo Backwater Area consist of trapped water, typically loaded with agricultural runoff and organic matter from forested areas. The backwater pool rises and falls slowly and remains stagnant for long periods of time. The extended duration and magnitude of the 2019 flood contributed to the degradation of aquatic habitats resulting from poor water quality conditions created by the flooding.

Downstream Effects: Recent studies have shown that the downstream impacts will be insignificant because the total load of nutrients and organic carbon that will be exported downstream would not be altered as a result of pump operations. The additional water from 14,000 cfs pumps, operating at full capacity, is less than 1% of the Mississippi River highwater flow, representing a nearly immeasurable contribution to the outflow at the Vicksburg Gage. The additional flow would only increase the water surface at the Vicksburg Gage by less than a tenth of one foot, which has no appreciable effect to downstream flooding.

Aquatics: New data shows severe hypoxia occurs during major backwater flood events and this hypoxia negatively affects fish species and other aquatic organisms. Flood-induced hypoxia during the spring and early summer likely impacts successful spawning and rearing regardless of aquatic habitats. The juvenile and adult life stages that do survive through the flood season are faced with extreme low flows during the fall. The Supplemental Environmental Impact Statement will analyze environmental and adaptive management plans to reduce the spatial extent and duration of hypoxia and improve environmental flows, particularly during the fall season.

Environmental Justice: Backwater flooding causes severe economic damages to all populations in the Yazoo Backwater Area by destroying homes, farmland, and wildlife resources; the harm was especially severe in 2019. As this Notice is published, the Yazoo Backwater is again experiencing another significant flood. In February of 2020 the water peaked only 2 feet lower than in 2019. After dropping slightly in March, the Yazoo Backwater is expected to peak again at least 96 ft. NGVD, flooding over 450,000 acres of land.

7. *Availability.* The schedule for the Draft Supplemental Environmental Impact Statement anticipates the release of the draft Supplemental Environmental Impact Statement by USACE for public review and comment in October 2020. After it is published, as described above, USACE will hold a virtual public comment meeting to present the results of studies, to receive comments and to address questions concerning the proposed action.

Edward E. Belk, Jr,

Director of Programs, Mississippi Valley Division, US Army Corps of Engineers.

[FR Doc. 2020–07966 Filed 4–15–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0024]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Grant Application Form for Project Objectives and Performance Measures Information

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 18, 2020.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular

information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Grant Application Form for Project Objectives and Performance Measures Information.

OMB Control Number: 1894–0017.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 5,976.

Total Estimated Number of Annual Burden Hours: 29,880.

Abstract: The U.S. Department of Education Grant Application Form for Project Objectives and Performance Measures Information serves as a precursor to the U.S. Department of Education Grant Performance Report Form (ED 524 B) in which project objectives, measures, and targets will be entered by applicants at the time that grant applications are entered in *Grants.gov*.

The Grant Application Form for Project Objectives and Performance Measures Information form and instructions are used by many ED discretionary grant programs to enable grantees to meet ED deadline dates for submission of performance reports to the Department.

Dated: April 13, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–08066 Filed 4–15–20; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Public Hearing: Election Response to COVID–19 Administering Elections During the Coronavirus Crisis

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act Notice; Notice of Public Hearing Agenda.

DATES: Wednesday, April 22, 2020 1:00 p.m.–3:00 p.m. Eastern.

ADDRESSES: Virtual via Zoom. The hearing is open to the public and will be available through Zoom. Call-in information will be available at *https://www.eac.gov* and a recording will be available on the EAC website at a later date.

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual hearing to discuss issues facing state and local election officials regarding elections and the COVID–19 pandemic, including considerations regarding the expansion of voting by mail and absentee voting.

Agenda: The U.S. Election Assistance Commission (EAC) will host a virtual hearing to discuss the administration of federal elections during the COVID–19 pandemic. During this hearing, EAC Commissioners will hear panelists present on major considerations for expanding vote by mail options for the remaining primaries and the general election and considerations for in-person voting. Panelists will include state and local election officials, and other representatives from the elections administration field. Other considerations such as accessibility for voters with disabilities and ensuring secure elections will also be discussed. The full agenda will be posted in advance on the EAC website: *https://www.eac.gov.*

Status: This hearing will be open to the public.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–08027 Filed 4–15–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

[DOE Docket No. PP–362–1]

Application To Rescind Presidential Permit; Application for Presidential Permit; Champlain Hudson Power Express, Inc. and CHPE, LLC

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Champlain Hudson Power Express, Inc. (CHPEI) and CHPE, LLC (together, the Applicants) have filed a joint application to voluntarily transfer ownership of the facilities owned by CHPEI and authorized for cross-border electric power transmission by Presidential Permit No. PP–362, to CHPE, LLC. The application requests that the Department of Energy (DOE) rescind the Presidential permit held by CHPEI and simultaneously issue a permit to CHPE, LLC covering the same international transmission facilities.

DATES: Comments, protests, or motions to intervene must be submitted on or before May 18, 2020.

ADDRESSES: Comments or motions to intervene should be addressed to Christopher Lawrence, *Christopher.Lawrence@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260 or by email to *Christopher.Lawrence@hq.doe.gov,* or Christopher Drake (Attorney-Adviser) at 202–586–2919 or by email to *Christopher.Drake@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (E.O.) 10485, as amended by E.O. 12038.

On April 6, 2020, the Applicants filed an application with the Office of

Electricity of the Department of Energy (DOE), as required by regulations at 10 CFR 205.320 *et seq.,* requesting DOE to amend or, in the alternative, rescind and reissue Presidential Permit No. PP–362 to enable the transfer of the permit from CHPEI to its affiliate CHPE, LLC.

On October 6, 2014, DOE issued Presidential Permit No. PP–362, authorizing CHPEI to construct, operate, and maintain the Champlain Hudson Power Express Project (Project). As described in PP–362, the Project is a 1,000 Megawatt (MW), high-voltage direct current (HVDC), underground and underwater merchant transmission system that will cross the United States-Canada international border underwater near the Town of Champlain, New York, extend approximately 336 miles south through New York State, and interconnect to facilities located in Queens County, New York owned by the Consolidated Edison Company of New York. The aquatic segments of the transmission line will primarily be submerged in Lake Champlain and the Hudson, Harlem, and East rivers. The terrestrial portions of the transmission line will primarily be buried in existing road and railroad rights-of-way (ROW).

Since the issuance of PP–362 in 2014, the upstream owners of CHPEI have created a new affiliated entity, CHPE, LLC, that will —subject to regulatory approvals—construct, operate, and maintain the Project. The Project's upstream owners intend that the assets of CHPEI will be transferred to CHPE, LLC.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of FERC's Rules of Practice and Procedure (18 CFR 385.214). Two (2) copies of each comment or motion to intervene should be filed with DOE on or before the date listed above.

Comments and other filings concerning this application should be clearly marked with OE Docket No. PP–362–1. Additional copies are to be provided directly to Mr. Donald Jessome, Chief Executive Officer, Transmission Developers Inc., Pieter Schuyler Building, 600 Broadway, Albany, New York 12207–2283, *donald.jessome@transmissiondevelopers.com* and

Jay Ryan, Baker Botts L.L.P., 700 K Street, NW, Washington, DC 20001, *jay.ryan@bakerbotts.com.*

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE will consider the environmental impacts of the proposed action (*i.e.,* granting the Presidential permit or amendment, with any conditions and limitations, or denying the permit) pursuant to the National Environmental Policy Act of 1969, as amended, and determine the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest. DOE also must obtain the favorable recommendation of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

This application may be reviewed or downloaded electronically at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2.* Upon reaching the home page, select ''Pending Applications.''

Signed in Washington, DC, on April 10, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–07971 Filed 4–15–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD20–3–000]

Commission Information Collection Activities FERC–725N(1) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposedinformation collection FERC–725N(1) [1] (Mandatory Reliability TPL Standards: TPL–007–4, (Transmission System Planned Performance for Geomagnetic Disturbance Events)).

DATES: Comments on the collection of information are due June 15, 2020.

ADDRESSES: You may submit comments (identified by Docket No. RD20–3–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, at Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: All submissions 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).

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 may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725N(1), Mandatory Reliability Standards TPL–007–4, Transmission System Planned Performance for Geomagnetic Disturbance Events.

OMB Control No.: 1902–TBD.

Type of Request: Approval of FERC–725N(1) which is a temporary placeholder for FERC–725N which is currently at OMB for an unrelated activity. There are no changes to the current reporting and recordkeeping requirements to FERC–725N.

Abstract: The proposed Reliability Standard TPL–007–4 requires owners and operators of the Bulk-Power System to conduct initial and on-going vulnerability assessments of the potential impact of defined geomagnetic disturbance events on Bulk- Power System equipment and the Bulk-Power System as a whole. Specifically, the Reliability Standard requires entities to develop corrective action plans for vulnerabilities identified through supplemental geomagnetic disturbance vulnerability assessments and requires entities to seek approval from the Electric Reliability Organization of any extensions of time for the completion of corrective action plan items.

On August 8, 2005, Congress enacted into law the Electricity Modernization

[1] This temporary (placeholder) information collection number is being used for Docket No. RD20–3–000 because FERC–725N is currently pending review at OMB on an unrelated matter. Only one item per OMB Control No. can be pending review at OMB at the same time.

Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[2] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[3]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[4] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.[5] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On February 7, 2020, the North American Electric Reliability Corporation filed a petition seeking approval of proposed Reliability Standard TPL–007–4 (Transmission System Planned Performance for Geomagnetic Disturbance Events).

NERC's filed petition was noticed on February 11, 2020, with interventions, comments and protests due on or before March 9, 2020. No interventions or comments were received.

The DLO was issued on March 19, 2020. The standard goes in effect at NERC on October 1,2020.

Type of Respondents: Generator Owner, Planning Coordinator, Distribution Provider and Transmission Owners.

Estimate of Annual Burden:[6] Our estimates are based on the NERC Compliance Registry Summary of Entities as of January 31, 2020.

The individual burden estimates include the time needed to gather data, run studies, and analyze study results. These are consistent with estimates for similar tasks in other Commission-approved standards. Estimates for the additional average annual burden and cost[7] as proposed in Docket No. RD20–3–000 follow:

FERC–725N(1), IN DOCKET NO. RD20–3–000

	Annual number[1] of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hrs. & cost) ($) per response (4)	Total annual burden hours & cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
GO[8]	969	1	969	40 hours; $3,200	38,760 hours; $3,100,800.	$3,200
PC[9]	71	1	71	40 hours; $3,200	2,840 hours; $ 227,200	$3,200
DP[10]	318	1	318	40 hours & $3,200	12,720 hours; $1,017,600.	$3,200
TO[11]	321	1	321	40 hours & $3,200	12,840 hours; $1,027,200.	$3,200
TOTAL			1,679		67,160 hours; $5,372,800	

Comments: Comments are invited on: (1) Whether the collection of information 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 the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 10, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08033 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–588–000]

Midcontinent Independent System Operator, Inc.; Notice of Technical Conference

By order dated March 10, 2020,[1] the Commission directed staff to convene a technical conference regarding Midcontinent Independent System Operator, Inc.'s (MISO) filing of proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff to allow for the

[2] Energy Policy Act of 2005, Pub. L. 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[3] 16 U.S.C. 824*o*(e)(3).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[5] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g,* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (DC Cir. 2009).

[6] Burden is defined as 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. See 5 CFR 1320 for additional information on the definition of information collection burden.

[7] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–725N(1) are approximately the same as the Commission's average cost. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is $167,091/year (or $80.00/hour).

[8] Generator Owner.

[9] Planning Coordinator.

[10] Distribution Provider.

[11] Transmission Owner.

[1] *Midcontinent Indep. Sys. Operator, Inc.,* 170 FERC ¶ 61,186 (2020).

selection of a storage facility as a transmission-only asset (SATOA) in the MISO Transmission Expansion Plan (MTEP). The technical conference will explore issues including, but not limited to, MISO's proposed evaluation and selection criteria for SATOAs, the SATOA's market activities and any potential wholesale market impacts of those activities, how MISO's current formula rate structure accommodates cost recovery for SATOAs, a SATOA's potential effects on the generator interconnection queue, and operating guides that will apply to a SATOA.[2]

Take notice that the Commission will hold this staff-led technical conference on Monday, May 4, 2020, between 9:00 a.m. and 5:00 p.m. (Eastern Time). This conference will be held remotely, as further described below.

Participants should be prepared to discuss, at minimum, the following:

A. Evaluation and Selection Criteria for SATOAs

MISO proposes Tariff language stating that, to be selected for inclusion in Appendix A of the MTEP as a transmission asset, a proposed SATOA must demonstrate:

a. Unique characteristics or circumstances of the proposed SATOA necessary to meet the identified Transmission System performance requirements and not otherwise available at comparable costs from other proposed solutions, including speed of operation, lead-time to implement, right-of-way, or other property considerations.

b. A need to resolve the Transmission Issue(s) through the storage facility's functioning as a SATOA instead of as a Resource that participates in [MISO's] markets.[3]

MISO states that an example of a unique characteristic is the storage asset's ability to rapidly inject and withdraw real or reactive power in solving transmission issues that could not otherwise be resolved if the storage asset was participating in markets.[4]

1. What is an ''identified Transmission System performance requirement?'' How and where are they identified? What is the difference between an identified Transmission System performance requirement and a Transmission Issue? What are examples of Transmission System performance requirements that can be addressed by a proposed SATOA?

2. What criteria will MISO consider when determining whether a proposed SATOA has unique characteristics or circumstances necessary to meet the identified transmission system performance requirements? How does MISO intend to communicate these criteria to stakeholders and participants in the MTEP? What does MISO mean by ''other property considerations''?

3. What criteria will MISO consider when determining whether there is a need for the storage facility to solve the transmission issue through the storage facility's functioning as a SATOA instead of as a resource that participates in MISO's markets? How does MISO intend to communicate these criteria to stakeholders and participants in the MTEP?

4. With regard to MISO's example of a unique characteristic–*i.e.,* a storage asset's ability to rapidly inject and withdraw real or reactive power in solving transmission issues–how can storage as transmission be distinguished from storage resources participating in markets that could have their dispatch schedules adjusted to rapidly inject or withdraw real or reactive power to solve transmission issues if needed as part of the normal security constrained dispatch of market resources?

5. If a traditional transmission project and a SATOA can both meet a transmission system performance requirement equally well, how will MISO determine which solution to select in the regional transmission planning process? If multiple SATOA proposals have unique characteristics or circumstances necessary to meet the identified transmission system performance requirements, how will MISO determine which solution to select in the regional transmission planning process?

6. If the entity that proposes a SATOA does not provide sufficient information for MISO to determine whether the SATOA meets the criteria outlined in the Tariff excerpted above, how will MISO proceed? For instance, will MISO attempt to determine if the SATOA meets the criteria using MISO's own independent analysis? Will that analysis be available to other participants in the regional transmission planning process?

7. How will MISO's evaluation criteria ensure that SATOAs are limited to only those electric storage resources that are performing a transmission-specific function?

8. Please explain how MISO will communicate its decision in approving a SATOA. For instance, MISO stated in its filing that there is currently a storage resource pending as a recommended project in MTEP19. Is the explanation provided in the MTEP19 executive summary regarding this recommended project representative of the type of explanation that MISO intends to provide in the future? What steps will MISO take if additional information is requested from participants in the regional transmission planning process?

MISO states that comparative evaluations of a proposed SATOA will include the minimum and maximum capacity required to address the transmission issue to ensure that excess storage capacity is not treated as a transmission asset. MISO further states that cost recovery under transmission rates is limited to the cost of the maximum capacity to be determined needed to address the transmission issue.[5]

9. How will MISO determine the maximum capacity needed to address the transmission issue? Please explain.

B. SATOA Market Activities and Market Impacts

MISO states that the SATOA owner is responsible for maintaining the necessary state of charge to be ready to serve the transmission function for which it was approved in the MTEP, and MISO will exercise functional control of the SATOA for transmission purposes only, *i.e.,* charging and discharging to meet the transmission need will be done at the direction of MISO.[6]

10. What does it mean for a SATOA to be under MISO's ''functional control,'' while making the SATOA owner responsible for maintaining state of charge? Will MISO tell the SATOA when to charge and discharge while the SATOA is performing to meet the transmission need? What is the practical difference, if any, between charging/discharging to ''meet'' the transmission need and charging/discharging to be ''ready to serve'' the transmission need?

11. How will MISO ensure that a SATOA under its ''functional control'' is available (*e.g.,* not fully charged when needed to withdraw power and not fully discharged when needed to inject power) to solve a transmission issue?

12. Please explain your view on whether and, if so, how the charging/discharging activities of the SATOA directed under MISO's functional control or, in connection with the SATOA owner's responsibility to maintain state of charge, impact the wholesale energy and capacity markets. For example, would these activities impact transmission capacity, congestion, and/or other resources'

[2] *Id.* P 56.

[3] MISO Dec. 12 Filing, Tab A, proposed MISO Tariff Att. FF, § II.G.1.c.i (71.0.0).

[4] MISO Dec. 12 Filing, Transmittal Letter at 2 n.5.

[5] MISO Dec. 12 Filing, Tab A, proposed MISO Tariff Att. FF, § II.G.1.a.ii (71.0.0).

[6] MISO Dec. 12 Filing, Transmittal Letter at 6–7; MISO Answer at 15.

ability to meet energy and ancillary services needs, etc.? Please explain.

MISO proposes that the SATOA owner will need a registered market participant to receive energy net costs when charging and discharging under MISO's functional control. MISO states that the market participant for a SATOA will be credited the applicable Real-Time Ex Post LMP for Non-Excessive Energy and will be charged for Non-Excessive Energy withdrawals. MISO explains that the SATOA market participant then must provide the net revenues back to the transmission owner, and those net revenues will offset the transmission revenue requirement associated with the resource.[7] MISO states that the SATOA will be a price taker.

13. Does a SATOA's direct participation in the wholesale energy markets as a price-taker create potential impacts on the wholesale energy and capacity markets by, for instance, displacing otherwise marginal or infra-marginal resources and possibly changing the energy market price? Why or why not? If energy market impacts occur, will they be minimal or might they be mitigated, and if so how?

14. Please provide further information on: (1) What types of entity could serve as the SATOA's market participant; (2) whether such market participant and/or the SATOA owner would have market-based rate authority; and (3) if the market participant were affiliated merchant function staff, how the standards of conduct would be met.

C. Cost Recovery for SATOAs

MISO proposes that costs resulting from a SATOA's market activities directed under MISO's functional control be collected through transmission rates in a manner consistent with the treatment of costs associated with the transmission project type in which the SATOA is included in Appendix A to the MTEP. Any revenues collected from the SATOA's market activities directed under MISO's functional control would be credited through transmission rates in a manner consistent with the treatment of costs associated with the transmission project category in transmission rates.[8]

15. How does MISO's current formula rate structure in Attachments O, GG, or MM accommodate cost recovery for SATOAs? Are any of those provisions sufficient to allow net market revenue to be credited through the transmission revenue requirement? Will the net energy revenue be credited outside the existing formulas, *e.g.,* through a separate rider?

16. If the existing formulas will need to be modified to accommodate SATOAs, what types of modifications are needed and when will such modifications be filed to ensure that they are effective before a SATOA becomes operational?

D. Impact on the Generator Interconnection Queue

MISO proposes that, if it or a stakeholder identifies a potential impact to newly-interconnecting generation resources in the interconnection study process, MISO will assess whether the proposed SATOA will have an impact. If the assessment demonstrates that the necessary operating mode of the proposed SATOA will cause the need for additional system mitigation, the cost of such mitigation will be included in the evaluation of the proposed SATOA as compared with other potential transmission solutions. MISO proposes that its impact assessment may include targeted contingency analyses applying NERC TPL and applicable regional and local planning criteria to evaluate the incremental impact.[9]

17. Please provide further details on how MISO would assess the impact of a proposed SATOA on newly-interconnecting generation resources and compute costs if system mitigation is needed. Would MISO account for changes due to restudies in the interconnection study process and, if so, how? Could a SATOA be considered a contingent facility? Will MISO's interconnection procedures be modified to include any of these details? Does MISO intend to include any of these details in its Business Practice Manuals? Will the analysis of the impact of the proposed SATOA on the newly-interconnecting generation resources be available to market participants in the regional transmission planning process and/or interconnection customers in the interconnection queue?

18. Will MISO's assessment of impacts include assessment of delays in the interconnection queue, and if so, how would MISO mitigate those delays? If not, why is it not necessary to assess potential delays to the interconnection queue as a result of a proposed SATOA?

19. MISO states that the cost of additional mitigation if the SATOA affecting newly-interconnecting generation resource is selected as the preferred transmission solution in the MTEP will be included in the *evaluation* of the proposed SATOA. Will such costs also be included in the total SATOA cost recovered through transmission rates and, if so, how?

E. Operating Guides

MISO states that it will coordinate with the SATOA owner, MISO Operations, and the transmission operator to develop an operating guide that will establish (1) conditions for which the SATOA should be discharged and charged to meet the anticipated planning objective and (2) boundaries for operation that will be consistent with this objective and will reflect the unique operating parameters of the individual SATOA.[10]

20. Please provide a summary and explanation of the information that may be contained in the operating guides. Please provide specific examples of the information to be contained in the operating guides.

F. Miscellaneous

21. Are there any scenarios where a SATOA might be called upon under emergency conditions to relieve an issue outside of the specific transmission issue for which the SATOA was selected? If so, how will MISO handle any out-of-market payments that the SATOA receives?

22. Are SATOAs studied for reliability impacts in the same way as storage as non-transmission alternatives, particularly regarding dynamic stability? If not, why not? Please explain in detail how SATOAs will be studied for reliability impact.

The technical conference will be led by Commission staff, and is open to the public. All people interested in participating in the conference must register at the following link: *https://www.ferc.gov/whats-new/registration/05-04-20-form.asp* by no later than noon on May 1, 2020. There is no registration fee. Information on joining the technical conference will be posted on the Events Calendar available at *https://www.ferc.gov/EventCalendar/EventsList.aspx?View=listview.*

The conference will include discussions between Commission staff and MISO. If time permits, there may be an opportunity for parties that are participating in the conference to ask questions or provide comments. The proposed agenda for the technical conference is described below. Procedures to be followed at the

[7] MISO Dec. 12 Filing, Transmittal Letter at 23, Tab A, proposed MISO Tariff, Module C, § 40.3.3.3.a.i (44.0.0).

[8] MISO Dec. 12 Filing, Transmittal Letter at 22, Tab A, proposed MISO Tariff, Att. FF § II.G.6 (71.0.0).

[9] MISO Dec. 12 Filing, Transmittal Letter at 20–21, Tab A, proposed MISO Tariff Att. FF, § II.G.1.d (71.0.0).

[10] MISO Dec. 12 Filing, Transmittal Letter at 21, proposed MISO Tariff, Att. FF, § II.G.2 (71.0.0).

conference and any changes to the proposed agenda will be announced by staff at the opening of the conference. The technical conference will not be transcribed.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502 -8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

Following the technical conference, the Commission will consider post-technical conference comments submitted on or before May 25, 2020. The written comments will be included in the formal record of the proceeding, which, together with the record developed to date, will form the basis for further Commission action.

For more information about this technical conference, please contact Mark Byrd, 202–502–8071, *mark.byrd@ferc.gov.* For information related to logistics, please contact Sarah McKinley, 202–502–8368, *sarah.mckinley@ferc.gov.*

Dated: April 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Storage as a Transmission-Only Asset (SATOA) in MISO Technical Conference—Webex Teleconference

Monday, May 4, 2020, 9:00 a.m.–5:00 p.m.

9:00 a.m.–10:30 a.m. Evaluation and Selection Criteria for SATOA
- Identified Transmission System performance requirement
- Unique Characteristics or Circumstances
- Functioning as SATOA Compared to Market Participant

10:30 a.m.–10:45 a.m. Break

10:45 a.m.–11:30 a.m. Evaluation and Selection Criteria for SATOA (continued)
- Traditional Transmission Project compared to SATOA
- SATOA Evaluation Criteria
- Communication of Decision Approving a SATOA

11:30 a.m.–12:45 p.m. SATOA Market Activities and Market Impacts
- Meaning of ''Functional Control''
- Impact of SATOA Activity on Wholesale Market
- Information Regarding Market Participant

12:45 p.m.–1:30 p.m. Lunch

1:30 p.m.–2:15 p.m. Cost Recovery for SATOAs
- Formula Rate Structure

2:15 p.m.–3:30 p.m. Impact on the Generator Interconnection Queue
- Assessing the Impact of a SATOA on Newly Interconnecting Generating Resources
- Assessment of Delays and Mitigation

3:30 p.m.–3:45 p.m. Break

3:45 p.m.–4:15 p.m. Operating Guides
- Information in Operating Guides

4:15 p.m.–5:00 p.m. Miscellaneous
- Emergency Conditions
- Reliability Impacts

[FR Doc. 2020–08021 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–41–000]

XO Energy LLC, XO Energy MA, LP, XO Energy MA2, LP v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on April 8, 2020, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, XO Energy LLC, XO Energy MA, LP and XO Energy MA2, LP (Complainants) filed a formal complaint against PJM Interconnection, L.L.C., (PJM or Respondent), alleging that the PJM Financial Transmission Right forfeiture rule, including its current implementation, is unjust and unreasonable, all as more fully explained in the complaint.

The Complainants certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov,* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 1, 2020.

Dated: April 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08020 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2934–029]

New York State Electric & Gas Corporation; Notice of Settlement Agreement

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 2934–029.

c. *Date Filed:* April 8, 2020.

d. *Applicant:* New York State Electric & Gas Corporation (NYSEG).

e. *Name of Project:* Upper Mechanicville Hydroelectric Project (Project).

f. *Location:* On the Hudson River, in Saratoga and Rensselaer Counties, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* David W. Dick, Manager, NYSEG and RG&E Hydro Engineering, 1300 Scottsville Road, Rochester, NY 14624; (585) 724–8535; *david_dick@rge.com.*

i. *FERC Contact:* Jody Callihan, (202) 502–8278 or *jody.callihan@ferc.gov.*

j. *Deadline for filing comments:* Comments on the Settlement Agreement are due on Thursday, April 30, 2020. Reply comments are due on Monday, May 11, 2020.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. NYSEG filed an Offer of Settlement (Settlement Agreement) on behalf of itself, the New York State Department of Environmental Conservation (New York DEC), U.S. Fish and Wildlife Service, and New York State Council of Trout Unlimited. The Settlement Agreement includes protection, mitigation, and enhancement measures addressing impoundment elevations and allowable fluctuations, a seasonal minimum flow, fish passage and protection for American eel, and by reference, management plans for northern long-eared bat (Appendix A), bald eagles (Appendix B), and invasive species (Appendix D). NYSEG requests that the measures in the Settlement Agreement be incorporated as license conditions, without modification, in any new license issued for the project. The signatories to the Settlement Agreement also request a 50-year license term for the project.

l. A copy of the Settlement Agreement is available for review 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.

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.

Dated: April 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08023 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–52–000]

WBI Energy Transmission, Inc.; Notice of Schedule for Environmental Review of the North Bakken Expansion Project

On February 14, 2020, WBI Energy Transmission, Inc. (WBI Energy) filed an application in Docket No. CP20–52–000 requesting a Certificate of Public Convenience and Necessity pursuant to 7(c) of the Natural Gas Act to construct and operate certain natural gas facilities in Burke, McKenzie, Mountrail, and Williams Counties, North Dakota. The proposed project is known as the North Bakken Expansion Project (Project), and would provide incremental firm transportation capacity from natural gas processing plants to a proposed interconnect with Northern Border Pipeline Company in McKenzie County, North Dakota.

On February 26, 2020, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—September 4, 2020
90-day Federal Authorization Decision Deadline—December 3, 2020

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

WBI Energy proposes to construct and operate five sections of new natural gas pipeline, a new compressor station, and modifications to an existing compressor station (totaling 92.5 miles of pipeline and 26,250 horsepower of compression), all in North Dakota. The Project would provide about 350 million standard cubic feet of natural gas per day to the Midwest via Northern Border Pipeline Company's existing mainline.

The Project includes: (i) 61.9 Miles of 24-inch-diameter pipeline from WBI Energy's Tioga Compressor Station in Williams County to the proposed Elkhorn Creek Compressor Station in McKenzie County; (ii) 0.3 mile of 24-inch-diameter pipeline from the proposed Elkhorn Creek Compressor Station to a new interconnect with Northern Border Pipeline Company; (iii) 20.4 miles of 12-inch-diameter pipeline looping along WBI Energy's Line Section 25 in Mountrail and Burke Counties-[1]; (iv) 9.4 miles of 12-inch-diameter pipeline looping along WBI Energy's Line Section 30 in Williams County; (v) 0.5 mile of 20-inch-diameter receipt lateral to the Tioga Compressor Station; (vi) uprating WBI Energy's Line Section 25; (vii) installing 22,500 additional horsepower at the existing Tioga Compressor Station; (viii) constructing a new 3,750 horsepower compressor station, the Elkhorn Creek Compressor Station, in McKenzie County; and (ix) and other associated appurtenances.

Background

On July 3, 2019, the Commission staff granted WBI Energy's request to use the FERC's pre-filing environmental review process and assigned the Project Docket No. PF19–7–000. On September 13, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned North Bakken Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Session* (NOI). The NOI was issued during the pre-filing review of the Project and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental interest groups; Native American tribes; other interested parties; and local libraries.

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

In response to the NOI, the Commission received comments from the North Dakota Department of Environmental Quality (DEQ) and two landowners. The North Dakota DEQ recommended the Project avoid Source Water Protection Areas, section 303(d) Waters, and surface and groundwater drinking sources. The DEQ also stated that WBI Energy should obtain a Stormwater Construction Permit and implement proper monitoring for the early leak detection. The primary environmental issues raised by the other commentors were project location, trespassing, impacts on water resources and soils, seeding, and spreading of weeds. All substantive comments will be addressed in the EA.

The Bureau of Land Management, the U.S. Army Corps of Engineers, and the U.S. Forest Service are cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP20–52), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: April 10, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08036 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–112–000.
Applicants: Cedar Creek II, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cedar Creek II, LLC.
Filed Date: 4/10/20.
Accession Number: 20200410–5097.
Comments Due: 5 p.m. ET 5/1/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–595–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2020–04–10_Deficiency response to Solar DIR Filing to be effective 3/15/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5020.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1208–001.
Applicants: David Energy Supply, LLC.
Description: Tariff Amendment: Amendment to MBR Application Filing to be effective 4/1/2020.
Filed Date: 4/9/20.
Accession Number: 20200409–5188.
Comments Due: 5 p.m. ET 4/30/20.

Docket Numbers: ER20–1533–000.
Applicants: CenterPoint Energy Houston Electric, LLC.
Description: § 205(d) Rate Filing: TFO Tariff Rate Revision to Conform with PUCT-Approved Rate to be effective 4/23/2020.
Filed Date: 4/9/20.
Accession Number: 20200409–5187.
Comments Due: 5 p.m. ET 4/30/20.

Docket Numbers: ER20–1534–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: ESM Construction Agmt—Swift Troutdale to be effective 4/10/2020.
Filed Date: 4/9/20.
Accession Number: 20200409–5189.
Comments Due: 5 p.m. ET 4/30/20.

Docket Numbers: ER20–1535–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5626; Queue No. AE1–160 to be effective 3/16/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5039.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1536–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Implement Generator Replacement Process to be effective 7/1/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5064.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1537–000.
Applicants: RE Mustang Two Barbaro LLC.
Description: Baseline eTariff Filing: RE Mustang Two Barbaro LLC MBR Tariff to be effective 4/11/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5074.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1538–000.
Applicants: RE Mustang Two Whirlaway, LLC.
Description: Baseline eTariff Filing: RE Mustang Two Whirlaway MBR Tariff to be effective 4/11/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5085.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1539–000.
Applicants: Neighborhood Sun Benefit Corp.
Description: Compliance filing: Market Based Rate Tariff—Baseline to be effective 4/10/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5108.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1540–000.
Applicants: San Diego Gas & Electric Company.
Description: Compliance filing: Order No. 864 Compliance Filing to be effective 1/27/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5110.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1541–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Rate Schedule FERC No. 278 between Tri-State and DMEA to be effective 12/31/9998.
Filed Date: 4/10/20.
Accession Number: 20200410–5115.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1542–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Rate Schedule FERC No. 262 between Tri-State and DMEA to be effective 6/10/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5116.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1543–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedule FERC No. 7 to be effective 12/31/9998.

Filed Date: 4/10/20.

Accession Number: 20200410–5119.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1545–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedule FERC No. 49 to be effective 12/31/9998.

Filed Date: 4/10/20.

Accession Number: 20200410–5122.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1546–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI submits Revised Service Agreement, SA No. 3992 with Ohio Edison Company to be effective 6/9/2020.

Filed Date: 4/10/20.

Accession Number: 20200410–5123.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1547–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedules FERC No. 122 through No. 124 to be effective 12/31/9998.

Filed Date: 4/10/20.

Accession Number: 20200410–5125.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1548–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedule FERC No. 199 to be effective 12/31/9998.

Filed Date: 4/10/20.

Accession Number: 20200410–5132.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1549–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2020–04–10 LGIA Among VEA, GridLiance West, SVS and CAISO to be effective 6/10/2020.

Filed Date: 4/10/20.

Accession Number: 20200410–5139.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1550–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA, SA No. 5489, Queue No. AB2–168 re: Withdrawal to be effective 3/11/2020.

Filed Date: 4/10/20.

Accession Number: 20200410–5142.

Comments Due: 5 p.m. ET 5/1/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08022 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–12–000]

Commission Information Collection Activities (FERC–73); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–73 (Oil Pipeline Service Life Data).

DATES: Comments on the collection of information are due June 15, 2020.

ADDRESSES: You may submit comments (identified by Docket No. IC20–12–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions 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 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 may be reached by email at *DataClearance@FERC.gov,* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC Form No. 73, Oil Pipeline Service Life Data.

OMB Control No.: 1902–0019.

Type of Request: Three-year extension of the FERC Form No. 73 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission collects FERC Form No. 73 information as part of its authority under the Interstate Commerce Act, 49 U.S.C. 60501, *et al.* FERC Form No. 73 contains necessary information for the review of oil pipeline companies' proposed depreciation rates, as regulated entities are required to provide service life data illustrating the remaining physical life of an oil pipeline's properties, in order to calculate the company's cost of service and its transportation rates to access customers. The Commission implements these filing reviews under the purview of 18 CFR part 357.3, *FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis,* and 18 CFR part 347. Parts 357.3 and 347 require an oil pipeline company to submit information under FERC Form No. 73 when: (1) Requesting approval for new or changed depreciation rates of an oil pipeline; or (2) being directed by the Commission to file the service life data during an investigation of its book depreciation rates.

Type of Respondent: Oil pipeline companies.

Estimate of Annual Burden [1]: The Commission estimates the annual public reporting burden for the information collection as below:

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[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 information collection burden, refer to 5 CFR 1320.3.

FERC FORM NO. 73, OIL PIPELINE SERVICE LIFE DATA

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response [2] (4)	Total annual burden & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Oil Pipelines Undergoing Investigation or Review.	32	1	[3] 32	40 hrs.; $3,200	1,280 hrs.; $102,400	$3,200

Comments: Comments are invited on: (1) Whether the collection of information 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 the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 10, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08035 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL20–20–000; QF14–782–001]

GRE 314 East Lyme LLC; Notice of Revised Refund Report

Take notice that on April 10, 2020, GRE 314 East Lyme LLC (Petitioner), submitted a Revised Refund Report (Corrected Refund Calculation) to the Petition for Declaratory Order filed on February 3, 2020, seeking requirements applicable to qualifying small power production facilities set forth in section 292.203(a)(3) for the period June 6, 2014 to September 18, 2014.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on May 1, 2020.

Dated: April 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08024 Filed 4–15–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2020–0140; FRL–10008–42–OGC]

Proposed Settlement Agreements, Safe Drinking Water Act Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Environmental Protection Agency (EPA) Administrator's October 16, 2017, Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, notice is hereby given of a proposed settlement agreement to address several claims in a lawsuit filed by the Waterkeeper Alliance, Inc., Waterkeeper Chesapeake, Inc. and California Coastkeeper (d/b/a California Coastkeeper Alliance)(''Plaintiffs'') in the United States District Court for the Southern District of New York. On January 30, 2019, the Plaintiffs filed a complaint pursuant to the Safe Drinking Water Act and the Administrative Procedure Act seeking declaratory and injunctive relief to resolve the claims regarding EPA's obligations to develop new and revised National Primary Drinking Water Regulations. Under the proposed settlement agreement, the EPA would agree to deadlines with respect to certain actions under the Safe Drinking Water Act.

DATES: Written comments on the proposed settlement agreements must be received by *May 18, 2020.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2020–0140, online at *www.regulations.gov* (EPA's preferred method). For comments submitted at

[2] The Commission staff estimates the average cost in salary and benefits for the average respondent based on the Commission's 2019 average cost for salary plus benefits at $80/hour.

[3] The total number of responses entailing the submittal of a depreciation study in the past three years was 96. The average response from those three years is 96/3years = 32 responses per year.

www.regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA generally will not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). The EPA encourages the public to submit comments via *www.Regulations.gov*, as there will be a delay in processing mail and no hand deliveries will be accepted. 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: Leslie Darman, Water Law Office, Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–5452; email address: *Darman.Leslie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

On January 30, 2019, the Plaintiffs filed a complaint pursuant to the Safe Drinking Water Act (SDWA) and the Administrative Procedure Act (APA) seeking declaratory and injunctive relief to resolve several claims regarding EPA's obligations to develop new and revised National Primary Drinking Water Regulations (NPDWRs). First, the Plaintiffs allege that the deadlines in Section 1412(b)(1)(B)(i) of the SDWA for publishing the Contaminant Candidate List (CCL) is based on fixed five-year intervals and therefore, the EPA failed to perform a mandatory duty to publish the fifth CCL by February 6, 2018, and the EPA has unreasonably delayed publication of the CCL. Second, the Plaintiffs allege that the deadlines in Section 1412(b)(1)(B)(ii) of the SDWA for publishing regulatory determinations are based on fixed five-year intervals and therefore, the EPA failed to perform a mandatory duty to publish the fourth regulatory determination by August 6, 2016, and the EPA has unreasonably delayed its publication.

Finally, the Plaintiffs' complaint also includes claims under the SDWA and the APA with respect to EPA's treatment of certain contaminants covered by the Six-Year Review process in Section 1412(b)(9) of the SDWA: Chromium, trichlorethylene (TCE), tetrachloroethylene (PCE), and a group of microbial and disinfection byproducts (MDBPs). The Plaintiffs allege that EPA unreasonably delayed and failed to perform a mandatory duty to review the NPDWR for total chromium and determine whether to revise it. The Plaintiffs also allege the EPA violated the APA because the Agency has unreasonably delayed completion of the health assessment of chromium. The Plaintiffs claim that the EPA unreasonably delayed and failed to perform an alleged mandatory duty to revise the NPDWRs for TCE, PCE, and the MDBPs within the same six-year review period in which EPA identified the contaminants as appropriate for revision, or to meet the deadlines for proposal and promulgation of NPDWRs in Section 1412(b)(1)(E) of the SDWA.

Under the proposed settlement agreement, the EPA would agree to deadlines for (1) publishing a proposed regulatory determination for at least five contaminants that are listed on the Fourth CCL; (2) signing for publication in the **Federal Register** the Fifth and Sixth CCLs; (3) making a determination as to whether the existing NPDWR for chromium is appropriate for revision; (4) signing for publication in the **Federal Register** a proposal to revise the NPDWRs for the MDBP contaminants identified as candidates for revision in the EPA's Six-Year Review 3, published on January 11, 2017; and (5) signing for publication in the **Federal Register** a notice of final action on the proposal to revise the NPDWRs for the MDBPs. If the EPA fails to meet any of these deadlines, Plaintiffs' sole remedy under this Agreement shall be to reopen this lawsuit after undertaking the informal dispute-resolution procedures.

For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed settlement from persons who are not named as parties to the litigation in question. If so requested, EPA will also consider holding a public hearing on whether to enter into the proposed settlement agreement. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the SDWA. Unless EPA or the Department of Justice determines that consent to this proposed settlement agreement should be withdrawn, the settlement agreement will be signed, and the parties will notify the Court of the settlement agreement and seek a court order dismissing with prejudice all claims in this action. If the Court does not enter such an order, the settlement agreement will have no force or effect.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How can I get a copy of the proposed settlement agreement?

The official public docket for this action (identified by EPA–HQ–OGC–2020–0140) contains a copy of the proposed settlement agreement. The official public docket is located at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The regular hours of the EPA Docket Center Public Reading Room are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays; however, due to the COVID–19 pandemic, there may be limited or no opportunity to enter the docket center. At the time of this printing, the docket center is closed to public visitors out of an abundance of caution for members of the public and EPA staff to reduce the risk of transmitting COVID–19. During the closure, Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services, see *https://www.epa.gov/dockets.* The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available on EPA's website at *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.'' It is important to note that EPA's policy is that public comments, whether submitted electronically or in

paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket.

EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. EPA has not included any copyrighted material in the docket for this proposed settlement. If commenters submit copyrighted material in a public comment, it will be placed in the official public docket and made available for public viewing when the EPA Docket Center is open.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. The EPA encourages the public to submit comments via *www.Regulations.gov*. There will be a delay in processing mail and no hand deliveries will be accepted due to the COVID–19 pandemic.

EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: April 10, 2020.

Steven Neugeboren,

Associate General Counsel.

[FR Doc. 2020–07980 Filed 4–15–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 20–308]

Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces the next meeting date, time, and agenda of the Federal Communications Commission's (FCC or Commission) Consumer Advisory Committee (hereinafter the ''Committee''). The Committee will hold this upcoming meeting remotely via live internet link on the Commission's website.

DATES: April 27, 2020, 10:30 a.m. to 12:30 p.m.

ADDRESSES: The Meeting will be held via conference call and available to the public at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Designated Federal Officer of the Committee, (202) 418–2809 (voice or Relay), email: *scott.marshall@fcc.gov*; or Gregory V. Haledjian, Deputy Designated Federal Officer of the Committee, (202) 418–7440 (voice or Relay) email: *gregory.haledjian@fcc.gov.* U.S. Postal Service Mailing address: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice

DA 20–308, released April 7, 2020, announcing the Agenda, Date, and Time of the Committee's next meeting.

Proposed Agenda: At its April 27, 2020 meeting, the Committee will consider a recommendation from its Truth-in-Billing Working Group.

This meeting is open to members of the general public and has been moved to a wholly electronic format due to the COVID–19 pandemic. The meeting can be viewed live, by the public, at *http://www.fcc.gov/live.* The public may also follow the meeting on Twitter *@fcc* or via the Commission's Facebook page at *www.facebook.com/fcc.* Members of the public may submit any questions that arise during the meeting to *livequestions@fcc.gov.*

Open captioning will be provided for the live stream. Other reasonable accommodations for people with disabilities are available upon request. To request an accommodation, send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the Commission to contact the requester if more information is needed to fulfill the request. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to accommodate.

To obtain further information about the Committee, consult the Committee's web page at: *www.fcc.gov/consumer-advisory-committee,* or contact: Scott Marshall, Designated Federal Officer, Consumer and Governmental Affairs Bureau, Federal Communications Commission, Room 3–A633, 445 12th Street SW, Washington, DC 20554; phone: 202–418–2809 (voice or Relay); email: *scott.marshall@fcc.gov;* or Gregory V. Haledjian, Deputy Designated Federal Officer, Consumer and Governmental Affairs Bureau, Federal Communications Commission, Room 5–C736, 445 12th Street SW, Washington, DC 20554; phone: 202–418–7440; email: *gregory.haledjian@fcc.gov.* Comments may also be submitted to the Designated Federal Officer or the Deputy or through the Commission's Electronic Comment Filing System, ECFS, at: *www.fcc.gov/ecfs/.*

Federal Communications Commission.

Gregory Haledjian,

Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2020–08037 Filed 4–15–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, April 21, 2020 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Matters relating to internal personnel decisions, or internal rules and practices.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2020–08197 Filed 4–14–20; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS20–04]

Appraisal Subcommittee Notice of Special Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of Special Meeting.

Description: In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) met for a Special Meeting on this date:

Location: Conference Call.

Date: April 9, 2020.

Time: 1:30 p.m.

Action and Discussion Item

Appraisal Foundation 2020 Grant

The ASC convened a Special Meeting to consider a revised grant proposal that was sent to ASC members on March 26, 2020, by the Appraisal Foundation (TAF). By unanimous vote, the ASC declined to entertain the alternate grant proposal submitted to the ASC Board on March 26th and directed the ASC staff to provide written notice to TAF of this fact. The ASC staff will re-issue the Notice of Grant Award associated with the previously issued award.

Dated: April 13, 2020.

Lori Schuster,

Management and Program, Analyst.

[FR Doc. 2020–08043 Filed 4–15–20; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: 60-Day Public Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comment.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, the Federal Maritime Commission (Commission) invites comments on the continuing information collection (an extension with changes) listed below in this notice.

DATES: Written comments must be submitted on or before June 15, 2020.

ADDRESSES: Address all comments to: Karen V. Gregory, Managing Director, Office of the Managing Director, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573, Phone: (202) 523–5800, Email: *omd@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of the information collection, or copies of any comments received, may be obtained by contacting Donna Lee at (202) 523–5800 or email at *dlee@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments received, including attachments, are part of the public record and subject to disclosure. Please do not include any confidential material or material that you consider inappropriate for public disclosure. We invite 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.

Information Collection Open for Comment

Title: 46 CFR Part 540—Application for Certificate of Financial Responsibility/Form FMC–131.

OMB Approval Number: 3072–0012 (Expires May 31, 2020).

Abstract: Sections 2 and 3 of Public Law 89–777 (46 U.S.C. 44101–44106) require owners, charterers, or operators of passenger vessels with 50 or more passenger berths or stateroom accommodations and embarking passengers at United States ports and territories to establish their financial responsibility to meet liability incurred for death or injury to passengers and other persons, and to indemnify passengers in the event of nonperformance of transportation. The Commission's regulations at 46 CFR part 540 implement Public Law 89–777 and specify financial responsibility coverage requirements for such owners, charterers, or operators.

Current Actions: There are changes to this information collection, and it is being submitted for extension and approval of changes. Twelve fields have been eliminated due to being captured on the financial instrument and we have reduced several questions regarding financial responsibility into two questions. Our intent is to make the form more intuitive and easier to use and understand. Additionally, information collected in a data format, as opposed to receiving this information in a narrative format, will assist us in analyzing the submissions.

Type of Review: Extension with changes.

Needs and Uses: The information will be used by the Commission's staff to ensure that passenger vessel owners, charterers, and operators have evidenced financial responsibility to indemnify passengers and others in the event of nonperformance or casualty.

Frequency: This information is collected when applicants apply for a certificate or when existing certificants change any information in their application forms.

Affected Public Who Will Be Asked or Required to Respond: Respondents are owners, charterers, or operators of passenger vessels with 50 or more passenger berths that embark passengers from U.S. ports or territories.

Number of Annual Respondents: The Commission estimates the total number of respondents at 52 annually.

Estimated Time per Response: The time per response ranges from 0.5 to 8 hours for reporting and recordkeeping requirements contained in the regulations, and 8 hours for completing Application Form FMC–131.

Total Annual Burden: The Commission estimates the total burden at 1,233 hours per year.

Rachel Dickon,

Secretary.

[FR Doc. 2020–08025 Filed 4–15–20; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Temporary Suspension of In-Person Hearings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Review Commission (the ''Commission'') is suspending all in-person hearings, settlement judge conferences, and mediations until May 31, 2020.

DATES: *Applicable:* April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION: In view of the risks presented by the novel coronavirus COVID–19, the Commission's Office of the Chief Administrative Law Judges (''OCALJ'') is, effective April 10, 2020, suspending all in-person hearings, settlement judge conferences, and mediations until May 31, 2020.

At the discretion of the presiding administrative law judge and in coordination with the parties, hearings may proceed by videoconference or by telephone. Similarly, settlement judge conferences and mediations may be held by videoconference or by telephone. If the parties agree that an evidentiary hearing is not needed, cases may also be presented for a decision on the record.

The parties will be notified if the hearing needs to be rescheduled. OCALJ will reassess the risks presented by in-person hearings prior to May 31, 2020, and issue a subsequent order informing the public as to whether the suspension of in-person hearings will continue.

The presiding administrative law judge may be contacted with questions regarding this notice.

Authority: 30 U.S.C. 823.

Dated: April 10, 2020.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2020–07964 Filed 4–15–20; 8:45 am]

BILLING CODE 6735–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–0214; Docket No. CDC–2020–0037]

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 to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the National Health Interview Survey (NHIS). The annual National Health Interview Survey is a major source of general statistics on the health of the U.S. population.

DATES: Written comments must be received on or before June 15, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0037 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. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted 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 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

National Health Interview Survey (NHIS) (OMB No. 0920–0214, Exp. 12/31/2020)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (HHS),

acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. The annual National Health Interview Survey (NHIS) is a major source of general statistics on the health of the U.S. population and has been in the field continuously since 1957. This voluntary and confidential household-based survey collects demographic and health-related information from a nationally-representative sample of households and noninstitutionalized, civilian persons throughout the country. NHIS data have long been used by government, academic, and private researchers to evaluate both general health and specific issues, such as smoking, diabetes, health care coverage, and access to health care. The survey is also a leading source of data for the Congressionally-mandated ''Health US'' and related publications, as well as the single most important source of statistics to track progress toward HHS health objectives.

The NHIS sample adult and sample child questionnaires include annual core content that is scheduled to be fielded in the survey every year, rotating content that is fielded periodically, emerging content to address new topics of growing interest, and sponsored content that is fielded when external funding is available. Rotating sample adult and sample child core content that was on the NHIS in 2020 and will rotate off the 2021 NHIS includes dental services, other provider services, and physical activity. Content on walking, sleep, fatigue, smoking history and cessation and alcohol use will also rotate off the sample adult core. Questions on neighborhood characteristics, sleep, screen time, and height and weight will rotate off the sample child core.

The 2021 sample adult and sample child rotating core will include questions about health conditions that were previously fielded in the 2018 NHIS. The 2021 rotating sample adult core will include questions on hearing and communication, psychological distress, chronic pain, preventive screening, and aspirin use. The questions on chronic pain, preventive screening and aspirin use were all previously fielded as part of the 2019 rotating core. Questions on psychological distress and hearing and communication were previously fielded as part of the 2018 NHIS. The 2021 sample child rotating core will include items on stressful life events which were previously fielded in 2019. Sponsored content on asthma will be removed from both the sample adult and sample child questionnaires. Sponsored content on cancer control, immunizations, and diabetes will remain, but the content will change. Sponsored cancer control content on cigarette history, lung cancer screening, environment for walking and sun care and protection will not be on the 2021 NHIS. New sponsored cancer control content will focus on screenings for breast, cervical, prostate, and colon cancer using similar questions to what were used in the 2019 NHIS. Anticipated new sponsored content include questions on epilepsy (previously fielded in 2010, 2013, 2015, and 2017) and occupational health.

Like in past years, and in accordance with the 1995 initiative to increase the integration of surveys within the DHHS, respondents to the 2021 NHIS will serve as the sampling frame for the Medical Expenditure Panel Survey conducted by the Agency for Healthcare Research and Quality. A subsample of NHIS respondents and/or members of commercial survey panels may be identified to participate in short, web-based methodological and cognitive testing activities to evaluate the questionnaire and/or inform the development of new rotating and sponsored content using web and/or mail survey tools. In addition, subsamples of NHIS respondents may be recontacted by web, phone, or mail to ask follow-up questions on topics that are already included in the NHIS. In the future, a subsample of NHIS respondents may also be re-contacted for a brief health exam. There is no cost to the respondents other than their time. Clearance is sought for three years, to collect data for 2021–2023.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Adult Household Member	Household Roster	36,000	1	5/60	3,000
Sample Adult	Adult Questionnaire	30,000	1	40/60	20,600
Adult Family Member	Child Questionnaire	10,000	1	20/60	3,334
Adult Family Member	Methodological Projects	15,000	1	20/60	5,000
Child Family Member	NHIS Follow-up survey	3,000	1	20/60	1,000
Adult Family Member	Health Exam	10,000	1	45/60	7,500
Adult Family Member	Reinterview Survey	5,500	1	5/60	458
Total					40,892

Jeffrey M. Zirger,

Lead, Information Collection Review Office Office of Scientific Integrity Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–07977 Filed 4–15–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–20–1180]

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 Airline and Vessel Traveler Information Collection (42 CFR part 71) 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 23, 2019 to obtain comments from the public and affected agencies. CDC received two comments 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. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. 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

Airline and Vessel Traveler Information Collection (42 CFR part 71) (OMB Control No. 0920–1180, Exp. 05/31/2020)—Revision—Division of Global Migration and Quarantine (DGMQ), National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Under the Public Health Service Act (42 United States Code § 264), and under 42 Code of Federal Regulations (CFR) §§ 71.4 and 71.5, CDC can order air carriers and maritime vessels arriving from another country to submit a certain information related to passengers and crew that CDC believes were exposed to or infected with a communicable disease that poses a risk of spread in the United States.

Stopping a communicable disease outbreak—whether it is naturally occurring or intentionally caused—requires the use of the most rapid and effective public health tools available. Basic public health practices, such as collaborating with airlines in the identification and notification of potentially exposed contacts, are critical tools in the fight against the introduction, transmission, and spread of communicable diseases in the United States.

The collection of pertinent contact information enables Quarantine Public Health Officers in CDC's Division of Global Migration and Quarantine (DGMQ) to notify state and local health departments in order for them to make contact with individuals who may have been exposed to a communicable disease during travel and identify appropriate public health interventions.

In the event that there is a confirmed case or suspected exposure of communicable disease of public health concern aboard an aircraft or maritime vessel, or an outbreak in a geographic location, CDC can require that airlines provide certain traveler contact information at risk for exposure. The information collection differs depending on the communicable disease that is confirmed or suspected during air or maritime travel, or in a geographic location during an outbreak. CDC uses this passenger and crew manifest information to coordinate with state and local health departments so they can follow-up with residents who live or are currently located in their jurisdiction. In general, state and local health departments are responsible for this public health follow-up. In rare cases, CDC may use the manifest data to perform the contact investigation directly. In either case, CDC works with state and local health departments so that individuals can receive appropriate public health follow-up.

This revision is requesting minor changes to the verbiage of the international manifest order forms used under 42 CFR 71.4(a) and (b) to clarify the information required by CDC to conduct a contact investigation and to provide general grammatical improvements to enhance clarity. The number of estimated international manifests ordered from the air carriers in response to a confirmed case or suspected exposure after arrival is increased given CDC's experience with the 2019 measles outbreak and the current COVID–19 outbreak.

Additionally, under the Interim Final Rule published on February 7, 2020 adding 42 CFR 71.4(d),and the subsequent February 18, 2020 Order under 42 CFR 71.31 and 71.4, CDC is seeking through this revision to update the estimated burden and outline the information collection process associated with the requirement that airlines collect contact information from travelers and provide that information to CDC via existing mechanisms, such as PNR, APIS, and eAPIS, on a continuous basis following an order from the Director.

While CDC can require maritime vessels to submit traveler information under 42 CFR 71.5, this happens very rarely (less than 10 times on an annual basis) and so the burden is not accounted for in this Notice.

The total estimated hourly burden to respondents as a result of this information collection is 1,835,134 hours per year. While CDC has included maritime conveyance manifest orders in the public health rationale for this information collection, these orders occur less than 10 times a year and are not included in the burden table. CDC does not anticipate any cost burden to respondents under the manifest process as outlined in 42 CFR 71.4(a) and (b), as this only requires airlines to provide the information if it is available and maintained.

Under the February 7, 2020 IFR, CDC anticipates that some 12 US major carriers and 61 major foreign carriers will modify their data systems, or contract with third party reservation system providers, to ensure that the information required under the IFR is transmitted using existing mechanisms to CBP (*e.g.,* PNR, APIS, eAPIS). CDC estimates that these changes will cost approximately $700,000 per carrier for a total cost of $51,100,000. Smaller revenue airlines will also have access to eAPIS to submit the information if they do not plan to modify their data systems. That functionality is already available under the management of U.S. Customs and Border Protection.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Airline Medical Officer or Equivalent/Computer and Information Systems Manager.	International TB Manifest Template	51	1	360/60
Airline Medical Officer or Equivalent/Computer and Information Systems Manager.	International Non-TB Manifest Template	249	1	360/60
International Passengers (3rd party disclosure).	No Form	110,000,000	1	.5/60
Airline staff	No Form	110,000,000	1	.5/60

Jeffrey M. Zirger,

Acting Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and revention.

[FR Doc. 2020–07976 Filed 4–15–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–20–1072]

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 ''The Enhanced STD surveillance Network (SSuN)'' 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 Friday, October 25, 2019, to obtain comments from the public and affected agencies. CDC did not receive comments 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. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. 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

The Enhanced STD surveillance Network (SSuN), (OMB Control No. 0920–1072 Exp. 09/30/2021)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP) is requesting revision of the information collection entitled ''Enhanced STD Surveillance Network (SSuN)''. Revisions to this submission include adding reported adult syphilis cases to enhanced case-based surveillance records, addition of 87 new data elements, removal of 115 data elements associated with a discontinued neurosyphilis surveillance activity and revision of methods to include Health Department surveillance HIV registry matching activities for patients presenting for care in STD clinical facilities. This revision also includes changes to the number and identity of collaborating jurisdictions from 10 to 11 sites as a result of a recent notice of funding opportunity. The estimate of annualized burden hours for this data collection increases modestly from 4,134 hours to 6,303 hours for the revised project as a result of revisions and expanding the project from 10 to 11 awardees for the current data collection cycle.

The purpose of this project is to enhance capacity for STD surveillance and better meet CDC's disease surveillance mandate by; (1) providing more comprehensive information on reported cases of notifiable STDs to enhance the ability of public health authorities to interpret trends in case incidence, assess inequalities in the burden of disease by population characteristics and to monitor STD treatment and selected adverse health outcomes of STDs, and, (2) to monitor STD and HIV co-infection, screening, uptake of high-impact HIV prevention and health care access trends among patients seeking care and those diagnosed with STDs in specific clinical settings.

Routine STD surveillance activities are ongoing in all US states and jurisdictions, and cases are reported to CDC through the National Notifiable Disease Surveillance System (NNDSS). However, case reports are often missing critical patient demographics and are of limited scope with respect to risk behavior, provider and clinical information, treatment, co-infection and partner characteristics—data that are needed to appropriately direct disease control activities. Enhanced SSuN is the only current surveillance infrastructure providing information on patient and partner characteristics, clinical presentation, screening and uptake of HIV testing, treatment patterns, provider compliance with treatment recommendations, HIV co-infection among persons diagnosed with STDs

and use of high impact STD-related HIV prevention interventions such as pre-exposure prophylaxis.

The precursor to Enhanced SSuN was the STD Surveillance Network (SSuN), which was established in 2005 as a network of six collaborating state and local public health agencies providing more comprehensive STD case-level and clinical facility information. In 2008, SSuN was expanded to 12 awardees to add important geographic diversity and to include visit-level data on a full census of patients being seen in categorical STD clinics. Activities of the previously funded SSuN were subsumed under the network's scope in establishing enhanced SSuN in 2013, which funded 10 awardees to conduct core data collection activities.

The revised project, SSuN Cycle 4, comprises 11 U.S. local/state health departments, including Baltimore City Health Department, California Department of Public Health, City of Columbus Public Health Department, Florida Department of Health, Indiana Department of Public Health, Multnomah County Health Department, New York City Department of Health & Mental Hygiene, Philadelphia Department of Public Health, San Francisco Department of Public Health, Utah Department of Public Health and Washington State Department of Health.

Subsequent to reinstatement of OMB approval in 2018, enhanced SSuN continues to provide ongoing data addressing CDC's Division of Sexually Transmitted Disease and Prevention priorities (DSTDP), including contributing to CDC's annual STD surveillance report, CDC's quarterly and annual progress indicators, and has informed policy discussions on expedited partner therapy, pre-exposure prophylaxis to prevent HIV infection (PrEP), documented critical clinical services provided by categorical STD clinics, and provided information on the proportion of cases treated with appropriate antimicrobial regimens, which is an essential indicator of compliance with CDC treatment recommendations and critical for addressing the emergence of antimicrobial resistance. The major data collection components of the network are grouped into two primary strategies, reflecting different sentinel and enhanced population-based surveillance methods.

The first, Strategy A, includes sentinel surveillance in STD clinics to monitor patient care, screening and diagnostic practices, HIV co-infection, treatment and assess the delivery of high impact, STD-related HIV prevention services. Participating local/state health departments are implementing common protocols to abstract demographic, clinical, risk behaviors from existing health records for patients presenting for care in 15 selected local STD Clinics. Data for this strategy is abstracted from existing electronic medical records at the participating STD clinics, leveraging information that is routinely collected in the provision of clinical care. A brief 10-item de-identified survey will be administered at registration to 350 patients presenting consecutively to the clinics once annually to assess demographics not collected in the course of routine patient care. All survey and medical records are fully de-identified by collaborating health departments and transmitted to CDC through secure file transport mechanisms six times annually (every two months). The estimated time for the STD clinic data managers to abstract data from electronic health records and process patient surveys is four hours every two months.

The second surveillance activity in SSuN Cycle 4, Strategy B, includes abstraction of all reported gonorrhea and adult syphilis cases from the jurisdiction's routine STD surveillance data management system, recoding case data to conform with common protocols and performance of a registry match with the jurisdictions HIV case surveillance system. A random sample of gonorrhea cases is selected, and enhanced investigations conducted on the gonorrhea cases selected in the random sample. Enhanced investigations include clinical data collection from reporting providers, searching existing health department disease and laboratory registries for additional diagnostic and laboratory data and attempting to obtain brief patient behavioral and demographic interviews on patients selected in the random sample. Estimated time for patients to complete these interviews is 10 minutes or less depending on skip patterns. For these activities, jurisdictions follow consensus protocols for all data collection to provide uniformly coded data on demographic characteristics, behavioral risk factors, clinical care, laboratory data and health care seeking behaviors. There were 164,177 cases of gonorrhea diagnosed and reported across the 10 participating enhanced SSuN jurisdictions funded in 2018. Approximately 10.6%, or 17,512 cases were randomly sampled for enhanced investigation and full enhanced investigations were completed for 7,132 (40.7%). The remaining cases were lost to follow-up due to insufficient contact information, or the patient failed to respond to multiple contact attempts. Similar performance is anticipated in the revised project, which includes 11 jurisdictions which reported 173,605 gonorrhea cases in 2017. Approximately 17,360 cases will be sampled and 7,380 completed patient investigations are anticipated.

Data managers at each of the 11 local/state health departments are responsible for transmitting validated datasets to CDC every month, alternating between strategies A and B each month. This reflects 3,168 burden hours for data management (11 respondents × 12 data transmissions × 24 hours). Data managers will also be responsible for conducting HIV registry matching bimonthly; registry matches are estimated to take 20 hours for matching, cleaning and recoding records into approved data formats. Across all 11 jurisdictions, this represents an additional data management burden of 1,320 hours (11 sites × 6 annual matches × 20 hours).

The total estimated annual burden hours for data management staff in funded jurisdiction is 4,488 hours (3,168 + 1,320) for the revised information collection. Respondents from local/state health departments receive federal funds to participate in this project. Participation of patients and of facility staff is voluntary. There are no additional costs or benefits accrued 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)
Data managers at sentinel STD clinics	Electronic Clinical Record Abstraction	11	6	4

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Public—Adults (persons diagnosed with gonorrhea).	Patient interviews for a random sample of gonorrhea cases.	7,380	1	10/60
Data Managers: 11 local/state health department.	Data cleaning/validation, HIV registry matching and data transmission for Strategy A and Strategy B.	11	12	44
General Public—Adults (persons visiting STD clinics and participating in the clinic survey).	Clinic Survey	3,850	1	5/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–07975 Filed 4–15–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2020–0035; NIOSH–334]

World Trade Center Health Program Research Agenda; Request for Information

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Request for information.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), is opening a docket to solicit public comment on the scope of upcoming funding announcements for the World Trade Center (WTC) Health Program research funding cycle for FY2021. The WTC Health Program's research program helps answer critical questions about potential 9/11-related physical and mental health conditions as well as diagnosing and treating health conditions on the List of WTC-Related Health Conditions.

DATES: Comments must be received by June 1, 2020.

ADDRESSES: Comments may be submitted through either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (follow the instructions for submitting comments), or
- *By Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS C–34, 1090 Tusculum Avenue, Cincinnati, Ohio 45226–1998.

Instructions: All written submissions received in response to this notice must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2020–0035; NIOSH–334) for this action. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION: Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113 and Pub. L. 116–59), added Title XXXIII to the Public Health Service (PHS) Act,[1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits for health conditions on the List of WTC-Related Health Conditions (List)[2] to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders). The Program also provides benefits to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

The Zadroga Act also requires that the Program establish a research program on health conditions resulting from the September 11, 2001, terrorist attacks, addressing the following topics:

- Physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks;
- Diagnosing WTC-related health conditions for which there have been diagnostic uncertainty; and
- Treating WTC-related health conditions for which there have been treatment uncertainty.

Request for Information

To establish the scope of the next 5-year research project funding cycle of the WTC Health Program, NIOSH is soliciting public comments from any interested party. Specifically, NIOSH seeks input on research priorities involving the WTC Health Program population of responders and survivors on the following questions:

(1) What are the most important research gaps that need to be addressed within the scope of the research solicitation?

(2) What are the most important areas of diagnostic and treatment uncertainty that could most benefit from intervention research (information that bridges the gap between science and practice, care, or treatment by addressing the barriers, challenges, and needs to advance implementation of new or improved treatment, care, or practices)?

(3) What are the primary research needs of responders and survivors?

John J. Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2020–07982 Filed 4–15–20; 8:45 am]

BILLING CODE 4163–18–P

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the James Zadroga 9/11 Health and Compensation Act of 2010 found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] The List of WTC-Related Health Conditions is established in 42 U.S.C. 300mm–22(a)(3)–(4) and 300mm–32(b); additional conditions may be added through rulemaking and the complete list is provided in WTC Health Program regulations at 42 CFR 88.15.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Expedited OMB Review and Public Comment; Proposed Information Collection Activity; Administration and Oversight of the Unaccompanied Alien Children Program

AGENCY: Office of Refugee Resettlement; Administration for Children and Families; U.S. Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting expedited review of an information collection request from the Office of Management and Budget (OMB) and inviting public comments on the proposed collection. The request consists of several forms that allow the Unaccompanied Alien Children (UAC) Program to monitor care provider facility compliance with federal laws and regulations, legal agreements, and ORR policies and procedures; and perform other administrative tasks.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described in this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ACF is requesting that OMB grant a 180-day approval for this request under procedures for expedited processing. A request for review under normal procedures will be incorporated into the submission under normal procedures.

The components of this information request include:

1. Care Provider Facility Tour Request (Form A–1A): This instrument is used by advocacy groups, faith-based organizations, researchers, government officials, and other stakeholders to request tours of ORR care provider facilities. After the request is received, ORR documents its decision and details regarding date and location of the tour, if applicable, and provides the completed form to the requester. This instrument was previously approved under OMB No. 0970–0498.

2. Notice to UAC for Flores Visits (Forms A–4 & A–4s): This instrument is used by care provider facilities to notify UAC of upcoming visits by Flores counsel (lawyers and volunteers from the organization that originally participated in the creation of the Flores Settlement Agreement) and allow UAC to add their name to a sign-up sheet if they are willing to speak with Flores counsel.

3. Authorization for Release of Records (Form A–5): This instrument is used by attorneys, legal service providers, child advocates, government agencies, and other stakeholders to request UAC case file records. In most cases, requesters are required to obtain the signature of the subject of the record request (UAC or their parent/legal guardian or sponsor) and a witness.

4. Program Level Event (PLE) Report (Form A–9): This instrument is used by ORR care provider programs to inform ORR of events that may affect the entire care provider facility, such as an active shooter or natural disaster. An updated PLE Report is required for events that occur over multiple days or if the situation changes regarding the event.

5. Emergency Significant Incident Report (SIR) and Addendum (Forms A–10A & A–10B): This instrument is used by ORR care provider programs to inform ORR of urgent situations in which there is an immediate threat to a child's safety and well-being that require instantaneous action. In some cases, an Emergency SIR Addendum may be required to provide additional information obtained after the initial report.

6. Significant Incident Report (SIR) and Addendum (Forms A–10C & A–10D): This instrument is used by ORR care provider programs to inform ORR of situations that affect, but do not immediately threaten, the safety and well-being of a child. In some cases, an SIR Addendum may be required to provide additional information obtained after the initial report.

7. Sexual Abuse Significant Incident Report (SA/SIR) and Addendum (Forms A–10E & A–10F): This instrument is used by ORR care provider programs to inform ORR of allegations of sexual harassment, sexual abuse, and inappropriate sexual behavior. In some cases, an SA/SIR Addendum may be required to provide additional information obtained after the initial report.

8. UAC Satisfaction Survey (Forms A–11 & A–11s): This instrument is used by ORR care provider programs to collect information from UAC regarding their experience while in ORR custody.

9. UAC Satisfaction Survey Aggregate Data: This instrument is used by ORR care provider programs to report aggregate data from UAC Satisfaction Survey forms submitted to ORR on a quarterly and annual basis. ORR uses this information to identify areas where it can make programmatic improvements.

10. Hotline Alert (A–12): This instrument is used by ORR's National Call Center to inform ORR of allegations sexual harassment, sexual abuse, inappropriate sexual behavior, and physical abuse that occurred while the UAC was in ORR custody.

Respondents: ORR grantee and contractor staff; advocacy groups, faith-based organizations, researchers, and government officials; attorneys, legal service providers, child advocates, and government agencies; and other stakeholders.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden minutes per response	Annual burden minutes
Care Provider Facility Tour Request (Form A–1A)	200	1	10	2,000
Notice to UAC for Flores Visits (Forms A–4 & A–4s)	20	1	15	300
Authorization for Release of Records (Form A–5)	4,000	1	10	40,000
Program Level Event Report (Form A–9)	1,500	1	20	30,000
Emergency Significant Incident Report (Form A–10A)	1,640	1	20	32,800

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden minutes per response	Annual burden minutes
Emergency Significant Incident Report Addendum (Form A–10B)	1,360	1	15	20,400
Significant Incident Report (Form A–10C)	80,340	1	20	1,606,800
Significant Incident Report Addendum (Form A–10D)	25,630	1	15	384,450
Sexual Abuse Significant Incident Report (Form A–10E)	5,980	1	20	119,600
Sexual Abuse Significant Incident Report Addendum (Form A–10F)	4,190	1	15	62,850
UAC Satisfaction Survey (Form A–11 & A–11s)	72,840	1	20	1,456,800
UAC Satisfaction Survey Aggregate Data	235	4	240	225,600
Hotline Alert (Form A–12)	80	1	15	1,200

Estimated Annual Burden Total: 3,982,800.

Comments: The Department specifically requests comments on (a) 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; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (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.

Authority: 6 U.S.C. 279; 8 U.S.C. 1232; *Flores* v. *Reno Settlement Agreement*, No. CV85–4544–RJK (C.D. Cal. 1996).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–07995 Filed 4–15–20; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–3995]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Submission of Information on Pediatric Uses of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by May 18, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0748. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Submission of Information on Pediatric Uses of Medical Devices; Requirement for Submission of Information on Pediatric Subpopulations That Suffer From a Disease or Condition That a Device Is Intended To Treat, Diagnose, or Cure Under Section 515A of the Federal Food, Drug, and Cosmetic Act—21 CFR 814

OMB Control Number 0910–0748—Extension

Section 515A(a) of the Food, Drug, and Cosmetic Act (21 U.S.C. 360e-1) (FD&C Act) requires applicants who submit certain medical device applications to include readily available information providing a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. The information submitted will allow FDA to track the number of approved devices for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure and the review time for each such device application.

These requirements apply to applicants who submit humanitarian device exemption requests (HDEs), premarket approval applications (PMAs) or PMA amendments or supplements, or a product development protocol (PDP).

FDA expects to receive approximately 47 original PMA/PDP/HDE applications each year, 1 of which FDA expects to be HDEs. This estimate is based on the average of FDA's receipt of new PMA applications. The Agency estimates that 11 of the estimated 47 original PMA submissions will fail to provide the required pediatric use information and their sponsors will therefore be required to submit PMA amendments. The Agency also expects to receive approximately 928 supplements that will include the pediatric use information required by section 515A(a) of the FD&C Act and part 814 (21 CFR part 814).

All that is required is to gather, organize, and submit information that is readily available, using any approach that meets the requirements of section 515A(a) of the FD&C Act and part 814. We believe that because the applicant is required to organize and submit only readily available information, no more than 8 hours will be required to comply. Furthermore, because supplements may include readily available information on pediatric populations by referencing a previous submission, FDA estimates the average time to obtain and submit the required information is a supplement to be 2 hours. FDA estimates that the total estimated burden is 2,392 hours.

Additionally, the document entitled ''Providing Information About Pediatric Uses of Medical Devices—Guidance for Industry and Food and Drug Administration Staff'' describes how to

compile and submit the readily available pediatric use information required under section 515A(a) of the FD&C Act. Respondents are permitted to submit information relating to uses of the device outside the approved or proposed indication if such uses are described or acknowledged in acceptable sources of readily available information. We estimate that 20 percent of respondents submitting information required by section 515A(a) of the FD&C Act will choose to submit this information and that it will take 30 minutes for them to do so.

In the **Federal Register** of December 2, 2019 (84 FR 65986), FDA published a 60-day notice requesting public comment on the proposed collection of information. Although one comment was received, it was not responsive to the four collection of information topics solicited.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity/21 CFR part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pediatric information in an original PMA or PDP—814.20(b)(13).	11	1	11	8	88
Pediatric information in a PMA amendment—814.37(b)(2).	5	1	5	8	40
Pediatric information in a PMA supplement—814.39(c)(2)(i).	928	1	928	2	1,856
Pediatric information in an HDE—814.104(b)(6)	1	1	1	8	8
Pediatric information for uses outside approved indication.	800	1	800	.5 (30 minutes)	400
Total					2,392

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden and corresponding responses reflect the requirements under section 515A(a) of the FD&C Act, in addition to the submission of data related to pediatric uses outside an approved indication, as described in the document entitled ''Providing Information About Pediatric Uses of Medical Devices—Guidance for Industry and Food and Drug Administration Staff.'' OMB previously approved the information collection related to uses outside an approved indication under OMB control number 0910–0762. As the information collection uses the same data and relies upon the same legal authority as OMB control number 0910–0748, we intend to discontinue OMB control number 0910–0762 and consolidate the information collection accordingly. Our estimated burden for the information collection reflects an overall increase of 632 hours. Additionally, we have altered the title of the collection to reflect all collections of pediatric uses.

Our estimated burden for the information collection reflects an overall increase of 632 hours and a corresponding increase of supplements and of uses outside of approved indications. We attribute this adjustment to an increase in the number of supplements we received over the last 5 years and merging data from discontinued OMB control number 0910–0762.

Dated: April 6, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08010 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1207]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishing and Maintaining a List of U.S. Manufacturers/Processors of Feed Additives, Premixes, Compound Feed, Distillers' Dried Grains, and Distillers' Dried Grains With Solubles for Use With Animals With Interest in Exporting to The People's Republic of China

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection associated with establishing and maintaining a list of U.S. manufacturers and processors interested in exporting to the People's Republic of China.

DATES: Submit either electronic or written comments on the collection of information by June 15, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 15, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 15, 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–1207 for ''Establishing and Maintaining a List of U.S. Manufacturers/Processors of Feed Additives, Premixes, Compound Feed, Distillers' Dried Grains, and Distillers' Dried Grains with Solubles for Use with Animals with Interest in Exporting to The People's Republic of China.'' 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: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishing and Maintaining a List of U.S. Manufacturers/Processors of Feed Additives, Premixes, Compound Feed, Distillers' Dried Grains, and Distillers' Dried Grains With Solubles for Use With Animals With Interest in Exporting to The People's Republic of China

OMB Control Number 0910–0884—Extension

This information collection request allows FDA to include respondents who are U.S. manufacturers/processors of feed additives, premixes, compound feed, distillers' dried grains, and distillers' dried grains with solubles (hereinafter, ''manufacturers/processors'' of ''covered products'') on a list of those who wish to export their products to The People's Republic of China (China). On January 15, 2020, the United States and China entered into an Economic and Trade Agreement (the Agreement) which, among other things, will streamline the procedures for, and improve the efficiencies of, the exportation of U.S. covered products to China. These provisions of the Agreement are intended to facilitate trade between the two countries to better meet the demand for U.S. animal feed products in China and to promote the development of animal husbandry in China. Since the timing of the Agreement did not allow for publication of a 60-day notice under the PRA in advance of its implementation, FDA requested and the Office of Management and Budget (OMB) granted emergency review under 5 CFR 1320.13 of a new information collection request. Accordingly, we are now inviting comment on the estimated burden we associate with the proposed information collection.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
U.S. manufacturers/processors of covered products	450	1	450	0.083	38

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This information collection gathers the facility name, street address, city, state, and zip code of U.S. manufacturers and processors of covered products, who want to be included on the list sent to China. Because similar information is currently maintained by respondents in conjunction with registration, we believe burden associated with this collection to be minimal. However, as a new information collection, we invite comment specifically in this regard. This is a new information collection. Our estimate is based on our experience with similar information collection.

Dated: April 7, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08007 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0804]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification Procedures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by May 18, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0120. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Notification Procedures—21 CFR Part 807, Subpart E

OMB Control Number 0910–0120—Revision

Section 510(k) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360(k)) and implementing regulations in part 807 (21 CFR part 807, subpart E) require a premarket notification submission (''510(k)'') at least 90 days before the introduction, or delivery for introduction into interstate commerce, for commercial distribution of a device intended for human use. Based on the information provided in the notification, FDA determines whether the new device is substantially equivalent to a legally marketed device, as defined in § 807.92(a)(3). If the device is determined to be not substantially equivalent to a legally marketed device, it must have an approved premarket approval application (PMA), product development protocol, humanitarian device exemption (HDE), request for an evaluation of automatic class III designation (De Novo request), or be reclassified into class I or class II before being marketed (see OMB control numbers 0910–0231, 0910–0332, 0910–0844, and 0910–0138). FDA makes the final decision of whether a device is substantially equivalent or not substantially equivalent.

Section 807.81 governs when a 510(k) is required. A 510(k) is required to be submitted by a person who is: (1) Introducing a device to the market for the first time; (2) introducing a device into commercial distribution for the first time by a person who is required to register; or (3) introducing or reintroducing a device that is significantly changed or modified in design, components, method of manufacturer, or the intended use that could affect the safety and effectiveness of the device. Section 807.87 lists the information required in each 510(k).

Form FDA 3514, a summary cover sheet form, assists respondents in categorizing administrative 510(k) information for submission to FDA. This form also assists respondents in categorizing information for other FDA medical device programs such as PMAs, investigational device exemptions, De Novo requests, HDEs, etc.

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) amended section 514 of the FD&C Act (21 U.S.C. 360d). Amended section 514 of the FD&C Act allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions including 510(k) or other requirements. FDA has published and updated regularly the list of recognized standards since enactment of FDAMA and has allowed 510(k) submitters to certify conformance to recognized standards to meet the requirements of § 807.87.

Under § 807.90(a)(3), inquiries regarding a 510(k) submission should be in writing and sent to one of the addresses in § 807.90(a).

Under § 807.87(h), each 510(k) submitter must include in the 510(k) either a summary of the information in the 510(k) as required by § 807.92 (510(k) summary) or a statement certifying that the submitter will make available upon request the information in the 510(k) with certain exceptions as per § 807.93 (510(k) statement).

Section 745A(b) of the FD&C Act (21 U.S.C. 379k–1(b), amended by section 207 of the FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52), requires that submissions for devices under section 510(k), among other submission types, be submitted in electronic format specified by FDA. In addition, in the Medical Device User

Fee Amendments of 2017 (MDUFA IV) Commitment Letter from the Secretary of Health and Human Services to Congress,[1] FDA committed to developing ''electronic submission templates that will serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process.'' The Electronic Submission Template and Resource (eSTAR) is such an electronic submission template for 510(k) submissions to facilitate the preparation of submissions in electronic format.

In the **Federal Register** of December 30, 2019 (84 FR 71958) we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

Upon further evaluation, however, in addition to the revisions discussed in our 60-day notice, we are also revising the information collection to include the draft guidance document entitled ''Recognition and Withdrawal of Voluntary Consensus Standards; Guidance for Industry and Food and Drug Administration Staff.'' The guidance is being issued consistent with our Good Guidance Practice Regulations in 21 CFR 10.115, which provides for comment at any time.

Incorporating burden that may be associated with recommendations discussed in the draft guidance optimizes our operational efficiency with regard to requests to recognize voluntary consensus standards. The draft guidance document is available at *https://www.fda.gov/media/115964/download* and discusses procedures the Center for Devices and Radiological Health (CDRH) will follow when a request for recognition of a voluntary consensus standard is received. The draft guidance outlines justifications for why a standard may be recognized wholly, partly, or not at all, as well as reasons and rationales for withdrawing a standard. The draft guidance also discusses that any interested party may request recognition of a standard and provides respondents with suggested information to include in a request for recognition of a standard.

In the **Federal Register** of September 14, 2018 (83 FR 46740), we published a notice announcing the availability of the draft guidance, including a 60-day notice under the PRA, and invited comment on proposed collection of information. One comment was received stating, information ''required'' for a recommendation for recognition of a standard, a description of how the requirements in the final guidance have been satisfied should also be included along with information about the standard and that a copy of the standard needs to be available to the public at no charge. First, we note that the commenter is incorrect; the draft guidance document states that the information in section IV.B. should be provided when requesting recognition, but it is not required. We believe that requiring a request to include (in addition to the list of recommended items) information regarding how each attribute or element of the voluntary consensus standards development process was met would be unduly burdensome. We remain active in and aware of many national and international voluntary consensus standards bodies and, therefore, are knowledgeable of how these groups address the attributes outlined in OMB Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.'' If we have questions regarding how a specific standard was developed with respect to the voluntary consensus standards development process, we may followup with respondents for additional information on a case-by-case basis (we believe these nonstandardized followup questions designed to clarify responses would be exempt from OMB review and approval under 5 CFR 1320.3(h)(9)).

As indicated in FDA's guidance entitled ''Appropriate Use of Voluntary Consensus Standards in Premarket Submission for Medical Devices'': ''The use of consensus standards is not mandatory for medical device premarket submissions unless the consensus standard has been incorporated by reference into a regulation. A manufacturer may choose to rely on applicable consensus standards or address issues relevant to approval or clearance in another manner.'' Note that the recognition process is separate from creation of regulations that incorporate standards by reference. Consistent with OMB Circular A–119, FDA considers ''reasonable availability'' of a standard when determining whether to incorporate a standard by reference into regulation.

We intend to finalize the guidance and we are seeking OMB approval of the information collection provisions discussed. We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and 21 CFR part; section	Form number	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response [2]	Total hours [2]
510(k) submission (807 subpart E).	FDA 3881	3,800	1	3,800	79.25	301,150
Summary cover sheet (807.87)	FDA 3514	1,906	1	1,906	0.5	953
Status request (807.90(a)(3))		1	1	1	0.25	1
510(k) summary (807.92)		2,725	1	2,725	4	10,900
510(k) statement (807.93)		215	1	215	10	2,150
510(k) submission (807 subpart E)—via eSTAR.	FDA 4062	100	1	100	40	4,000
eSTAR setup—(one-time burden)		80	1	80	0.08 (5 minutes)	6
Request for recognition of voluntary consensus standard.		9	1	9	1	9
Total						319,169

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Numbers have been rounded.

[1] See 163 CONG. REC. S4729–S4736 (daily ed. August 2, 2017) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/102699/download.*

Upon review of this information collection, we have made the following changes:

• We have updated the burden estimate consistent with new provisions in § 807.87(j) regarding ''Human Subject Protection; Acceptance of Data from Clinical Investigations for Medical Devices'' (83 FR 7366; February 21, 2018) (approved under OMB control number 0910–0741). Section 807.87 was amended to address requirements for 510(k) submissions supported by clinical data. For clinical investigations conducted in the United States, submitters are required to submit a statement as described in § 807.87(j)(1). For clinical investigations conducted outside the United States, submitters are required to submit the information as described in § 807.87(j)(2). Consistent with our estimate in OMB control number 0910–0741, this revision increases our burden estimate for a 510(k) submission by 15 minutes per submission.

• We corrected the burden table to include a line for the ''510(k) Summary'' under § 807.92. This section was inadvertently removed from the previous version of the information collection request (ICR).

• We are making available Form FDA 3881 ''Indications for Use'' that respondents include as part of a medical device 510(k). The information provided via the form is already approved under this ICR. The form does not ask for new information and does not bear on the underlying program or on the hour or cost burden associated with the information collection, rather it provides a fillable, Section 508-compliant format for respondents to use for the ''Indications for Use'' portion of their 510(k) submission.

• We updated the guidance ''Refuse to Accept Policy for 510(k)s'' to explicitly recommend providing an Acceptance Checklist in the 510(k) submission. The guidance previously provided the checklist as an example of a tool that FDA staff use when reviewing a 510(k) submission. While it was not explicitly recommended, respondents had used the example and had included it with their 510(k) submission. We believe the checklist can be a helpful tool for both reviewers and 510(k) submitters and have therefore updated the guidance to explicitly recommend inclusion of the checklist in the 510(k) submission. Because most submitters included the checklist on their own initiative and because it may simplify preparation of the 510(k), we do not believe adding the checklist to this ICR affects the overall burden for a 510(k) submission. Additionally, we have updated the checklist to include combination products, as appropriate. The estimated number of responses as updated with current data in this submission, reflects the inclusion of combination products.

• We revised and reformatted Form FDA 3514, ''CDRH Premarket Review Submission Cover Sheet,'' to improve usability and to be inclusive of most medical device product submission types. Form FDA 3514, a summary cover sheet form, assists respondents in categorizing 510(k) information for submission to FDA. This form also assists respondents in categorizing information for other FDA medical device programs. The total burden for Form FDA 3514 and for the 510(k) program is estimated in this ICR. The burden for the other medical device programs listed on Form FDA 3514 are approved under the corresponding product submission ICRs as follows: Premarket approval applications (OMB control number 0910–0231), investigational device exemptions (OMB control number 0910–0078), humanitarian device exemptions (control number 0910–0332), CLIA waivers (OMB control number 0910–0598), Q-Submissions (OMB control number 0910–0756), De Novo requests (OMB control number 0910–0844), Emergency Use Authorizations (OMB control number 0910–0595), 513(g) requests (OMB control number 0910–0705); and Appeals (OMB control number 0910–0738).

• Certain revisions to Form FDA 3514, as previously described, eliminate the need for Form FDA 3654, ''Standards Data Report for 510(k)s.'' Additionally, the ability for Form FDA 3514 to be expandable for the number of standards cited will increase awareness of actual standards in a submission and how they were used on a single form (compared to including several Form FDA 3654 documents). In the rare occasions where the sponsor elects to not use Form FDA 3514 for standards, this would not have any effect on the review outcome, with regard to standards, as the form serves as a means to identify what standards are cited, how they are used, and where in the submission they are located.

• We have removed Form FDA 3541, ''Status Request.'' In practice, Form FDA 3541 is rarely used. We have adjusted the burden estimate to reflect this removal. Under § 807.90(a)(3), all inquiries regarding a premarket notification submission should be in writing and sent to one of the addresses listed in § 807.90(a).

• We have added burden estimates for the eSTAR and eSTAR setup (one-time burden). Under section 745A(b) of FD&C Act, amended by section 207 of FDARA, and consistent with the MDUFA IV Commitment Letter,[2] FDA has developed the eSTAR (eSTAR, Form FDA 4062) for 510(k) submissions to facilitate the preparation of submissions in electronic format. We expect to receive approximately 100 510(k) submissions via eSTAR per year. We estimate that eSTAR submissions will take approximately 40 hours per submission. Additionally, we've estimated a one-time setup burden of 5 minutes for approximately 80 new eSTAR users annually.

• We have also added Agency guidance to assist respondents who request recognition of a voluntary consensus standard. The guidance recommends that respondents provide basic contact information to FDA along with details about the specific standard recognition request. Based on previous requests for recognition of standards, we estimate we will receive nine requests annually and assume that each request will take less than 1 hour to prepare.

The adjustments and revisions result in a 39,464-hour decrease in the total hour burden estimate since the last OMB approval.

Dated: April 9, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08011 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0360]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Drug Administration Safety Communication Readership Survey; Withdrawal of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of a notice that was published in the **Federal Register** of March 6, 2020.

DATES: The notice is withdrawn on April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White

[2] *https://www.fda.gov/media/102699/download.*

Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 6, 2020 (85 FR 13171), ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Drug Administration Safety Communication Readership Survey,'' FDA requested comment on the information collection associated with Safety Communication Readership Surveys.

Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice.

In the March 6, 2020, **Federal Register** document, FDA proposed to extend the information collection related to the Safety Communication Readership Survey (OMB control number 0910–0341). However, we are withdrawing the notice because, upon further review of the information collection request (ICR), we have determined that it is more appropriate to include the estimated burden expressed in the Safety Communication Readership Survey ICR in the ''generic'' ICR for ''Testing Communications on Medical Devices and Radiation-Emitting Products'' (OMB control number 0910–0678).

Because we intend to submit information collections for safety communication readership surveys under the generic information collection approval, OMB control number 0910–0678, we will discontinue the ICR for OMB control number 0910–0341 and we are withdrawing the March 6, 2020, document requesting comment on the information collection.

Dated: April 8, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08004 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0424]

Agency Information Collection Activities; Proposed Collection; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing temporary marketing permit applications.

DATES: Submit either electronic or written comments on the collection of information by June 15, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 15, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 15, 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–2011–N–0424 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Temporary Marketing Permit Applications.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i)

OMB Control Number 0910–0133—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) (FD&C Act) directs FDA to issue regulations establishing definitions and standards of identity for food. Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

Description of Respondents: Respondents to this collection of information include private sector businesses including institutional and/or industrial customers and food industry members such as manufacturers, packers, or distributors desiring to apply for a temporary marketing permit or permit extension.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
130.17(c); Request for temporary marketing permit	13	2	26	25	650
130.17(i); Request to extend marketing permit	1	2	2	2	4
Total					654

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: April 3, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08009 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0366]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Advisory Committee Nomination Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments (including recommendations) on the collection of information by May 18, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0833. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Advisory Committee Membership Nominations

OMB Control Number 0910–0833

FDA chooses to select advisory committee members through a nomination process. (Appendix A to Subpart C of 41 CFR 102–3, the Federal Advisory Committee Management regulations note that the Federal Advisory Committee Act (FACA, 5 U.S.C. App. 2) does not specify the manner in which advisory committee members and staff must be appointed.) A person can self-nominate or be nominated by another individual. In order to identify and select qualified individuals to serve on its advisory committees, FDA has established an online portal, the FDA Advisory Committee Membership Application, to accept nominations of potential advisory committee members.

The FDA Advisory Committee Membership Application accepts nominations for Academician/Practitioner, Consumer Representative, and Industry Representative membership types. Nominees who are nominated as scientific members should be technically qualified experts in the field (*e.g.,* clinical medicine, engineering, biological and physical sciences, biostatistics, food sciences) and have experience interpreting complex data. Candidates must be able to analyze detailed scientific data and understand its public health significance. The nomination process has recently been made electronic and is available at *http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm.* To submit a nomination, nominators or prospective nominees should upload the following documents in PDF format (see 21 CFR 14.82(c)): (1) Curriculum vitae (CV); (2) a written confirmation that the nominee(s) is (are) aware of the nomination (unless self-nominated); and (3) letters of recommendation are also suggested. For Consumer Representative nominations, a cover letter that lists consumer or community organizations for which the candidate can demonstrate active participation is also recommended.

These documents are collected in order to determine if the nominee has the expertise in the subject matter with which the committee is concerned and has diverse professional education, training, and experience so that the committee will reflect a balanced composition of sufficient scientific expertise to handle the problems that come before it (21 CFR 14.80(b)(1)(i)). In the case of Industry and Consumer Representatives, information is collected to assess the candidate's ability to represent all interested persons within the class which the member is selected to represent (21 CFR 14.86).

Each nominee should be sure to review the Agency website for information on:

- Vacancies, qualifications, and experience for more details concerning vacancies on each committee and the qualifications and experience common for nominees. Vacancies are updated periodically; therefore, one or more vacancies listed may be in the nomination process or a final appointment may have been made.
- Potential conflicts of interest such as financial holdings, employment, and research grants and/or contracts in order to permit evaluation of possible sources of conflict of interest.

Also, FDA asks that prospective nominees inform us of how they heard about the FDA Advisory Committees (*e.g.,* attendance at a professional meeting, an article in a publication, our website, while speaking with a friend or colleague).

To further the Agency's goals of promoting transparency regarding the advisory committee process, FDA will also require that nominees to serve on advisory committees submit a consent form authorizing FDA to post, without removing or redacting any information, to FDA's public website (*http://www.fda.gov/AdvisoryCommittees*) the CV submitted as part of their nomination materials if the nominee is selected to serve on an advisory committee. The consent form requires that the nominee affirm that the CV does not include any confidential information, including information pertaining to third parties, that the nominee is not permitted to disclose. A nominee will be required to submit a signed consent form as a part of the nomination package for the nomination to be considered complete.

All nominations for new advisory committee members will be required to be submitted through FDA's website at *http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* or any successor system, and the submission will be required to be accompanied by the consent form, on or after the date of OMB approval for this information collection.

In the **Federal Register** of January 7, 2020 (85 FR 718), we published a 60-day notice requesting public comment on the proposed collection of information. Two comments were received but were not responsive to the information collection topics solicited under the PRA.

We therefore estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 14; subpart e—members of advisory committees	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Advisory Committee Membership Nominations	391	1	391	0.25 (15 minutes)	98
Representative Member Submission of Updated Information	54	1	54	0.25 (15 minutes)	14
Total			445		112

[1] There are no capital costs or operating and maintenance costs associated with this information collection.

Based on a review of data, we received 354 nominations for membership to FDA advisory committees in fiscal year (FY) 2015; we received 510 nominations in FY 2016; we received 500 nominations in FY 2017; we received 258 nominations in FY 2018; and we received 333 nominations in FY 2019. By averaging the number of nominations received annually over the past 5 years, we estimate there are approximately 391 respondents to the information collection. We estimate it takes respondents 15 minutes to complete an initial nomination, where accompanying documentation is already available or has been prepared in advance by respondents. Multiplying 15 minutes (0.25) by the number of respondents to the information collection (391) equals 97.75 (98 rounded) annual burden hours.

We have also included a burden estimate for members who currently serve on FDA advisory committees who are not Special Government and Regular Government Employees and who must submit an updated CV and an executed/completed consent form annually. Currently there are 54 authorized positions for these Representative members, mostly Industry Representatives. While some positions are vacant, we anticipate the positions will be filled during the year. The request for the updated CV and consent form will be made through email communications by the Designated Federal Officer of the committee. We anticipate that the burden to the respondent will be the same as that for new nominations. We estimate each response will require 15 minutes (0.25) for a total of 13.5 (14 rounded) annual hours.

Dated: April 3, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08008 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0622]

Agency Information Collection Activities; Proposed Collection; Comment Request; Color Additive Certification Requests and Recordkeeping

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's regulations governing batch certification of color additives manufactured for use in foods, drugs, cosmetics, or medical devices in the United States.

DATES: Submit either electronic or written comments on the collection of information by June 15, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 15, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 15, 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–2010–N–0622 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Color Additive Certification Requests and Recordkeeping.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Color Additive Certification Requests and Recordkeeping—21 CFR Part 80

OMB Control Number 0910–0216—Extension

We have regulatory oversight for color additives used in foods, drugs, cosmetics, and medical devices. Section 721(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless it meets the requirements of a listing regulation, including any requirement for batch certification, and is used in accordance with the regulation. We list color additives that have been shown to be safe for their intended uses in Title 21 of the Code of Federal Regulations (CFR). We require batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempted from certification.

The requirements for color additive certification are described in 21 CFR part 80. In the certification procedure, a representative sample of a new batch of color additive, accompanied by a ''request for certification'' that provides information about the batch, must be submitted to FDA's Office of Cosmetics and Colors. FDA personnel perform chemical and other analyses of the representative sample and, providing the sample satisfies all certification requirements, issue a certification lot number for the batch. We charge a fee for certification based on the batch weight and require manufacturers to keep records of the batch pending and after certification.

Under § 80.21 (21 CFR 80.21), a request for certification must include: Name of color additive, manufacturer's batch number and weight in pounds, name and address of manufacturer, storage conditions, statement of use(s), certification fee, and signature of person requesting certification. Under § 80.22 (21 CFR 80.22), a request for certification must include a sample of the batch of color additive that is the subject of the request. The sample must be labeled to show: Name of color additive, manufacturer's batch number and quantity, and name and address of person requesting certification. Under § 80.39 (21 CFR 80.39), the person to whom a certificate is issued must keep complete records showing the disposal of all of the color additive covered by the certificate. Such records are to be made available upon request to any accredited representative of FDA until at least 2 years after disposal of all of the color additive.

The purpose for collecting this information is to help us assure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States. The required information is unique to the batch of color additive that is the subject of a request for certification. The manufacturer's batch number is used for temporarily identifying a batch of color additive until FDA issues a certification lot number and for identifying a certified batch during inspections. The manufacturer's batch number also aids in tracing the disposal of a certified batch or a batch that has been denied

certification for noncompliance with the color additive regulations. The manufacturer's batch weight is used for assessing the certification fee. The batch weight also is used to account for the disposal of a batch of certified or certification-denied color additive. The batch weight can be used in a recall to determine whether all unused color additive in the batch has been recalled. The manufacturer's name and address and the name and address of the person requesting certification are used to contact the person responsible should a question arise concerning compliance with the color additive regulations. Information on storage conditions pending certification is used to evaluate whether a batch of certified color additive is inadvertently or intentionally altered in a manner that would make the sample submitted for certification analysis unrepresentative of the batch. We check storage information during inspections. Information on intended uses for a batch of color additive is used to assure that a batch of certified color additive will be used in accordance with the requirements of its listing regulation. The statement of the fee on a certification request is used for accounting purposes so that a person requesting certification can be notified promptly of any discrepancies.

Description of Respondents: The respondents include businesses engaged in the manufacture of color additives used in FDA-regulated foods, drugs, cosmetics, and medical devices. Respondents are from the private sector (for-profit businesses).

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
80.21; Request for certification	38	198	7,524	0.17 (10 minutes)	1,279
80.22; Sample to accompany request	38	198	7,524	0.05 (3 minutes)	376
Total				0.22 (13 minutes)	1,655

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
80.39; Record of distribution	38	198	7,524	0.25 (15 minutes)	1,881

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: April 13, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08054 Filed 4–15–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that

''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on March 1, 2020, through March 31, 2020. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction. Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (*Petitioner's Name* v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Thomas J. Engels,

Administrator.

List of Petitions Filed

1. Kim Warner on behalf of J.W., Nebraska City, Nebraska, Court of Federal Claims No: 20–0233V
2. Cynthia Chism, Selmer, Tennessee, Court of Federal Claims No: 20–0234V
3. Ari Kline, Gaithersburg, Maryland, Court of Federal Claims No: 20–0237V
4. Michelle Horky, Quinton, Virginia, Court of Federal Claims No: 20–0239V
5. Charrie Ann Gibson, Seattle, Washington, Court of Federal Claims No: 20–0243V
6. Deana Tona, Dallas, Texas, Court of Federal Claims No: 20–0244V
7. Chris Hadjiharalambous, Knoxville, Tennessee, Court of Federal Claims No: 20–0245V
8. Erica Supple, Needham, Massachusetts, Court of Federal Claims No: 20–0246V
9. Maris Tippett, Grand Rapids, Michigan, Court of Federal Claims No: 20–0248V
10. Callie Hanft, Sacramento, California, Court of Federal Claims No: 20–0249V
11. Joseph Petruzzi, Berlin, New Jersey, Court of Federal Claims No: 20–0250V
12. Rhonda G. Shepherd, Memphis, Tennessee, Court of Federal Claims No: 20–0251V
13. Leonard Milton Calkins, Lake City, Washington, Court of Federal Claims No: 20–0253V
14. Anne Mishica, Monterey, California, Court of Federal Claims No: 20–0254V
15. Amy J. Pennell on behalf of M.L.P., Hudson, Ohio, Court of Federal Claims No: 20–0257V
16. Divya Poduri on behalf of Y.T., Limerick, Pennsylvania, Court of Federal Claims No: 20–0258V
17. Patricia Stephens, Anniston, Alabama, Court of Federal Claims No: 20–0260V
18. Stephanie Roche, Warwick, New York, Court of Federal Claims No: 20–0262V
19. Helen Pichardo, Orlando, Florida, Court of Federal Claims No: 20–0263V
20. Latisha Fontana, Fayetteville, North Carolina, Court of Federal Claims No: 20–0265V
21. Maureen Higgins-Abato, New York, New York, Court of Federal Claims No: 20–0268V
22. Becky Bright, Decatur, Alabama, Court of Federal Claims No: 20–0269V
23. Frank Weinberg, Abington, Pennsylvania, Court of Federal Claims No: 20–0271V
24. Angelique Renee Koch, Canton, Michigan, Court of Federal Claims No: 20–0272V
25. Lauri Hainsfurther, Dallas, Texas, Court of Federal Claims No: 20–0273V
26. Donna Holcomb, Brandon, Mississippi, Court of Federal Claims No: 20–0274V
27. Kevin Pickard, Levittown, Pennsylvania, Court of Federal Claims No: 20–0276V
28. Renee LaCourse-Burmeister, Green Bay, Wisconsin, Court of Federal Claims No: 20–0277V
29. Andrea Carrier, New London, New Hampshire, Court of Federal Claims No: 20–0278V
30. Diana McKinzy, Raytown, Missouri, Court of Federal Claims No: 20–0279V
31. Cynthia O'Donnell-Bove, Toms River, New Jersey, Court of Federal Claims No: 20–0282V
32. Kimberly F. Flowers, Kennesaw, Georgia, Court of Federal Claims No: 20–0285V
33. Kimberly Salino and Michael Salino on behalf of M. S., Holmdel, New Jersey, Court of Federal Claims No: 20–0289V
34. Usman Amin, Sacramento, California, Court of Federal Claims No: 20–0290V
35. Diane DeSisto, Burlington, Connecticut, Court of Federal Claims No: 20–0291V
36. Shari Hartley, Fort Mill, South Carolina, Court of Federal Claims No: 20–0292V
37. Lisa Asemota, Plantation, Florida, Court of Federal Claims No: 20–0293V
38. Candace Reynolds, Batesville, Mississippi, Court of Federal Claims No: 20–0294V
39. Chris Hempel, Cambridge, Massachusetts, Court of Federal Claims No: 20–0295V
40. Maureen Mulvena, Wilmington, Delaware, Court of Federal Claims No: 20–0296V
41. Linda Stuker, Billings, Montana, Court of Federal Claims No: 20–0298V
42. Donna Smith, Tacoma, Washington, Court of Federal Claims No: 20–0300V
43. Laurianne Russell, Valparaiso, Indiana, Court of Federal Claims No: 20–0301V
44. Janel Viehman, Dover, Delaware, Court of Federal Claims No: 20–0310V

45. Marie Monies, Murphy, North Carolina, Court of Federal Claims No: 20–0311V
46. Franklin Kuczarski, Springfield, Massachusetts, Court of Federal Claims No: 20–0312V
47. Rosa Soto Galvan, Berwyn, Illinois, Court of Federal Claims No: 20–0313V
48. Debra Centifonti, Mount Holly, New Jersey, Court of Federal Claims No: 20–0314V
49. Frances Felipe on behalf of K. C., LaJunta, Colorado, Court of Federal Claims No: 20–0319V
50. Paul Hagenswold, Denison, Texas, Court of Federal Claims No: 20–0320V
51. Rebecca Ray, Muskegon, Michigan, Court of Federal Claims No: 20–0321V
52. George Taylor, Mount Sterling, Kentucky, Court of Federal Claims No: 20–0322V
53. Patricia Lopez, Harlingen, Texas, Court of Federal Claims No: 20–0324V
54. Richard Jones, Queen Creek, Arizona, Court of Federal Claims No: 20–0325V
55. Panos Andonyadis, Richmond, Virginia, Court of Federal Claims No: 20–0326V
56. Robert Alvarado, Tampa, Florida, Court of Federal Claims No: 20–0327V
57. Andrea Anderson on behalf of J. A., Chicago, Illinois, Court of Federal Claims No: 20–0329V
58. Robert Szulya, Alpharetta, Georgia, Court of Federal Claims No: 20–0330V
59. Mary Rybicki, Highlands Ranch, Colorado, Court of Federal Claims No: 20–0332V
60. Brian Larry Atkins, Medora, Indiana, Court of Federal Claims No: 20–0333V
61. Donald Herr, Long Beach, California, Court of Federal Claims No: 20–0334V
62. James Mayhugh, Springfield, Ohio, Court of Federal Claims No: 20–0335V
63. Alexander Galluzzo, Dayton, Ohio, Court of Federal Claims No: 20–0337V
64. Lisa Ahern, Cumberland, Maryland, Court of Federal Claims No: 20–0338V
65. Kaci Richardson, Baytown, Texas, Court of Federal Claims No: 20–0339V
66. Rachel Rutkowski, Tampa, Florida, Court of Federal Claims No: 20–0340V
67. Andre Gargano, Westchester, Illinois, Court of Federal Claims No: 20–0341V
68. Donna Leep, Great Barrington, Massachusetts, Court of Federal Claims No: 20–0342V
69. Barbara Nance, Bowie, Maryland, Court of Federal Claims No: 20–0344V
70. Brian Lang, Boston, Massachusetts, Court of Federal Claims No: 20–0347V
71. Sheri Conerty, Springboro, Ohio, Court of Federal Claims No: 20–0348V
72. Julia DiPiazza, Moore, Oklahoma, Court of Federal Claims No: 20–0349V
73. Kristina Pearson, Dover, Pennsylvania, Court of Federal Claims No: 20–0350V
74. Renato Barrozo, Golden Valley, Minnesota, Court of Federal Claims No: 20–0351V
75. James Wetzel, Kingston, New York, Court of Federal Claims No: 20–0352V
76. Lisa Blunt, Salem, New Hampshire, Court of Federal Claims No: 20–0353V
77. Elsie Carter, Raleigh, North Carolina, Court of Federal Claims No: 20–0355V
78. Robert Viner, Perry Hall, Maryland, Court of Federal Claims No: 20–0357V
79. John Miles, Williamsville, New York, Court of Federal Claims No: 20–0360V
80. Stefanie Partridge, Manteca, California, Court of Federal Claims No: 20–0361V
81. Rhonda Ury, Mission Viejo, California, Court of Federal Claims No: 20–0363V
82. Lisa Hull-Crawford, Springfield, Illinois, Court of Federal Claims No: 20–0364V
83. Derek Strand, Boston, Massachusetts, Court of Federal Claims No: 20–0365V
84. Amanullah Aman, Glen Ellyn, Illinois, Court of Federal Claims No: 20–0366V
85. Adrian Williams, Metairie, Louisiana, Court of Federal Claims No: 20–0367V

[FR Doc. 2020–08063 Filed 4–15–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public via NIH Videocast. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: May 4, 2020.

Time: May 4, 2020, 10:00 a.m. to 2:00 p.m. (EST).

Agenda: NICHD Director's report; NCMRR Director's report; Connecting with Our Public Communities; Updates on the NIH Rehabilitation Research Conference and NIH Rehabilitation Research Plan; Scientific presentation on Data Science in Rehabilitation; Agenda Planning for the next Board meeting.

Place: NICHD Offices, 6710B Rockledge Drive, Rooms 1425/1427, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ralph M. Nitkin, Ph.D., Deputy Director, National Center for Medical Rehabilitation Research (NCMRR), Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Room 2116, Bethesda, MD 20892–7002, (301) 402–4206, *RN21e@nih.gov.*

Please select the link below to access the meeting via NIH Videocast the day of the meeting: *https://videocast.nih.gov/live.asp?live=36020.*

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/advisory/nabmrr/Pages/index.aspx* where the current roster and minutes from past meetings are posted.

(Catalogue of Federal Domestic Assistance Program No. 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07985 Filed 4–15–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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/or contract proposals 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 Child Health and Human Development Special Emphasis Panel; Biological Testing Facility.

Date: May 14, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6710B, Rockledge Dr, Bethesda, MD 21157 (Telephone Conference Call).

Contact Person: Steven D. Silverman, Lead Review Technical Assistant, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710 B Rockledge Drive, Room 2131C, Bethesda, MD 20892, 301–435–8386, *steven.silverman@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Health, Behavior, and Context Subcommittee.

Date: June 8, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NICHD, 6710 B, Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Kimberly L. Houston, MD, Scientific Review Officer, Eunice Kennedy Shriver National Institute of Children Health and Human Development, 6701B Rockledge Drive, Room 2127B, Bethesda, MD 20892, 301–827–4902, *kimberly.houston@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: June 26, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, NICHD Offices, 6710B Rockledge Drive, Bethesda, MD 20892.

Contact Person: Christiane M. Robbins, Scientific Research Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121B, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NCMRR Early Career Research Award (R03 Clinical Trial Optional).

Date: July 1–2, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6710B Rockledge Dr., Bethesda, MD 21157 (Telephone Conference Call).

Contact Person: Helen Huang, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, Bethesda, MD 20817, 301–435–8380, *helen.huang@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: April 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07987 Filed 4–15–20; 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; PAR 19–059: Global Noncommunicable Diseases and Injury Across the Lifespan.

Date: April 27, 2020.

Time: 10:00 a.m. to 11:00 a.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: Steven Michael Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, *frenksm@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel; Research Enhancement Award.

Date: May 15, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Inna Gorshkova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1784, *gorshkoi@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–20–005: 4DN Organization and Function in Human Health and Disease (U01).

Date: May 15, 2020.

Time: 12:00 p.m. to 7:00 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: Maqsood A. Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@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: April 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07984 Filed 4–15–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60 Day Comment Request Application Process for Clinical Research Training and Medical Education at the Clinical Center and Its Impact on Course and Training Program Enrollment and Effectiveness

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Clinical Center, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, contact: Robert M. Lembo, MD, Office of Clinical

Research Training and Medical Education, NIH Clinical Center, National Institutes of Health, 10 Center Drive, Room 1N252C, Bethesda, MD 20892–1158, or call non-toll-free number (301) 496–2636, or Email your request, including your address to: *robert.lembo@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Application Process for Clinical Research Training and Medical Education at the NIH Clinical Center, Revision OMB #0925–0698, Expiration date July 31, 2020, National Institutes of Health Clinical Center (CC), National Institutes of Health (NIH).

Need and Use of Information Collection: The primary objective of the application process is to allow the Office of Clinical Research Training and Medical Education (OCRTME) at the NIH Clinical Center to evaluate applicants' qualifications to determine applicants' eligibility for training programs managed by the Office. Applicants must provide the required information requested in the respective applications to be considered a candidate for participation. Information submitted by candidates for training programs is reviewed initially by OCRTME administrative staff to establish eligibility for participation. Eligible candidates are then referred to the designated training program director/administrator or training program selection committee for review and decisions regarding acceptance for participation. A secondary objective of the application process is to track enrollment in training programs over time.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours 333.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Clinical Electives Program	Pre Doctoral Students	300	1	20/60	100
Graduate Medical Education	Physicians	100	1	20/60	33
Medical Research Scholars Program	Pre Doctoral Students	200	1	20/60	67
Resident Electives Program	Physicians	100	1	20/60	33
Bioethics Fellowship Program	Pre Doctoral, Post-Doctoral	300	1	20/60	100
Total		1,000			333

Dated: April 10, 2020.

Laura M. Lee,

Project Clearance Liaison, NIH Clinical Center, National Institutes of Health.

[FR Doc. 2020–08016 Filed 4–15–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods; Notice of Public Webcast; Request for Public Input

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) will hold a public forum to share information and facilitate direct communication of ideas and suggestions from stakeholders. Interested persons may view the presentations by webcast. Time will be set aside for questions and public statements on the topics discussed. Registration is required for both webcast viewing and oral statements. Information about the meeting and registration are available at *https://ntp.niehs.nih.gov/go/iccvamforum-2020.*

DATES:

Webcast: May 21, 2020, 9:00 a.m. to approximately 3:00 p.m. EDT.

Registration for Webcast: April 17, 2020, until 3:00 p.m. EDT May 21, 2020.

Registration for Oral Statements: April 17, 2020, until 4:00 p.m. EDT May 8, 2020.

Registration to view the webcast and present oral public statements is required.

ADDRESSES:

Meeting web page: A preliminary agenda will be posted by May 1 at *https://ntp.niehs.nih.gov/go/iccvamforum-2020.*

Webcast: The meeting will be webcast; information to connect to the webcast will be provided to those who register for viewing.

FOR FURTHER INFORMATION CONTACT: Dr. Nicole Kleinstreuer, Acting Director, National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), Division of NTP, NIEHS, P.O. Box 12233, K2–17, Research Triangle Park, NC 27709. Phone: 984–287–3150, Email: *nicole.kleinstreuer@nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2021, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background: ICCVAM, a congressionally mandated committee, promotes the development and validation of alternative testing strategies that protect human health and the environment while replacing, reducing, or refining animal use.

ICCVAM's goals include promotion of national and international partnerships between governmental and nongovernmental groups, including academia, industry, advocacy groups, and other key stakeholders. To foster

these partnerships ICCVAM initiated annual public forums in 2014 to share information and facilitate direct communication of ideas and suggestions from stakeholders (79 FR 25136).

This year's meeting will be held on May 21, 2020. Due to restrictions on in-person gatherings amid ongoing public health concerns, the public forum will be presented via webcast only. NICEATM and ICCVAM members will give presentations on current activities related to the development and validation of alternative test methods and approaches, including activities relevant to implementation of the strategic roadmap for establishing new approaches to evaluate the safety of chemicals and medical products in the United States (83 FR 7487).

There will be opportunities for registered participants to ask clarifying or follow-up questions of the ICCVAM members about their presentations. Instructions for submitting these questions will be provided via email prior to the webcast. The agenda will also include time for public oral statements relevant to the ICCVAM mission and current activities from participants who have registered to do so in advance.

Preliminary Agenda and Other Meeting Information: A preliminary agenda will be posted by May 1 at *https://ntp.niehs.nih.gov/go/iccvamforum-2020.* Interested individuals are encouraged to visit this web page to stay abreast of the most current meeting information.

Webcast and Registration: This webcast is open to the public. Registration for the webcast is required and is open through 3:00 p.m. EDT on May 21, 2020 at *https://ntp.niehs.nih.gov/go/commprac-2020.* Registrants will receive instructions on how to access and participate in the webcast in the email confirming their registration.

Individuals with disabilities who need accommodation to participate in this event should contact Elizabeth Maull at phone: (984) 287–3157 or email: *maull@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

Request for Oral Public Statements: In addition to time for clarifying or follow-up questions following scheduled presentations, time will be allotted during the meeting for oral public statements with associated slides on topics relevant to ICCVAM's mission. Separate registration for those wishing to provide public statements is required and is open through May 8, 2020 at *https://ntp.niehs.nih.gov/go/commprac-2020.* Any participant registered for the webcast may ask clarifying questions during the appropriate times in the agenda. The additional registration is only required for those who wish to give separate public statements. The number and length of presentations may be limited based on available time. Submitters will be identified by their name and affiliation and/or sponsoring organization, if applicable. Persons submitting public statements and/or associated slides should include their name, affiliation (if any), mailing address, telephone, email, and sponsoring organization (if any) with the document. National Toxicology Program guidelines for public statements are at *http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

Participants registered to present oral public statements must email their statement to *ICCVAMquestions@niehs.nih.gov* by May 8, 2020, to allow time for review by NICEATM and ICCVAM and posting to the meeting page prior to the forum. Persons presenting oral public statements will be contacted to arrange the logistics of their presentations. Written statements may supplement and expand the oral presentation. Public statements will be distributed to NICEATM and ICCVAM members before the meeting.

Responses to this notice are voluntary. No proprietary, classified, confidential, or sensitive information should be included in statements submitted in response to this notice or presented during the meeting. This request for input is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in response to the request. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

Background Information on ICCVAM and NICEATM: ICCVAM is an interagency committee composed of representatives from 16 federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine (enhance animal well-being and lessen or avoid pain and distress) animal use.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of NIEHS and provides the authority for ICCVAM involvement in activities relevant to the development of alternative test methods. Additional information about ICCVAM can be found at *https://ntp.niehs.nih.gov/go/iccvam.*

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts and publishes analyses and evaluations of data from new, revised, and alternative testing approaches. NICEATM and ICCVAM work collaboratively to evaluate new and improved testing approaches applicable to the needs of U.S. federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM can be found at *https://ntp.niehs.nih.gov/go/niceatm.*

Dated: April 7, 2020.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2020–08017 Filed 4–15–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2020–0006]

Homeland Security Advisory Council; Meeting

AGENCY: The Office of Partnership and Engagement (OPE), The Department of Homeland Security (DHS).

ACTION: Notice of partially closed teleconference Federal Advisory Committee meeting.

SUMMARY: The Homeland Security Advisory Council (''HSAC'' or ''Council'') will meet via conference call on Thursday, May 7, 2020. The meeting will be partially closed to the public. Members of the public will be in listen-only mode during the open session.

DATES: The Council conference call will take place from 9:15 a.m. to 12:45 p.m. EDT on Thursday, May 7, 2020. The meeting will be closed to the public from 9:15 a.m. to 11:35 a.m. EDT. The meeting will be open to the public from 11:40 a.m. to 12:45 a.m. EDT. Please note the meeting may end early if the Council has completed its business, and

that if time's change due to the current National Emergency concerning the Novel Coronavirus Disease (COVID–19) outbreak those members of the public who have signed up for this notice will receive the new time changes as soon as they become available.

ADDRESSES: The HSAC meeting will be held via teleconference. Members of the public interested in participating may do so by following the process outlined below (see ''Public Participation''). Written public comments prior to the meeting must be received by 5:00 p.m. EDT on Tuesday, May 5, 2020, and must be identified by Docket No. DHS–2020–0006. Written public comments after the meeting must be identified by Docket No. DHS–2020–0006 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: HSAC@hq.dhs.gov.* Include Docket No. DHS–2020–0006 in the subject line of the message.
- *Fax:* (202) 282–9207. Include Mike Miron and the Docket No. DHS–2020–0006 in the subject line of the message.
- *Mail:* Mike Miron, Acting Executive Director of Homeland Security Advisory Council, Office of Partnership and Engagement, Mailstop 0385, Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and ''DHS–2020–0006,'' the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read comments received by the Council, go to *http://www.regulations.gov,* search ''DHS–2020–0006,'' ''Open Docket Folder'' and provide your comments.

FOR FURTHER INFORMATION CONTACT: Mike Miron at *HSAC@hq.dhs.gov* or at (202) 447–3135.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under Section 10(a) of the Federal Advisory Committee Act (FACA), Public Law 92–463 (5 U.S.C. Appendix), which requires each FACA committee meeting to be open to the public.

The Council provides organizationally independent, strategic, timely, specific, actionable advice, and recommendations to the Secretary of Homeland Security on matters related to homeland security. The Council is comprised of leaders of local law enforcement, first responders, Federal, State, and Local governments, the private sector, and academia.

The Council will meet in an open session between 11:40 a.m. to 12:45 p.m. EDT. The Council will receive progress reports from the Economic Security, Biometrics, Information and Communication Technology Risk Reduction, and Youth Engagement subcommittees; and senior leadership will announce new Council membership. *Participation:* Members of the public will be in listen-only mode. The public may register to participate in this Council teleconference via the following procedures. Each individual must provide his or her full legal name and email address no later than 5:00 p.m. EDT on Tuesday, May 5, 2020 to Mike Miron of the Council via email to *HSAC@hq.dhs.gov* or via phone at *(202) 447–3135.* The conference call details will be provided to interested members of the public after the closing of the public registration period and prior to the start of the meeting. For information on services for individuals with disabilities, or to request special assistance, contact Mike Miron at *HSAC@hq.dhs.gov* or (202) 447–3135 as soon as possible.

The Council will meet in a closed session from 9:15 a.m. to 11:35 a.m. EDT to receive sensitive operational information from senior officials on intelligence, border security, transportation security, cybersecurity and infrastructure. *Basis for Partial Closure:* In accordance with Section 10(d) of FACA, the Acting Secretary of Homeland Security has determined this meeting requires partial closure. The disclosure of the information relayed would be detrimental to the public interest for the following reasons:

The Council will receive closed session briefings at the For Official Use Only and Law Enforcement sensitive information from senior officials. The session is closed under 5 U.S.C. 552b(c)(7)(E) because disclosure of that information could reveal investigative techniques and procedures not generally available to the public, allowing terrorists and those with interests against the United States to circumvent the law and thwart the Department's strategic initiatives.

Specifically, there will be material presented during the briefings regarding the latest viable threats against the United States and how DHS and other Federal agencies plan to address those threats. Disclosure of this information could frustrate the successful implementation of protective measures designed to keep our country safe. In addition, the session is closed pursuant to 5 U.S.C. 552b(c)(9)(B) because disclosure of these techniques and procedures could frustrate the successful implementation of protective measures designed to keep our country safe.

Michael J. Miron,

Acting Executive Director, Homeland Security Advisory Council, Department of Homeland Security.

[FR Doc. 2020–08053 Filed 4–15–20; 8:45 am]

BILLING CODE 9112–FN–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0021]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for a Stay of Deportation or Removal

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance.

DATES: Comments are encouraged and will be accepted until June 15, 2020.

ADDRESSES: All submissions received must include the OMB Control Number 1653–0021 in the body of the letter, the agency name and Docket ID ICEB–2008–0006. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number ICEB–2008–0006;

(2) *Mail:* Submit written comments to DHS, ICE, Office of the Chief Information Officer (OCIO), PRA Clearance, Washington, DC 20536–5800.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Patrick J. Kearns (202–732–6261), *patrick.j.kearns@ice.dhs.gov,* U.S. Immigration and Customs Enforcement.

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for a Stay of Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–246, ICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information collected on the I–246 is necessary for ICE to make a determination that the eligibility requirements for a request for a stay of deportation or removal are met by the applicant.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: ICE estimates a total of 4,650 responses at 30 minutes (.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,325 annual burden hours.

Dated: April 13, 2020.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2020–08064 Filed 4–15–20; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6164–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2019

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2019 and ending on December 31, 2019.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Acting Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2019.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2019 through December 31, 2019. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2019) before the next report is published (the first quarter of calendar year 2020), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: April 13, 2020.

Jerome Compton,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2019 Through December 31, 2019

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory Waivers Granted by the Office of Community Planning and Development

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 92.205(e)(2) One-Year Extension of Project Completion.

Project/Activity: The city of Jersey City, New Jersey, requested a waiver of 24 CFR 92.205(e)(2) for Garden State Episcopal (Scattered Sites) NRP III to permit the project to be completed more than five years after the date of HOME commitment.

Nature of Requirement: The regulation at 24 CFR 92.205(e)(2) requires that a project be completed within four years of the date of commitment of HOME funds or the project is considered terminated and the participating jurisdiction must repay all HOME funds invested. The regulation also permits HUD to grant an extension of up to one year if the participating jurisdiction can demonstrate that the project will be completed within one year.

Granted By: David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 17, 2019.

Reason Waived: The city requested, and HUD approved a one-year extension of the HOME four-year project completion deadline for the Garden State Episcopal (Scattered Sites) NRP III to November 14, 2019. However, the project could not be completed within five years of the date of the HOME commitment because the homebuyer requested re-inspection for radon testing. The reinspection and closing were scheduled after the deadline. This waiver permitted the city to complete the project, retain HOME units in its affordable housing inventory, and avoid repayment of HOME funds.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements

Project/Activity: Contra Costa County, California, requested a waiver of 24 CFR 92.252(d)(1) to allow use of utility allowance established by local public housing agency (PHA) for a HOME-assisted project—Elaine Null and Riley Court Apartments.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects.

Granted By: David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: October 18, 2019.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner to establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community and Planning Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Kenmore Gardens, FHA Project Number 042–44014T; and Kenmore Village, FHA Project Number 042–35589, Cleveland, OH. Kenmore Gardens Limited Partnership and Kenmore Village Limited Partnership (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loans on the subject projects.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.''

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: December 5, 2019.

Reason Waived: The owners requested and were granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loans in full when they became due. Deferring the loan payments will preserve these affordable housing resources for an additional 30 years through the execution and recordation of a Rental Use Agreement.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402–3718.

• *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Pierson Hills I Apartments, FHA Project Number 072–44015T, Peoria, IL. Upgrade Development Corporation (owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.''

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: December 5, 2019.

Reason Waived: The owner requested and was granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve the affordable housing resource for an additional 20 years through the execution and recordation of a Rental Use Agreement.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402–3718.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Marjorie House FHA #113–22278, is an Assisted Living/Memory Care facility. The facility does not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project location is McMinnville, Oregon.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care

home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 19, 2019.

Reason Waived: The project currently has a resident to shower ratio of 9:1. The memory care residents require assistance with bathing. These residents are housed in units in a secure, lock-down area, with a half-bathroom each and access to the shower rooms through a hallway. The project meets the State of Oregon licensing requirements for bathing and toileting facilities.

Contact: John Hartung, Director of Policy, Risk Analysis & Lender Relations, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 1222 Spruce Street, 3rd Floor, St. Louis, MO 63103, Telephone (314) 418–5238.

• *Regulation:* 24 CFR 881.205(c).

Project/Activity: Bryn Mawr Apartments, FHA Project Number 071–35760, Chicago, IL. Bryn Mawr Preservation Limited Partnership, an Illinois limited partnership (Proposed Owner) seeks approval to allow for new equity associated with the four percent tax credits and bonds from Illinois Housing Development Authority to be infused into the project to be considered as ''owner initial equity'' for the purpose of calculating distributions.

Nature of Requirement: The regulation at 24 CFR 881.205 (c) defines terms applicable to determining the allowable distribution, and under this section ''an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification, unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.''

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: November 13, 2019.

Reason Waived: The proposed owner requested and was granted waiver of the requirement to allow for ''new'' equity infused by Tax Credits and bonds to be included in the calculation of the Owner's Distribution to be considered under the allowable equity as described in section 24 CFR 881.205 (c). Granting this waiver is consistent with both programmatic objectives and the Secretary's goal of maintaining affordable housing for low-income persons.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402–3718.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 2 CFR 200.311(c)(1).

Project/Activity: The New York City Housing Authority (NYCHA) requested that HUD grant it an exception from the requirement at 2 CFR 200.311(c)(1) to compensate HUD for HUD's percentage of participation in the costs of the Williams Plaza and Independence public housing properties. This request was made pursuant to a request by NYCHA to retain these properties (outside of public housing requirements) under 2 CFR 200.311. NYCHA (and these properties) are located in New York, NY.

Nature of Requirement: 2 CFR 200.311(c)(1) states that ''[w]hen real property is no longer needed for the originally authorized purpose,'' HUD must provide disposition instructions whereby a non-Federal entity (in this case, a Public Housing Agency (PHA)) can retain title after compensating HUD. ''The amount paid to [HUD] will be computed by applying [HUD's] percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property.''

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this exception pursuant to 2 CFR 200.102(b). Under this authority, HUD has the authority to grant requests to the compensation requirement of 2 CFR 200.311(c)(1) on a case-by-case basis.

Date Granted: November 18, 2019.

Reason Waived: NYCHA did not use public housing funds to acquire the Williams Plaza and Independence properties. HUD's percentage of participation in the cost of the Williams Plaza and Independence properties was 39.95% and 38.14%. NYCHA justified its request for the exception to compensate HUD on its intent to operate the properties as affordable housing outside of the public housing program. Specifically, NYCHA indicated it would add all units at these properties to a Section 8 project-based voucher (PBV) HAP that was executed on March 16, 2010 that was already in effect for others unit at the properties. HUD granted this request based on the continued future use of the properties as housing for low-income families through the PBV program and the relatively low percentage of HUD funds in these properties. HUD's approval required NYCHA to record a 40-year use restriction against the properties that required the properties to be operated as Section 8 PBV housing for low-income families.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–4780.

• *Regulation*: 24 CFR 905.314(c) and (d).

Project/Activity: The Housing Authority of the County of Lackawanna (HACL) requested that HUD grant a waiver on the requirement of 24 CFR 905.314(c) limiting the total development cost (TDC limit) of a new construction project and 24 CFR 905.314(d) limiting the housing construction cost (HCC), both determined annually by the U.S. Department of Housing and Urban Development. This request was made due to the capital planning requirements of the Project in constructing all handicap-accessible units and the inability to achieve economies of scale on a project this small.

Nature of Requirement: 24 CFR 905.314(c) and (d) requires that Public Housing funds, including Capital Funds, may not be used to pay for Housing Construction Cost (HCC) and Community Renewal Costs in excess of the Total Development Cost (TDC) limit. Similarly, the regulation at 24 CFR 905.314(d) requires that a PHA not use Capital Funds to pay for HCC in excess of the amount determined under paragraph (d) (2) of that section.

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this pursuant to 24 CFR 905.314(c) and (d). In accordance with 24 CFR 5.110, good cause was determined to waive the TDC and HCC limits due to the additional construction costs associated with the accessibility requirements of the project.

Date Granted: December 16, 2019.

Reason Waived: HACL submitted documentation by an engineering firm, based on the construction of accessible units, in which each unit required extra space for dimensional allowances for wheelchair occupants, accessible cabinets, tubs, handrails and ramps, and sidewalk modifications. Thus, the construction cost increased by $157,600, exceeding the TDC and HCC limits, per the engineering firm. Good cause exists to waive TDC and HCC limits due to additional construction and the inability to economies of scale on a project this small.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–4780.

• *Regulation:* 24 CFR 905.314(c).

Project/Activity: The Housing Authority of New Orleans (HANO) requested that HUD grant a waiver on the requirement of 24 CFR 905.314(c) limiting the total development cost (TDC limit) of a new construction project as determined annually by the U.S. Department of Housing and Urban Development.

Nature of Requirement: 24 CFR 905.314(c) and (d) requires that Public Housing funds, including Capital Funds, may not be used to pay for Housing Construction Cost (HCC) and Community Renewal Costs in excess of the Total Development Cost (TDC) limit.

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this pursuant to 24 CFR 905.314(c). In accordance with 24 CFR 5.110, good cause was determined to waive the TDC limits and to accommodate the additional construction costs the site's redevelopment was divided into two phases to increase fundability.

Date Granted: December 27, 2019.

Reason Waived: HANO submitted a letter requesting a waiver which stated that if the Choice Neighborhoods funds used for

acquisition were not included in the calculation for TDC, the TDC limit would not have exceeded amongst other items.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–4780.

[FR Doc. 2020–08052 Filed 4–15–20; 8:45 am]'

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–MB–2018–0048; FXMB 12320900000//201//FF09M29000]

List of Bird Species To Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, are publishing an amended list of the nonnative bird species that have been introduced by humans into the United States or U.S. territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. The Migratory Bird Treaty Reform Act (MBTRA) of 2004 amends the MBTA by stating that the MBTA applies only to migratory bird species that are native to the United States or U.S. territories, and that a native migratory bird species is one that is present as a result of natural biological or ecological processes. The MBTRA requires that we publish a list of all nonnative, human-introduced bird species to which the MBTA does not apply. We first published a list in 2005. We update the 2005 list with this notice. This notice identifies those species belonging to biological families referred to in treaties the MBTA implements that are not protected because their presence in the United States or U.S. territories is solely the result of intentional or unintentional human-assisted introductions. This notice presents an updated list of species not protected by the MBTA, which reflects current taxonomy, removes one species that no longer occurs in a protected family, and removes two species as a result of new distributional records documenting their natural occurrence in the United States.

FOR FURTHER INFORMATION CONTACT: Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations; Division of Migratory Bird Management; U.S. Fish and Wildlife Service; MS: MB; 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–2376.

SUPPLEMENTARY INFORMATION:

What is the purpose of this notice?

The purpose of this notice is to provide the public an updated list of ''all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply,'' as described in the MBTRA of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005; Pub. L. 108–447). The MBTRA states that ''[a]s necessary, the Secretary may update and publish the list of species exempted from protection of the Migratory Bird Treaty Act.'' The Service published the initial list required by the MBTRA on March 15, 2005 (70 FR 12710).

This notice is strictly informational. It merely updates our 2005 list of the bird species that are included in the four migratory bird treaties (see below) but to which the MBTA does not apply. The presence or absence of a species on this list has, by itself, no legal effect. This list does not change the protections that any of these species might receive under other international agreements and statutes, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; T.I.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 *et seq.*). Regulations implementing the MBTA are in parts 10, 20, and 21 of title 50 of the Code of Federal Regulations (CFR). The list of migratory birds covered by the MBTA is located at 50 CFR 10.13. Elsewhere in today's **Federal Register**, we publish a final rule to update the list of migratory bird species protected under the MBTA at 50 CFR 10.13; that rule contains information on the four migratory bird treaties between the United States and four neighboring countries (Great Britain (for Canada), Mexico, Russia, and Japan).

What was the response of the public to the draft list?

On November 28, 2018, we published in the **Federal Register** (83 FR 61161) a notice announcing a draft list of the nonnative, human-introduced bird species to which the MBTA does not apply. We solicited public comments on the draft list for 60 days, ending on January 28, 2019. We received two comments in response to the draft list, one from a private individual and one from an organization. Below, we discuss the comments we received and our responses to them.

Comment (1): We received one comment from the Western Energy Alliance, which requested that we include European starling (*Sturnus vulgaris*) and house sparrow (*Passer domesticus*) on the list of bird species not protected by the MBTA.

Response: The draft list of nonnative, human-introduced species was restricted to species belonging to biological families of migratory birds covered under any of the migratory bird treaties with Great Britain (for Canada), Mexico, Russia, or Japan. We excluded species not occurring in biological families included in the treaties from the draft list. For clarification purposes, following the list of species, we have added a list of biological families that do not qualify for protection under the MBTA and that have species known to occur in the United States or U.S. territories, whether human-introduced or by natural occurrence. This includes house sparrow (*Passer domesticus*), which occurs in the Passeridae family, and European starling (*Sturnus vulgaris*), which occurs in the Sturnidae family. As defined in the treaty with Japan, the only members of the Sturnidae family that qualify for protection under the MBTA are those included in that treaty's annex that occur naturally in the United States or U.S. territories.

Comment (2): A private individual commented on the significance of birds to healthy ecosystems, to natural habitats, and to humans. The commenter also noted the decline of bird populations and that nonnative species can displace native bird species.

Response: The purpose of this updated list of bird species to which the MBTA does not apply is to reflect current taxonomy and distribution. This list itself does not reflect the Service's obligation and efforts to conserve healthy bird populations.

What criteria did we use to identify bird species not protected by the MBTA?

The criteria remain the same as stated in our notice published on March 15, 2005, at 70 FR 12710.

Summary of updates to the 2005 list of bird species not protected by the MBTA

This notice presents a list of species that are not protected by the MBTA to reflect current taxonomy, to remove one species that no longer occurs in a protected family, and to remove two species as a result of new distributional records documenting their natural occurrence in the United States. We present the taxonomic updates in the list below. Japanese bush-warbler

(*Cettia diphone*), great black hawk (*Buteogallus urubitinga*), and red-legged honeycreeper (*Cyanerpes cyaneus*) appeared on the March 15, 2005, list (70 FR 12710), but are not on this list. Japanese bush-warbler no longer occurs in a protected family due to changes in taxonomy. New distributional records document the natural occurrence of great black hawk and red-legged honeycreeper in the United States.

Please note that the distributional records concerning great black hawk came to our attention after the publication of our draft list on November 28, 2018 (83 FR 61161); therefore, while our draft list included great black hawk on the list of species that are not protected by the MBTA, this list does not. See our final rule to update the list of migratory bird species protected under the MBTA at 50 CFR 10.13, published elsewhere in today's **Federal Register**, for more information about the status of great black hawk under the MBTA.

The List

What are the nonnative, human-introduced bird species to which the MBTA does not apply that belong to biological families of migratory birds covered under any of the migratory bird conventions (treaties) with Great Britain (for Canada), Mexico, Russia, or Japan?

We made this list as comprehensive as possible by including all nonnative, human-assisted species that belong to any of the families referred to in the treaties and whose occurrence(s) in the United States or U.S. territories have been documented in the scientific literature. It is not, however, an exhaustive list of all the nonnative species that could potentially appear in the United States or U.S. territories as a result of human assistance. New species of nonnative birds are reported annually in the United States, and it is impossible to predict which species might appear in the near future.

The appearance of a species on this list does not preclude its addition to the list of migratory birds protected by the MBTA (50 CFR 10.13) at some later date should evidence come to light confirming natural occurrence in the United States or U.S. territories.

The list arranges 122 species by family according to the American Ornithological Society (AOS) (1998, as amended and following taxonomy in the AOS 2019 supplement). Within families, the list arranges species alphabetically by scientific name. Common and scientific names follow Clements et al. (2017); any names occurring differently in the AOS 2019 supplement are in parentheses.

Family Anatidae

Mandarin Duck, *Aix galericulata*
Egyptian Goose, *Alopochen aegyptiaca*
Philippine Duck, *Anas luzonica*
Graylag Goose, *Anser anser*
Domestic Goose, *Anser anser 'domesticus'*
Swan Goose, *Anser cygnoides*
Bar-headed Goose, *Anser indicus*
Red-breasted Goose, *Branta ruficollis*
Ringed Teal, *Callonetta leucophrys*
Maned Duck, *Chenonetta jubata*
Coscoroba Swan, *Coscoroba coscoroba*
Black Swan, *Cygnus atratus*
Black-necked Swan, *Cygnus melancoryphus*
Mute Swan, *Cygnus olor*
White-faced Whistling-Duck, *Dendrocygna viduata*
Rosy-billed Pochard, *Netta peposaca*
Red-crested Pochard, *Netta rufina*
Cotton Pygmy-Goose, *Nettapus coromandelianus*
Orinoco Goose, *Oressochen jubatus* (*Neochen jubata*)
Hottentot Teal, *Spatula hottentota*
Ruddy Shelduck, *Tadorna ferruginea*
Common Shelduck, *Tadorna tadorna*

Family Phoenicopteridae

Lesser Flamingo, *Phoeniconaias minor*
Chilean Flamingo, *Phoenicopterus chilensis*

Family Columbidae

Nicobar Pigeon, *Caloenas nicobarica*
Asian Emerald Dove, *Chalcophaps indica*
Rock Pigeon, *Columba livia*
Common Wood-Pigeon, *Columba palumbus*
Luzon Bleeding-heart, *Gallicolumba luzonica*
Diamond Dove, *Geopelia cuneata*
Bar-shouldered Dove, *Geopelia humeralis*
Zebra Dove, *Geopelia striata*
Spinifex Pigeon, *Geophaps plumifera*
Partridge Pigeon, *Geophaps smithii*
Wonga Pigeon, *Leucosarcia melanoleuca*
Crested Pigeon, *Ocyphaps lophotes*
Common Bronzewing, *Phaps chalcoptera*
Blue-headed Quail-Dove, *Starnoenas cyanocephala*
Island Collared-Dove, *Streptopelia bitorquata*
Spotted Dove, *Streptopelia chinensis*
Eurasian Collared-Dove, *Streptopelia decaocto*
African Collared-Dove, *Streptopelia roseogrisea*

Family Trochilidae

Black-throated Mango, *Anthracothorax nigricollis*

Family Rallidae

Gray-cowled Wood-Rail, *Aramides cajaneus*

Family Gruiidae

Demoiselle Crane, *Anthropoides virgo*
Sarus Crane, *Antigone antigone*
Black Crowned-Crane, *Balearica pavonina*
Gray Crowned-Crane, *Balearica regulorum*

Family Charadriidae

Southern Lapwing, *Vanellus chilensis*
Spur-winged Lapwing, *Vanellus spinosus*

Family Laridae

Silver Gull, *Chroicocephalus novaehollandiae*

Family Ciconiidae

Abdim's Stork, *Ciconia abdimii*
White Stork, *Ciconia ciconia*
Woolly-necked Stork, *Ciconia episcopus*
Black-necked Stork, *Ephippiorhynchus asiaticus*

Family Phalacrocoracidae

Red-legged Cormorant, *Phalacrocorax gaimardi*

Family Anhingidae

Oriental Darter, *Anhinga melanogaster*

Family Pelecanidae

Great White Pelican, *Pelecanus onocrotalus*
Pink-backed Pelican, *Pelecanus rufescens*

Family Threskiornithidae

Eurasian Spoonbill, *Platalea leucorodia*
Sacred Ibis, *Threskiornis aethiopicus*

Family Cathartidae

King Vulture, *Sarcoramphus papa*

Family Accipitridae

Variable Hawk, *Geranoaetus polyosoma*
Griffon-type Old World vulture, *Gyps* sp.
Bateleur, *Terathopius ecaudatus*

Family Strigidae

Spectacled Owl, *Pulsatrix perspicillata*

Family Corvidae

Black-throated Magpie-Jay, *Calocitta colliei*
White-necked Raven, *Corvus albicollis*
Carrion Crow, *Corvus corone*
Cuban Crow, *Corvus nasicus*
House Crow, *Corvus splendens*
Azure Jay, *Cyanocorax caeruleus*
San Blas Jay, *Cyanocorax sanblasianus*
Rufous Treepie, *Dendrocitta vagabunda*
Eurasian Jay, *Garrulus glandarius*
Red-billed Chough, *Pyrrhocorax pyrrhocorax*
Red-billed Blue-Magpie, *Urocissa erythroryncha*

Family Alaudidae

Japanese Skylark, *Alauda japonica*

Wood Lark, *Lullula arborea*
Calandra Lark, *Melanocorypha calandra*
Mongolian Lark, *Melanocorypha mongolica*

Family Paridae

Eurasian Blue Tit, *Cyanistes caeruleus*
Great Tit, *Parus major*
Varied Tit, *Sittiparus varius*

Family Cinclidae

White-throated Dipper, *Cinclus cinclus*

Family Sylviidae

Eurasian Blackcap, *Sylvia atricapilla*

Family Muscicapidae

Indian Robin, *Copsychus fulicatus*
White-rumped Shama, *Copsychus malabaricus*
Oriental Magpie-Robin, *Copsychus saularis*
European Robin, *Erithacus rubecula*
Japanese Robin, *Larvivora akahige*
Ryukyu Robin, *Larvivora komadori*
Common Nightingale, *Luscinia megarhynchos*

Family Turdidae

Song Thrush, *Turdus philomelos*
Red-throated Thrush, *Turdus ruficollis*

Family Prunellidae

Dunnock, *Prunella modularis*

Family Fringillidae

European Goldfinch, *Carduelis carduelis*
European Greenfinch, *Chloris chloris*
White-rumped Seedeater, *Crithagra leucopygia*
Yellow-fronted Canary, *Crithagra mozambica*
Eurasian Linnet, *Linaria cannabina*
Parrot Crossbill, *Loxia pytyopsittacus*
Island Canary, *Serinus canaria*
Red Siskin, *Spinus cucullatus*
Hooded Siskin, *Spinus magellanicus*

Family Emberizidae

Yellowhammer, *Emberiza citrinella*

Family Icteridae

Venezuelan Troupial, *Icterus icterus*
Spot-breasted Oriole, *Icterus pectoralis*
Montezuma Oropendola, *Psarocolius montezuma*
Red-breasted Meadowlark, *Sturnella militaris*

Family Cardinalidae

Orange-breasted Bunting, *Passerina leclancherii*
Red-hooded Tanager, *Piranga rubriceps*

Family Thraupidae

Yellow Cardinal, *Gubernatrix cristata*
Greater Antillean Bullfinch, *Loxigilla violacea*
Cuban Bullfinch, *Melopyrrha nigra*
Yellow-billed Cardinal, *Paroaria capitata*
Red-crested Cardinal, *Paroaria coronata*
Red-cowled Cardinal, *Paroaria dominicana*
Red-capped Cardinal, *Paroaria gularis*
Saffron Finch, *Sicalis flaveola*
Blue-gray Tanager, *Thraupis episcopus*
Cuban Grassquit, *Tiaris canorus*

The MBTA also does not apply to:

(1) Nonnative species introduced into the United States or U.S. territories by means of intentional or unintentional human assistance that belong to families or groups covered by the Canadian, Mexican, or Russian Conventions.

(2) Species native or nonnative to the United States or U.S. territories that either belong to families or groups not referred to in the Canada, Mexico, and Russia Conventions or are not included by species name in the Japan Convention. This includes the Tinamidae (tinamous), Megapodiidae (megapodes), Cracidae (chachalacas), Odontophoridae (New World quail), Phasianidae (grouse, ptarmigan, and turkeys), Pteroclidae (sandgrouse), Heliornithidae (finfoots), Burhinidae (thick-knees), Glareolidae (pratincoles), Todidae (todies), Psittacidae (parrots), Psittaculidae (Old World parrots), Meliphagidae (honeyeaters), Dicruridae (drongos), Monarchidae (monarchs), Pycnonotidae (bulbuls), Scotocercidae (bush warblers and allies),

Zosteropidae (white-eyes), Sturnidae (starlings, except as listed in Japanese treaty), Ploceidae (weavers), Estrildidae (estrildid finches), and Passeridae (Old World sparrows, including house or English sparrow), as well as numerous other families not represented in the United States or U.S. territories.

References Cited

American Ornithological Society. 2019. Sixtieth Supplement to the American Ornithological Society's Check-list of North American Birds. Auk 136:798–813.

American Ornithologists' Union. 1998. Check-list of North American birds: The species of birds of North America from the Arctic through Panama, including the West Indies and Hawaiian Islands. 7th edition. Washington, DC.

Clements, J.F., T.S. Schulenberg, M.J. Iliff, D. Roberson, T.A. Fredericks, B.L. Sullivan, and C.L. Wood. 2017. The eBird/Clements checklist of birds of the world: v2017. Downloaded from *http://www.birds.cornell.edu/clementschecklist/download/.*

Authority

The authority for this notice is the Migratory Bird Treaty Reform Act of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005; Pub. L. 108–447), and the Migratory Bird Treaty Act (16 U.S.C. 703–712).

Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–06782 Filed 4–15–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Standing Rock Sioux Tribe of North & South Dakota and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Standing Rock Sioux Tribe of North & South Dakota and the State of South Dakota.

DATES: The extension takes effect on April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Standing Rock Sioux Tribe of North & South Dakota and the State of South Dakota have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to August 14, 2020. This publication provides notice of the new expiration date of the compact.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–07994 Filed 4–15–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0187; Docket ID: BOEM–2017–0016]

Agency Information Collection Activities; Project Planning for the Use of Outer Continental Shelf Sand, Gravel, and Shell Resources in Construction Projects That Qualify for a Negotiated Noncompetitive Agreement

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing to renew an information collection request.

DATES: Interested persons are invited to submit comments on or before May 18, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You may find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0187 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Anna Atkinson by email, or by telephone at 703–787–1025. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of the information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this proposed information collection request was published on December 11, 2019 (84 FR 67753). No comments were received.

BOEM is again soliciting comments on the proposed ICR that is described below. BOEM is especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure this information will be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. You should be aware that your entire comment—including your address, phone number, email address, or other personal identifying information—may be made publicly available at any time. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify any information contained in the submittal of your comments that, if released, would clearly constitute an unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of your information, such as embarrassment, injury, or other harm. While you can ask BOEM in your comment to withhold your personally identifiable information from public review, BOEM cannot guarantee that it will be able to do so.

BOEM protects proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2).

Abstract: Under the authority delegated by the Secretary of the Interior, BOEM is authorized, pursuant to section 8(k)(2) of the OCS Lands Act (43 U.S.C. 1337(k)(2)), to convey rights to OCS sand, gravel, and shell resources by negotiated noncompetitive agreement (NNA) for use in shore protection and beach and coastal restoration, or for use in construction projects funded in whole or part by, or authorized by, the Federal Government.

Since the beginning of 2017, BOEM has processed 17 negotiated agreements and amendments to existing agreements. In order for BOEM to continue to meet the needs of locals and state governments, information regarding upcoming projects must be acquired to plan for future projects and anticipated workload. Therefore, BOEM will issue calls for information about needed resources and locations from interested parties to develop and maintain a project schedule. BOEM may also issue calls for information in response to an emergency declaration, such as a hurricane or tropical storm. This ICR has no significant changes from the 2017 OMB approved information collection.

In the event the number of requested projects exceeds the limits of the current BOEM staff and funding resources, BOEM may request the relevant states to prioritize their own projects based on several criteria including likelihood of project funding and progress of environmental work. BOEM will use this information to determine appropriate future resource allocations, identify potential conflicts of use, develop NNAs, and meet all necessary environmental and legal requirements. BOEM will publish all ongoing projects on the website *http://www.boem.gov/Requests-and-Active-Leases/.*

Title of Collection: Project Planning for the Use of Outer Continental Shelf Sand, Gravel, and Shell Resources in Construction Projects that Qualify for Negotiated Noncompetitive Agreement.

OMB Control Number: 1010–0187.

Form Number: None.

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise states, counties, localities, and tribes.

Total Estimated Number of Annual Responses: 80 responses.

Total Estimated Number of Annual Burden Hours: 200 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually and on occasion.

Total Estimated Annual Non-Hour Burden Cost: None.

Estimated Reporting and Recordkeeping Hour Burden: We estimate that the annual reporting burden for this collection is about 200 hours, assuming an emergency declaration is made each year.

Local Government Compilation: 25 local × 1 hour/entity × 2 responses/year = 50 hours; State Compilation: 15 States × 5 hours/State × 2 responses/year = 150 hours (50 county hours + 150 State hours = 200 total burden hours).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2020–07992 Filed 4–15–20; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

Temporary Change to Antidumping/Countervailing Duty Conference and Hearing Procedures

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission (Commission) provides notice that, to address concerns related to COVID–19, it is temporarily waiving and amending certain of the Commission's rules that permit participants to appear in-person to give oral presentations, written witness testimony, or statements at antidumping/countervailing duty (AD/CVD) preliminary phase conferences, and final phase investigation and five-year review hearings held under Title VII of the Tariff Act of 1930.

DATES: Immediately and until further notice.

FOR FURTHER INFORMATION CONTACT: You may direct telephone inquiries to Lisa R. Barton, Secretary to the Commission, the Office of the Secretary at (202) 205–2000. You may direct email inquiries to *EDIS3help@usitc.gov.* Hearing impaired persons can obtain information on this matter by contacting the Commission's TDD terminal at (202) 205–1810. You may find general information concerning the Commission at *https://www.usitc.gov.*

SUPPLEMENTARY INFORMATION: Section 201.4(b) of the Commission's Rules of Practice and Procedure (19 CFR 201.4(b)) permits the Commission to amend, waive, suspend, or revoke Commission rules for ''good and sufficient reason'' if the rule is not a matter of procedure required by law. The procedures permitting participants to make oral statements or presentations, or submit written witness testimony, at AD/CVD proceedings are not procedures required by law. Therefore, to address concerns related to COVID–19, the Commission has determined that there is good and sufficient reason to waive and amend certain Commission rules. This rule waiver and amendment is effective immediately and until further notice, which will be provided in a subsequent **Federal Register** notice. Waiver and amendment of these rules will mitigate disruption to Title VII investigations while the USITC building is closed.

Specifically, the Commission temporarily waives the provisions of Rules 201.13(f) and (h), 207.15, and 207.24(b) (19 CFR 201.13(f) and (h), 207.15, and 207.24(b)) that require or permit participants to submit presentations, statements, and written witness testimony at in-person AD/CVD conferences and hearings.

The Commission has approved the temporary amendment of Rule 207.24(b) (19 CFR 207.24(b)) to permit parties to submit written presentations and written witness testimony, and to permit nonparties to submit brief written statements. The Commission has also approved the temporary amendment of Rule 207.15 (19 CFR 207.15) to instruct each party to provide written witness testimony in accordance with the schedule and instructions specified by the Director or presiding official. All such filings shall comply with the procedures set forth in the Commission's Electronic Document Information System website at *https://edis.usitc.gov.*

By order of the Commission.
Issued: April 10, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–07967 Filed 4–15–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–502 and 731–TA–1227 (Review)]

Steel Concrete Reinforcing Bar from Mexico and Turkey; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on steel concrete reinforcing bar from Mexico and the countervailing duty order on steel concrete reinforcing bar from Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Amelia Shister ((202) 205–2047), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 6, 2020, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (85 FR 5036, January 28, 2020); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an

administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report. —The prehearing staff report in the reviews will be placed in the nonpublic record on July 21, 2020, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on Thursday, August 6, 2020, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 30, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on August 5, 2020, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written Submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 29, 2020. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is August 14, 2020. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before August 14, 2020. On September 8, 2020, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 10, 2020, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C.1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.
Issued: April 10, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–07961 Filed 4–15–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1196]

Certain In Vitro Fertilization Products, Components Thereof, and Products Containing the Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 11, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of EMD Serono, Inc. of Rockland, Massachusetts. A supplement and amendment to the complaint was filed on March 27, 2020. The complaint, as supplemented and amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain in vitro fertilization products, components thereof, and products containing same (collectively, ''Gray Market IVF Products'') by reason of infringement of certain U.S. Trademark Registration No. 4,689,651; U.S. Trademark Registration No. 1,772,761; U.S. Trademark Registration No. 3,777,170; U.S. Trademark Registration No. 3,389,332; U.S. Trademark Registration No. 3,816,320; U.S. Trademark Registration No. 1,972,079; U.S. Trademark Registration No. 3,604,207; and U.S. Trademark Registration No. 3,185,427 (collectively, ''Registered Marks''); unfair methods of competition and unfair acts in the importation and sale of Gray Market IVF Products by reason of false designation of source, and; unfair methods of competition and unfair acts in the importation and sale of the Gray Market IVF Products by reason of false advertising. The complaint, as supplemented and amended, further alleges that an industry in the United States exists and that alleged violations threaten to destroy or substantially injure an industry in the United States, as required by the applicable Federal Statutes. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS)

at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560 or (202) 205–1802.

SUPPLEMENTARY INFORMATION: *Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2019).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 10, 2020, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the Registered Marks and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the unfair methods of competition and unfair acts in the importation and sale of the Gray Market IVF Products through the false designation as to source, the threat or effect of which is to destroy or substantially injure an industry in the United States; and

(c) whether there is a violation of subsection (a)(1)(A) of section 337 in the unfair methods of competition and unfair acts in the importation and sale of the Gray Market IVF Products through false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''prescription in vitro fertilization drugs, components thereof, and products containing the same labeled, in whole or in part, Gonal-f, Ovidrel, or Ovitrelle;''

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

EMD Serono, Inc., One Technology Place, Rockland, MA 02370

(b) The respondents are the following entities alleged to be in violation of section 337, and is/are the parties upon which the complaint is to be served

FastIVF c/o Domains by Proxy LLC, 14455 N Hayden Road, Scottsdale, AZ 85260

Hermes Eczanesi, Eski Büyükdere Cad., Windowist Tower No. 26/2, Maslak-Sariyer, Istanbul, Turkey

General Plastik Drug Stores, Buyuk Hanli Konut B2, Suadiye, 34740 Istanbul Suadiye, Turkey

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08062 Filed 4–15–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–616]

Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Denco, LLC

ACTION: Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to proposed regulations that, if finalized, would govern the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before June 15, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrissette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA–616 in all correspondence, including attachments.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections

of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA proposes to conduct this evaluation in the manner described in the rule proposed at 85 FR 16292, published on March 23, 2020, if finalized.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on March 2, 2020, Denco, LLC, 5155 East 46th Avenue, Denver, Colorado 80216, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols.	7370	I

The applicant's notice above applied to become registered with DEA to grow marihuana as a bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. In order to complete the evaluation and registration process for applicants to grow marihuana, DEA has proposed regulations that, if finalized, would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as a bulk manufacturer, consistent with applicable law. The proposed regulations are available at 85 FR 16292.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–07999 Filed 4–15–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–629]

Importer of Controlled Substances Application: Mylan Pharmaceuticals Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturer of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 18, 2020. Such persons may also file a written request for a hearing on the application on or before May 18, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 31, 2020, Mylan Pharmaceuticals Inc., 2898 Manufacturers Road, Greensboro, North Carolina 27406, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled Substance	Drug code	Schedule
Remifentanil	9739	II

The company plans to import the above-controlled substance as the FDA-approved drug product in finished dosage form for commercial distribution to its customers. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08001 Filed 4–15–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0094]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2019 Census of Jails

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until May 18, 2020.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

2. *Title of the Form/Collection:* Annual Survey of Jails (ASJ).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The ASJ contains one form, CJ–5, each year. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Approximately 950 jails, representing 2,924 local jails (city, county, regional, and private) will be requested to provide information for the following categories:

(a) At midyear (last weekday in the month of June), the total number of inmates confined in jail facilities and the total number of persons under jail supervision, but not confined;

(b) At midyear, inmate counts by sex, juvenile status, age group, race/Hispanic origin, probation and parole status, conviction status, severity of charge (felony or misdemeanor), and U.S. citizenship status;

(c) At midyear, the numbers of inmates held for federal authorities, state prison authorities, American Indian or Alaska Native tribal governments, and other local jails;

(d) On the weekend prior to midyear, whether the jail had a weekend program that allows offenders to serve their sentences of confinement only on weekends, and the number of program participants;

(e) Rated capacity at midyear;

(f) The date and count for the greatest number of confined inmates during the 30-day period in June;

(g) The average daily population by sex during the 12-month period from July 1 of last year to June 30 of current year;

(h) The number of new admissions into jail, and final discharges from jail, by sex during the 12-month period from July 1 of last year to June 30 of current year;

(i) The number of persons under jail supervision under various programs outside jail;

(j) At midyear, the number of staff members employed by the facility by sex and occupation (*i.e.,* correctional officers or other staff).

In addition to the above items, the 2020 and 2021 ASJ will include a special addendum on the COVID–19 epidemic with the following six questions:

(a) One-day inmate counts every month from January to May 2020 (or July to December 2020);

(b) The number of inmates that received expedited release due to COVID–19 from January 1, 2020, to June 30, 2020 (or from July 1, 2020, to December 31 2020);

(c) The number of inmates tested for COVID–19 and the number that tested positive from January 1, 2020, to June 30, 2020 (or from July 1, 2020, to December 31 2020);

(d) The number of staff tested for COVID–19 and the number that tested positive from January 1, 2020, to June 30, 2020 (or from July 1, 2020, to December 31 2020);

(e) Inmate deaths and staff deaths from COVID–19 from January 1, 2020, to June 30, 2020 (or from July 1, 2020, to December 31 2020);

(f) The number of inmates not admitted to jail due to testing positive for COVID–19 during the intake process from January 1, 2020, to June 30, 2020 (or from July 1, 2020, to December 31 2020).

The ASJ is the only national collection that tracks annual changes in the local jail population in the United States. BJS requests clearance for the 2020–22 ASJ under OMB Control Number 1121–0094. The ASJ was last approved under OMB Control Number 1121–0094 (exp. date 01/31/2019), where it was bundled with the Mortality in Correctional Institutions-Jails (MCI, formerly the Deaths in Custody Reporting Program) and Survey of Jails in Indian Country. In 2017, the ASJ was separated from the MCI-Jails and became a stand-alone collection again.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* During data collection in 2020 and 2021, 950 respondents will each take an average of 120 minutes to complete the CJ–5 form. Data quality follow-up is needed for an estimated 70% of the respondents (665) and the validation will run an average of 10 minutes for each respondent. In addition, about 60 jails will be contacted to verify facility operational status and point-of-contact information, which takes 5 minutes each on average. In total, the ASJ will incur a total burden estimate of 2,016 hours, or 127 minutes per respondent, each year in 2020 and 2021. Without the COVID–19 questions, the 2022 ASJ form will take an average of 80 minutes to complete. In total, the 2020 ASJ will incur a burden estimate of 1,383 hours, or 87 minutes per respondent.

If additional information is required, contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 13, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–08042 Filed 4–15–20; 8:45 a.m.]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Asbestos in Shipyards Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 18, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of

automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Standard requires employers to train workers about the hazards of asbestos, to monitor worker exposure, to provide medical surveillance, and maintain accurate records of worker exposure to asbestos. These records will be used by employers, workers, and the Government to ensure that workers are not harmed by exposure to asbestos in the workplace. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 29, 2019 (84 FR 65849).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Asbestos in Shipyards Standard.

OMB Control Number: 1218–0195.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 585.

Total Estimated Number of Responses: 3,583.

Total Estimated Annual Time Burden: 1,237 hours.

Total Estimated Annual Other Costs Burden: $ 44,578.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 12, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–08039 Filed 4–15–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Beryllium Standard for General Industry, Construction and Maritime

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 18, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The standard requires employers to monitor employee exposure to beryllium and beryllium compounds, to establish and implement a written control plan, to conduct medical surveillance, to provide personal protective equipment, to train workers about the hazards faced working in and around beryllium, and to establish and maintain accurate records of worker exposure to beryllium and beryllium compounds. These records are used by employers, workers, physicians, and the Government to ensure that workers are not harmed by exposure to beryllium. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 3, 2020 (85 FR 5996).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Beryllium Standard for General Industry, Construction and Maritime.

OMB Control Number: 1218–0267.

Affected Public: Private Sector: Business or other for-profits.

Total Estimated Number of Respondents: 5,872.

Total Estimated Number of Responses: 246,656.

Total Estimated Annual Time Burden: 194,261 hours.

Total Estimated Annual Other Costs Burden: $46,158,266.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 12, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–08038 Filed 4–15–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request;

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the National Science

Foundation (NSF) is announcing plans to request approval for a new collection referred to as the National Training, Education, and Workforce Survey (NTEWS). The NTEWS will be a new, voluntary data collection sponsored by NCSES and cosponsored by the National Center for Education Statistics (NCES) within the U.S. Department of Education. The NTEWS serves to measure and understand two research concepts that are of national interest: (1) The education, training, and career pathways of skilled technical workers, and (2) the prevalence and interplay of education (postsecondary degrees and certificates), work credentials (certifications and licenses), and work experience programs among American workers. NCSES intends to release national estimates from the NTEWS collection. Under the requirements of the Paperwork Reduction Act of 1995, NCSES is providing an opportunity for public comment on this action. After obtaining and considering public comment, NCSES will prepare the submission requesting that OMB approve clearance of this collection for three years.

DATES: Written comments on this notice must be received by June 15, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: The National Training, Education, and Workforce Survey.

OMB Control Number: 3145–NEW.

Expiration Date: Not Applicable.

Type of Request: Intent to seek approval for a new information collection.

Abstract: The pervasiveness of science and technology in society, including its central role in the economy, has changed the nature of work for individuals at all education levels, making skilled technical workers increasingly important to U.S. economic competitiveness, national security, and scientific progress. American workers who use science, technology, engineering, and mathematics (STEM) knowledge and skills in their jobs, but who do not have a bachelor's degree comprise the skilled technical workforce (STW). While data exists to quantify the number of skilled technical workers, limited information exists to examine how individuals enter, maintain relevance, or seek advancement in STW occupations. As a result, the currently available survey data are of limited utility for policymakers and STW stakeholders (employers, workforce advocates, and educational trainers) who are seeking more detailed information to inform discussions about STW policies, processes, and education and training programs. In response, NCSES has begun a multidimensional initiative to measure and understand the skilled technical workforce. This effort includes outreach with STW stakeholders to determine information needs and current data gaps, the identification and assessment of viable administrative data sources to inform STW-related research and policy discussions, and the plans for a new federal survey targeting the STW—the National Training, Education, and Workforce Survey (NTEWS).

The NTEWS will be a new, voluntary data collection sponsored by the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation and cosponsored by the National Center for Education Statistics (NCES) within the U.S. Department of Education. The NTEWS serves to measure and understand two research concepts that are of national interest: (1) The education, training, and career pathways of skilled technical workers, and (2) the prevalence and interplay of education (postsecondary degrees and certificates), work credentials (certifications and licenses), and work experience programs among American workers.

The content of the initial NTEWS expands on a former federal survey, the 2016 Adult Training and Education Survey (ATES), which was sponsored by NCES. The initial NTEWS will collect information on the following topics to examine the relationship between credentials and employment outcomes:

- Credential types
- Education characteristics
- Initial work training
- Employment characteristics
- Demographic characteristics

Given these areas of mutual interest for NCSES and NCES, the NTEWS will reduce public burden by fielding one cosponsored survey that meets the information needs for both federal agencies.

The initial NTEWS data collection effort will serve as the first cycle for a planned biennial, rotating panel design. Respondents will have the option to complete the survey by web, paper, or computer-assisted telephone interviewing (CATI). NCSES plans to incorporate methodological experiments in the initial administration to examine response mode and incentive options. Results from those experiments will be used to determine a data collection methodology that maximizes data quality, minimizes respondent burden, and reduces data collection cost in future cycles.

NCSES will analyze the initial NTEWS data to inform and resolve any statistical, methodological, operational, and content issues before the subsequent NTEWS collection cycle in the planned biennial survey cycle design.

The U.S. Census Bureau will serve as the Federal data collection contractor on behalf of NCSES and NCES. The NTEWS data will be protected under the applicable Census Bureau confidentiality statutes.

Use of the information: NCSES and NCES intend to publish national estimates from the initial NTEWS, as well as use the results to inform the next survey cycle. It is anticipated that the NTEWS data will be used for the two congressionally mandated biennial reports authored by NCSES: *Women, Minorities, and Persons with Disabilities in Science and Engineering* and *Science and Engineering Indicators.* NCES plans to release a special-topic statistical report on the status of educational and professional credentials in the United States. In addition, a public release file of collected data, designed to protect respondent confidentiality, will be made available to policymakers, researchers, and the public on the internet.

Established within NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the NSF Act of 1950, as amended, NCSES serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public. NCSES also provides data to support the Science and Engineering Equal Opportunities Act of 1980, which directs NSF to provide to Congress and the Executive Branch an ''accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of

women and men in scientific and engineering positions.''

NCSES has historically met these legislative mandates through its suite of surveys and biennial publications that measure the education, employment, and demographic characteristics of the nation's college-educated scientists and engineers. However, an emerging research and policy interest in the STW creates a need for new data to expand and supplement NCSES's efforts on the college-educated science and engineering workforce.

Expected Respondents: All previous respondents to the 2018 American Community Survey, collected by the U.S. Census Bureau, are eligible to be selected to participate in the initial NTEWS. Approximately 40,000 adults, ages 16–75 and not enrolled in high school, will be selected for the NTEWS sample. The NTEWS sample design will meet the needs of both NCSES and NCES by providing coverage of the workforce-eligible adult population and including an oversample of adults who are in skilled technical occupations.

Estimate of Burden: The expected response rate is 62.5 percent, or 25,000 completed cases. The amount of time to complete the survey may vary depending on an individual's circumstances and the mode of the collection (web, paper, or telephone). NCSES estimates an average completion time of 15 minutes. NCSES estimates that the average annual burden for the initial NTEWS over the course of the three-year OMB clearance period will be no more than 2,084 hours [(25,000 completed cases × 15 minutes)/3 years].

Comments: Comments are invited on (a) aspects of the data collection effort (including, but not limited to, the following: The availability of administrative and supplemental sources of data on the skilled technical workforce, survey content, contact strategy, and statistical methods); (b) whether the proposed collection of information is necessary for the proper performance of the functions of NCSES, including whether the information shall have practical utility; (c) the accuracy of the NCSES's estimate of the burden of the proposed collection of information; (d) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) 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.

Dated: April 13, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–08067 Filed 4–15–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Committee on National Science and Engineering Policy (SEP), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: Wednesday, April 22, 2020 at 4:00–5:00 p.m. EDT.

PLACE: This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. An audio link will be available for the public. Contact the Board Office 24 hours before the teleconference to request the public audio link at *nationalsciencebrd@nsf.gov.*

STATUS: Open.

MATTERS TO BE CONSIDERED: Chair's opening remarks; discussion of outcomes from the committee retreat and items to be brought forth for discussion at the May NSB meeting.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Reba Bandyopadhyay (*rbandyop@nsf.gov*), 703/292–7000. Members of the public must contact the Board Office to request the public audio link by sending an email to *nationalsciencebrd@nsf.gov* at least 24 hours prior to the teleconference.

Meeting information and updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website *www.nsf.gov/nsb* for additional information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2020–08179 Filed 4–14–20; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on April 30, 2020, to discuss the draft recommendations of the ACMUI COVID–19 Subcommittee. The ACMUI subcommittee's recommendations will include its review of the impact of COVID–19 on the medical use community and potential regulatory relief measures as it relates to the medical uses of radioactive material. Meeting information, including a copy of the agenda and handouts, will be available at *https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2020.html.* The agenda and handouts may also be obtained by contacting Ms. Kellee Jamerson using the information below.

DATES: The teleconference meeting will be held on Thursday, April 30, 2020, 2:00 p.m. to 4:00 p.m. Eastern Time.

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Jamerson using the contact information below.

FOR FURTHER INFORMATION CONTACT: Kellee Jamerson, (301) 415–7408; email: *Kellee.Jamerson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Conduct of the Meeting

Dr. Robert Schleipman, ACMUI Vice Chairman, will preside over the meeting. Dr. Schleipman will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Jamerson at the contact information listed above. All written statements must be received by April 27, 2020, three business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting at the discretion of the ACMUI Vice Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's website *https://www.nrc.gov/reading-*

rm/doc-collections/acmui/meetings/2020.html on or about June 15, 2020.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in 10 CFR part 7.

This meeting is being noticed in the **Federal Register** less than 15 calendar days due to the immediate need to receive recommendations from the ACMUI to develop and provide guidance to medical use licensees during the COVID–19 pandemic.

Dated: April 10, 2020.

Russell E. Chazell,

Advisory Committee Management Officer.

[FR Doc. 2020–07970 Filed 4–15–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–457; NRC–2020–0089]

Exelon Generation Company, LLC; Braidwood Station, Unit No. 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. NPF–77, issued to Exelon Generation Company, LLC, for operation of the Braidwood Station, Unit No. 2. The proposed amendment would provide a one-time extension of steam generator tube inspections to allow the inspections to be conducted after three operating cycles instead of after the current required two operating cycles. The amendment is necessary to avoid conflicts with the Centers for Disease Control and Prevention recommendations regarding social distancing to prevent the spread of the COVID–19 virus. The amendment also avoids a possible scenario in which expertise required to conduct the inspections is lost because of COVID–19 infections.

DATES: Submit comments by April 30, 2020. Requests for a hearing or petition for leave to intervene must be filed by June 15, 2020.

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

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0089. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Joel S. Wiebe, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6606, email: *Joel.Wiebe@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0089 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0089.
- 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 proposed license amendment request, dated April 6, 2020, seeking a one-time extension of steam generator tube inspections to allow the inspections to be conducted after three operating cycles, is available in ADAMS under Accession No. ML20097J188.

B. Submitting Comments

Please include Docket ID NRC–2020–0089 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. NPF–77, issued to Exelon Generation Company, LLC, for operation of the Braidwood Station, Unit No. 2, located in Will County, Illinois.

The proposed amendment would provide a one-time extension of steam generator tube inspections to allow the inspections to be conducted after three operating cycles instead of after the current required two operating cycles.

The licensee states that the Centers for Disease Control and Prevention has issued recommendations advising isolation activities (*e.g.,* social distancing, group size limitations, self-quarantining, etc.) to prevent the spread of the COVID–19 Virus. The nature of the steam generator inspections conflicts with the recommendations in that they require workers to be in close proximity to each other in a hot and radiological environment that increases the likelihood of individuals contracting COVID–19 and potentially inducing a rapid spread. Additionally, these inspections require a specialty vendor that maintains unique and complex qualifications. Losing resources due to a virus spread would cause a situation where the proper technical knowledge would not be available to satisfactorily complete this work (minimal 14-day isolation and likely to be more than one individual based on having to work in close proximity for the work).

Based on an initial review, the NRC staff finds that exigent circumstances exist under 10 CFR 50.91(a)(6). The licensee and Commission need to act quickly and time does not permit a 30-day prior comment period because the plant would be prevented from resuming operations following the refueling outage occurring after the

current operating cycle that ends in April 2020. Also, the licensee could not have anticipated the social distancing recommendations associated with the public health emergency caused by the COVID–19 virus and made a timely application for the proposed amendment. Therefore, the NRC staff is providing a 14-day notice period for public comment pursuant to 10 CFR 50.91(a)(6)(i)(A).

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

Pursuant to 50.91(a)(6) of title 10 of the *Code of Federal Regulations* (10 CFR) for amendments to be granted under exigent circumstances, the NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed one-time change will defer the Steam Generator (SG) inspection to be performed after three operating cycles. This change does not physically change the SGs, the plant or the way the SGs or plant are operated. This change does not change the design of the SG. Inspection frequencies and inspection activities are not an initiator to a Steam Generator tube rupture accident, or any other accident previously evaluated. As a result, the probability of an accident previously evaluated is not significantly increased. The SG tubes inspected by the SG Program continue to be required to meet the SG Program performance criteria and to be capable of performing any functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed one-time change will defer the Steam Generator (SG) inspection to be performed after three operating cycles. The proposed change does not alter the design function or operation of the SGs or the ability of an SG to perform the design function. The SG tubes continue to be required to meet the SG Program performance criteria. An analysis has been performed which evaluates all credible failure modes. This analysis resulted in no new or different kind of accident then has been previously evaluated. The proposed change does not create the possibility of a new or different kind of accident due to credible new failure mechanisms, malfunctions, or accident initiators that [were] not considered in the design and licensing bases.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed one-time change will defer the Steam Generator (SG) inspection to be performed after three operating cycles. The proposed change does not change any of the controlling values of parameters used to avoid exceeding regulatory or licensing limits. The proposed change does not affect a design basis or safety limit, or any controlling value for a parameter established in the UFSAR [Updated Final Safety Analysis Report] or the license.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves a no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, if circumstances change during the notice period, such that failure to act in a timely way would result, for example, in prevention of either resumption of operation or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. If the Commission takes this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who

fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1 866–672–7640. The NRC Electronic Filing Help Desk is available

between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated April 6, 2020.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Nancy L. Salgado.

Dated April 10, 2020.

For the Nuclear Regulatory Commission.

Scott P. Wall,

Senior Project Manager, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–07972 Filed 4–15–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–114 and CP2020–121]

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:* April 20, 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
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–114 and CP2020–121; *Filing Title:* USPS Request to Add Priority Mail Contract 604 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 10, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* April 20, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–08014 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 10, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 604 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–114, CP2020–121.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–07991 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 3, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service Contract 108 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–113, CP2020–119.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–07990 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 603 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–112, CP2020–118.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–07989 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* April 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 602 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–111, CP2020–117.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–07988 Filed 4–15–20; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and purpose of information collection: Vocational Report; OMB 3220–0141. Section 2 of the Railroad Retirement Act (RRA) provides for payment of disability annuities to qualified employees and widow(ers). The establishment of permanent disability for work in the applicant's ''regular occupation'' or for work in any regular employment is prescribed in 20 CFR 220.12 and 220.13 respectively.

The RRB utilizes Form G–251, *Vocational Report,* to obtain an applicant's work history. This information is used by the RRB to determine the effect of a disability on an applicant's ability to work. Form G–251 is designed for use with the RRB's disability benefit application forms and is provided to all applicants for employee disability annuities and to those applicants for a widow(er)'s disability annuity who indicate that they have been employed at some time.

Completion is required to obtain or retain a benefit. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (81 FR 6587 on February 5, 2020) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Vocational Report.

OMB Control Number: 3220–0141.

Form(s) submitted: G–251.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Section 2 of the Railroad Retirement Act provides for the payment of disability annuities to qualified employees and widow(er)s. In order to determine the effect of a disability on an annuitant's ability to work, the RRB needs the applicant's work history. The collection obtains the information needed to determine their ability to work.

Changes proposed: The RRB proposes no changes to Form G–251.

The burden estimate for the ICR is as follows:

Form number	Annual responses	Time (minutes)	Burden (hours)
G–251 (with assistance)	5,730	40	3,820
G–251 (without assistance)	270	50	225
Total	6,000		4,045

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–1275 or *Brian.Foster@rrb.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Brian Foster,

Clearance Officer.

[FR Doc. 2020–08068 Filed 4–15–20; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16253 and #16254; PUERTO RICO Disaster Number PR–00034]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Puerto Rico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4473–DR), dated 01/16/2020.

Incident: Earthquakes.

Incident Period: 12/28/2019 through 02/04/2020.

DATES: Issued on 04/10/2020.

Physical Loan Application Deadline Date: 05/15/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 10/16/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Commonwealth of PUERTO RICO, dated 01/16/2020, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 05/15/2020.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2020–07962 Filed 4–15–20; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36391]

Portland & Western Railroad, Inc.—Amended Lease and Operation Exemption Containing Interchange Commitment—BNSF Railway Company

Portland & Western Railroad, Inc. (PNWR), a Class III railroad, has filed a verified notice of exemption pursuant to 49 CFR 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate a BNSF rail line between milepost 64.70 (located on main track between Quinaby and Salem, Ore.) and milepost 141.45, at the end of track, near Eugene, Ore., a total distance of approximately 76.75 miles (the Line). PNWR states that it has entered into a lease agreement (New Lease) with BNSF that supersedes and replaces a previous lease (Original Lease) that took effect in 2003.[1]

PNWR states that it is currently the operator of the Line under the Original Lease. PNWR states that the New Lease extends the term for an additional 10 years, with an automatic renewal date for an additional 10-year term, and makes other commercial changes.

PNWR certifies that the New Lease contains an interchange commitment that is similar to the interchange commitment that was included in the Original Lease.[2]

Accordingly, PNWR has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h).

PNWR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. PNWR also certifies that its revenues currently exceed $5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, PNWR's verified notice includes a request for waiver of the 60-day advance labor notice requirements. PNWR's waiver request will be

[1] *See Portland & W. R.R.—Lease & Operation Exemption—The Burlington N. & Santa Fe Ry.,* Docket No. FD 34255 (STB served Jan. 3, 2003). PNWR states that the Original Lease ended on February 29, 2020, and that PNWR and BNSF executed the New Lease effective March 1, 2020. PNWR also states that it will continue to operate under the terms of the Original Lease until the New Lease is authorized.

[2] A copy of the New Lease with the interchange commitment was submitted under seal. *See* 49 CFR 1150.43(h)(1).

addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 23, 2020.

All pleadings, referring to Docket No. FD 36391, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004.

According to PNWR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: April 10, 2020.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2020–08051 Filed 4–15–20; 8:45 am]

BILLING CODE 4915–01–P

FEDERAL REGISTER

Vol. 85 Thursday,

No. 74 April 16, 2020

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 10

General Provisions; Revised List of Migratory Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

[Docket No. FWS–HQ–MB–2018–0047; FXMB 12320900000//201//FF09M29000]

RIN 1018–BC67

General Provisions; Revised List of Migratory Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), revise the List of Migratory Birds protected by the Migratory Bird Treaty Act (MBTA) by both adding and removing species. Reasons for the changes to the list include adding species based on new taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. The net increase of 67 species (75 added and 8 removed) will bring the total number of species protected by the MBTA to 1,093. We regulate the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds. An accurate and up-to-date list of species protected by the MBTA is essential for public notification and regulatory purposes.

DATES: This rule is effective May 18, 2020.

FOR FURTHER INFORMATION CONTACT: Eric L. Kershner, Chief of the Branch of Conservation, Permits, and Regulations; Division of Migratory Bird Management; U.S. Fish and Wildlife Service; MS: MB; 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–2376.

SUPPLEMENTARY INFORMATION:

What statutory authority does the service have for this rulemaking?

We have statutory authority and responsibility for enforcing the MBTA (16 U.S.C. 703–712), the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l), and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–j). The MBTA implements Conventions between the United States and four neighboring countries for the protection of migratory birds, as follows:

(1) *Canada:* Convention between the United States and Great Britain [on behalf of Canada] for the Protection of Migratory Birds, August 16, 1916, 39 Stat. 1702 (T.S. No. 628), as amended by Protocol between the Government of the United States and the Government of Canada Amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds, Sen. Treaty Doc. 104–28 (December 14, 1995);

(2) *Mexico:* Convention between the United States and Mexico for the Protection of Migratory Birds and Game Mammals, February 7, 1936, 50 Stat. 1311 (T.S. No. 912), as amended by Protocol with Mexico amending Convention for Protection of Migratory Birds and Game Mammals, Sen. Treaty Doc. 105–26 (May 5, 1997);

(3) *Japan:* Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, March 4, 1972, 25 U.S.T. 3329 (T.I.A.S. No. 7990); and

(4) *Russia:* Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment (Russia), November 19, 1976, 29 U.S.T. 4647 (T.I.A.S. No. 9073).

What is the purpose of this rulemaking?

Our purpose is to inform the public of the species protected by the MBTA and its implementing regulations. These regulations are found in Title 50, Code of Federal Regulations (CFR), parts 10, 20, and 21. We regulate the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds. An accurate and up-to-date list of species protected by the MBTA is essential for notifying the public of regulatory protections.

Why is the amendment of the List of Migratory Birds necessary?

The amendments we are adopting in this final rule are needed to:

(1) Add 16 species that qualify for protection under the MBTA;

(2) Correct the spelling of 3 species names on the alphabetized list;

(3) Correct the spelling of 3 species names on the taxonomic list;

(4) Add 30 species based on new distributional records documenting their natural occurrence in the United States or U.S. territories since 2010;

(5) Add one species moved from a family that was not protected to a family protected under the MBTA as a result of taxonomic changes;

(6) Add 28 species newly recognized as a result of recent taxonomic changes;

(7) Remove 8 species not known to occur within the boundaries of the United States or U.S. territories as a result of recent taxonomic changes;

(8) Change the common (English) names of 43 species to conform to accepted use; and

(9) Change the scientific names of 135 species to conform to accepted use.

The List of Migratory Birds (50 CFR 10.13) was last revised on November 1, 2013 (78 FR 65844). The amendments in this rule were necessitated by nine published supplements to the 7th (1998) edition of the American Ornithologists' Union (AOU, now recognized as the American Ornithological Society (AOS)) Check-list of North American Birds (AOU 2011, AOU 2012, AOU 2013, AOU 2014, AOU 2015, AOU 2016, AOS 2017, AOS 2018, and AOS 2019) and the 2017 publication of the Clements Checklist of Birds of the World (Clements et al. 2017).

What scientific authorities are used to amend the List of Migratory Birds?

Although bird names (common and scientific) are relatively stable, staying current with standardized use is necessary to avoid confusion in communications. In making our determinations, we primarily relied on the AOS's Checklist of North American birds (AOU 1998), as amended annually (AOU 1999 through 2016, AOS 2017 through 2019), on matters of taxonomy, nomenclature, and the sequence of species and other higher taxonomic categories (Orders, Families, Subfamilies) for species that occur in North America. The AOU (now AOS) Checklist of North American Birds (Checklist), developed by the AOU Committee on Classification and Nomenclature, has been the recognized taxonomic authority for North American birds since publication of the first edition of the Checklist in 1886. The committee compiles the taxonomic foundation for ornithology in North America; evaluating and codifying the latest scientific developments in the systematics, classification, nomenclature, and distribution of North American birds. Thus, the AOS's Checklist represents the best information available for developing the North American component of this List of Migratory Birds. In keeping with the increasing numbers of study areas on which taxonomy relies, the committee incorporates expertise in phylogenetics, genomics, vocalizations, morphology, behavior, and geographical distribution, as well as general ornithological knowledge. The AOS Checklist contains all bird species that have occurred in North America from the Arctic through Panama, including the West Indies and the Hawaiian Islands, and includes

distributional information for each species, which specifies whether the species is known to occur in the United States. The committee also keeps and updates a list of species known to occur in the United States.

For the species that occur outside the geographic area covered by the AOS Checklist, we relied primarily on the Clements Checklist of Birds of the World (Clements Checklist) (Clements et al. 2007), the Clements Checklist 2017 installment of updates and corrections (Clements et al. 2017), and other peer-reviewed literature where appropriate. The Clements Checklist is a list of all known bird species in the world and is maintained and updated annually by the Cornell Laboratory of Ornithology (CLO). The CLO relies on different regional ornithological authorities to compile the list, using the AOS for the western hemisphere. Taxonomy and nomenclature are the primary focus of the Clements Checklist, but range descriptions are maintained and updated based on the best available information and do not include records of vagrancy.

Although the Service primarily relies on the above sources, when informed taxonomic opinion or documented natural distribution is inconsistent or controversial, the Service evaluates available published and unpublished information and comes to its own conclusions regarding the validity of taxa and records of distribution.

What criteria are used to identify individual species protected by the MBTA?

A species qualifies for protection under the MBTA by meeting one or more of the following criteria:

(1) It occurs in the United States or U.S. territories as the result of natural biological or ecological processes and is currently, or was previously listed as, a species or part of a family protected by one of the four international treaties or their amendments. Any species that occurs in the United States or U.S. territories solely as a result of intentional or unintentional human-assisted introduction does not qualify for the MBTA list, regardless of whether the family the species belongs to is listed in any of the treaties, unless:

- It was native to the United States or its territories and extant in 1918;
- It was extirpated after 1918 throughout its range in the United States and its territories; and
- After such extirpation, it was reintroduced in the United States or its territories as part of a program carried out by a Federal agency.

(2) Revised taxonomy results in it being newly split from a species that was previously on the list, and the new species occurs in the United States or U.S. territories as the result of natural biological or ecological processes. If a newly recognized native species is considered extinct (following the classification of the AOS) or, for species not covered by the AOS, the Clements Checklist or peer-reviewed literature), that species will still be included if either of the following criteria apply:

- The species resembles extant species included in the list that may be affected by trade if the species is not included; or
- Not including the species may create difficulties implementing the MBTA and its underlying Conventions.

(3) New evidence exists for its natural occurrence in the United States or U.S. territories resulting from natural distributional changes and the species occurs in a protected family. Records must be documented, accepted, and published by the AOS committee. For the U.S. Pacific territories that fall outside the geographic scope of the AOS and for which there is no identified ornithological authority, new evidence of a species' natural occurrence will be based on the Clements Checklist and then published peer-reviewed literature, in that order.

In accordance with the Migratory Bird Treaty Reform Act of 2004 (MBTRA) (Pub. L. 108–447, 118 Stat. 2809, 3071–72), we only include migratory bird species that are native to the United States or U.S. territories. A native migratory bird species is one that is present as a result of natural biological or ecological processes. The list at 50 CFR 10.13 does not include nonnative species that occur in the United States or U.S. territories solely as a result of intentional or unintentional human-assisted introduction(s). Elsewhere in today's **Federal Register**, we publish a list of nonnative bird species that are not protected under the MBTA.

How do the changes affect the List of Migratory Birds?

Several taxonomic changes were made at the Order and Family level by the AOS since our 2013 publication of the list (78 FR 65844; November 1, 2013). These changes affect the inclusion and taxonomic order of species on this list. Specifically, the Order Cathartiformes (New World vultures) was split from the Accipitriformes (diurnal birds of prey). Cathartiformes now includes the Family Cathartidae (vultures and California Condor, *Gymnogyps californianus*). At the Family level, the Oceanitidae (southern storm-petrels) was split from the Hydrobatidae (northern storm-petrels), the Tityridae (becards and tityras) was split from the Tyrannidae (tyrant flycatchers), the Passerellidae (towhees, sparrows, and juncos) was split from the Emberizidae (buntings), and the Megaluridae (*Locustella* warblers) was renamed to Locustellidae. The Ptilogonatidae (silky-flycatchers) was renamed to the Ptiliogonatidae. The Nesospingidae (Puerto Rican Tanager) and the Spindalidae (*Spindalis* genus) were split from the Thraupidae (tanagers). The yellow-breasted chat was split from the Parulidae (wood-warblers) and placed into Icteriidae (chats). Within the Scolopacidae (sandpipers, phalaropes, and allies), new Subfamilies were created: The curlews were moved to Numeniinae; the godwits to Limosinae; and small sandpipers to Arenariinae and larger sandpipers to Tringinae, including phalaropes whose previous Subfamily Phalaropodinae was removed. Within the Accipitridae (hawks, eagles, and kites), new Subfamilies were created: The White-tailed Kite was move to Elaninae, Hook-billed and Swallow-tailed Kite were moved to Gypaetinae, and all other members of the family were moved to Accipitrinae. Within the Icteridae (blackbirds), new Subfamilies were created: Yellow-headed blackbird was moved to Xanthocephalinae; bobolink was moved to Dolichonychinae; meadowlarks were moved to Sturnellinae; orioles were moved to Icterinae; and blackbirds, cowbirds, and grackles were moved to Agelaiinae. In the Falconidae (caracaras and falcons), collared forest-falcon was moved into the new Subfamily Herpetotherinae, and the Subfamily Caracarinae was removed, with crested caracara moved to the Subfamily Falconinae. In the Fringillidae (finches and allies), the Hawaiian fringillids were moved from the Subfamily Drepanidinae to Carduelinae. The Old World flycatchers in the Turdidae (thrushes) were moved to the Muscicapidae (Old World flycatchers). Bananaquit was moved from the Coerebidae (a family not protected by MBTA) to the Thraupidae (tanagers and allies), which is a family protected by the MBTA. All other tanagers were also moved from the Emberizidae (sparrows) to the Thraupidae. Within Thraupidae, the seedeaters were moved into the Subfamily Sporophilinae, and bananaquit, grassquits, and bullfinches were moved into the Subfamily Coerebinae.

All species previously receiving protection under the MBTA that have

been moved to newly created Families continue to be protected under the MBTA.

The amendments affect a total of 252 species; 75 additions, 8 removals, and 178 name changes covering 169 species (9 species had both scientific and common name changes). The result is a net addition of 67 species to the List of Migratory Birds, increasing the number of species on the list from 1,026 to 1,093. Of the 75 species that we add to the list, 28 were previously covered under the MBTA as members of the same species (conspecific) of listed species. These amendments can be logically arranged in the following nine categories:

(1) Add 16 species that qualify for protection by the MBTA but have not been added previously. The addition of these species is the result of either accepting AOS taxonomic updates that were previously excluded or determinations of documented natural occurrence in the United States or U.S. territories. The species and relevant publication(s) are:

Pink-footed Goose, *Anser brachyrhynchus* (AOS 2019);

Cackling Goose, *Branta hutchinsii* (AOU 2004);

Long-tailed Koel, *Urodynamis taitensis* (Wiles 2005);

White-tailed Nightjar, *Hydropsalis cayennensis* (AOU 1983);

Vervain Hummingbird, *Mellisuga minima* (AOU 1983);

Kentish Plover, *Charadrius alexandrinus* (Enbring and Owen 1981);

Common Redshank, *Tringa totanus* (Wiles 2005);

Nazca Booby, *Sula granti* (AOS 2019);

Abbott's Booby, *Papasula abbotti* (Pratt et al. 2009);

Rufous Night-Heron, *Nycticorax caledonicus* (Glass et al. 1990);

Gray-faced Buzzard, *Butastur indicus* (Stinson et al. 1997);

Eastern Marsh-Harrier, *Circus spilonotus* (Wiles et al. 2000);

Amur Falcon, *Falco amurensis* (Stinson et al. 1991);

Eurasian Jackdaw, *Corvus monedula* (AOU 1998);

Redwing, *Turdus iliacus* (AOU 1998);

Common Kingfisher, *Alcedo atthis* (Wiles et al. 1993).

(2) Correct the spelling of three common or scientific names on the alphabetized list:

Eared Quetzel, *Euptilotis neoxenus,* becomes Eared Quetzal

Red-footed falcon, *Flaco vespertinus,* becomes *Falco vespertinus*

Piratic Flycatcher, *Legatus leucophalus* becomes *Legatus leucophaius*

(3) Correct the spelling of three common or scientific names on the taxonomic list:

Eared Quetzel, *Euptilotis neoxenus,* becomes Eared Quetzal

White-crested Eleania, *Elaenia albiceps* becomes White-crested Elaenia

Piratic Flycatcher, *Legatus leucophalus* becomes *Legatus leucophaius*

(4) Add 30 species based on review and acceptance by the AOS (since 2010) or by other appropriate ornithological authorities of new distributional records documenting their occurrence in the United States or U.S. territories. These species belong to families covered by at least one of the four international conventions, and all are considered to be of accidental or casual occurrence. For each species, we list the State in which it has been recorded plus the relevant publication:

Common Scoter, *Melanitta nigra*—California and Oregon (AOS 2017);

Amethyst-throated Mountain-gem, *Lampornis amethystinus*—Texas (AOS 2018, AOS 2019);

Rufous-necked Wood-Rail, *Aramides axillaris*—New Mexico (AOU 2016);

Solitary Snipe, *Gallinago solitaria*—Alaska (AOU 2011);

Chatham Albatross, *Thalassarche eremita*—California (AOS 2017);

European Storm-Petrel, *Hydrobates pelagicus*—North Carolina and Florida (AOS 2019);

Providence Petrel, *Pterodroma solandri*—Alaska (AOU 2013);

Fea's Petrel, *Pterodroma feae*—North Carolina, Georgia, Virginia (AOU 2013);

Zino's Petrel, *Pterodroma madeira*—North Carolina, (AOU 2015);

White-chinned Petrel, *Procellaria aequinoctialis*—Texas, California, Maine (AOU 2011);

Bryan's Shearwater, *Puffinus bryani*—Hawaii (AOU 2012);

Bare-throated Tiger-Heron, *Tigrisoma mexicanum*—Texas (AOU 2011);

Double-toothed Kite, *Harpagus bidentatus*—Texas (AOU 2013);

Great Black Hawk, *Buteogallus urubitinga*—Texas and Maine (AOS 2019);

Amazon Kingfisher, *Chloroceryle amazona*—Texas (AOU 2011);

Gray-collared Becard, *Pachyramphus major*—Arizona (AOU 2011);

Pine Flycatcher, *Empidonax affinis*—Arizona (AOS 2018);

Cuban Vireo, *Vireo gundlachii*—Florida (AOS 2018);

Common Chiffchaff, *Phylloscopus collybita*—Alaska (AOU 2014);

Thick-billed Warbler, *Arundinax aedon*—Alaska (AOS 2019);

Blyth's Reed Warbler, *Acrocephalus dumetorum*—Alaska (AOU 2017);

River Warbler, *Locustella fluviatilis*—Alaska (AOS 2019);

European Robin, *Erithacus rubecula*—Pennsylvania (AOS 2019);

Common Redstart, *Phoenicurus phoenicurus*—Alaska (AOU 2015);

Pied Wheatear, *Oenanthe pleschanka*—Alaska (AOS 2019);

Brown-backed Solitaire, *Myadestes occidentalis*—Arizona (AOU 2011);

Pallas's Rosefinch, *Carpodacus roseus*—Alaska (AOS 2019);

Asian Rosy-Finch, *Leucosticte arctoa*—Alaska (AOU 2013);

Black-backed Oriole, *Icterus abeillei*—Pennsylvania, Massachusetts, Connecticut (AOS 2019);

Red-legged Honeycreeper, *Cyanerpes cyaneus*—Texas (AOS 2017).

(5) Add one species because of recent taxonomic changes transferring a species in a Family formerly not protected by the MBTA (Coerebidae) into a Family protected under the MBTA (Thraupidae). We reference the AOS publication supporting the change:

Bananaquit, *Coereba flaveola* (AOU 2015).

(6) Add 28 species because of recent taxonomic changes in which taxa formerly treated as conspecific have been determined to be distinct species. Given that each of these species was formerly treated as conspecific with a listed species, these additions do not change the protective status of any of these taxa, only the names by which they are known. In each case, we reference the AOS or relevant publication supporting the change:

Stejneger's Scoter, *Melanitta stejnegeri*—formerly considered conspecific with Velvet Scoter, *Melanitta fusca* (AOS 2019);

Ridgway's Rail, *Rallus obsoletus*—formerly considered conspecific with Clapper Rail, *Rallus longirostris* (AOU 2014);

Common Gallinule, *Gallinula galeata*—formerly considered conspecific with Common Moorhen, *Gallinula chloropus* (AOU 2011);

Scripps's Murrelet, *Synthliboramphus scrippsi*—formerly considered conspecific with Xantus's Murrelet, *Synthliboramphus hypoleucus* (AOU 2012);

Salvin's Albatross, *Thalassarche salvini*—formerly considered conspecific with Shy Albatross, *Thalassarche cauta* (AOU 2014);

Gray-faced Petrel, *Pterodroma gouldi*—formerly considered conspecific with Great-winged Petrel, *Pterodroma macroptera* (AOS 2019);

Trindade Petrel, *Pterodroma arminjoniana* —formerly considered conspecific with Herald Petrel, *Pterodroma heraldica* (AOU 2015);

Newell's Shearwater, *Puffinus newelli*—formerly considered conspecific with Townsend's Shearwater, *Puffinus auricularis* (AOU 2015);

Barolo Shearwater, *Puffinus baroli*—formerly considered conspecific with Little Shearwater, *Puffinus assimilis* (AOU 2013);

Townsend's Storm-Petrel, *Hydrobates socorroensis*—formerly considered conspecific with Leach's Storm-Petrel, *Oceanodroma leucorhous* (AOU 2016, AOS 2019);

Northern Boobook, *Ninox japonica*—formerly considered conspecific with Brown Hawk-Owl, *Ninox scutulata* (AOU 2014);

Pacific Kingfisher, *Todiramphus sacer*—formerly considered conspecific with Collared Kingfisher, *Todiramphus chloris* (Clements et al. 2015);

Mariana Kingfisher, *Todiramphus albicilla*—formerly considered conspecific with Collared Kingfisher, *Todiramphus chloris* (Clements et al. 2015);

Woodhouse's Scrub-Jay, *Aphelocoma woodhouseii*—formerly considered conspecific with Western Scrub-Jay, *Aphelocoma californica* (AOU 2016);

Kamchatka Leaf Warbler, *Phylloscopus examinandus*—formerly considered conspecific with Arctic Warbler, *Phylloscopus borealis* (AOU 2014);

Saipan Reed Warbler, *Acrocephalus hiwae*—formerly considered conspecific with Nightingale Reed Warbler, *Acrocephalus luscinius* (Clements et al. 2013);

Aguiguan Reed Warbler, *Acrocephalus nijoi*—formerly considered conspecific with Nightingale Reed Warbler, *Acrocephalus luscinius* (Clements et al. 2013);

Pagan Reed Warbler, *Acrocephalus yamashinae*—formerly considered conspecific with Nightingale Reed Warbler, *Acrocephalus luscinius* (Clements et al. 2013);

Laysan Honeycreeper, *Himatione fraithii*— formerly considered conspecific with Apapane, *Himatione sanguinea* (AOU 2015)

Kauai Nukupu'u, *Hemignathus hanapepe*—formerly considered conspecific with Nukupuu, *Hemignathus lucidus* (AOU 2015);

Maui Nukupu'u, *Hemignathus affins*—formerly considered conspecific with Nukupuu, *Hemignathus lucidus* (AOU 2015);

Kauai 'Akialoa, *Akialoa stejnegeri*—formerly considered conspecific with Greater Akialoa, *Hemignathus ellisianus* (AOU 2015);

Maui Nui 'Akialoa, *Akialoa lanaiensis*—formerly considered conspecific with Greater Akialoa, *Hemignathus ellisianus* (AOU 2015);

O'ahu 'Akepa, *Loxops wolstenholmei*—formerly considered conspecific with Akepa, *Loxops coccineus* (AOU 2015);

Maui 'Akepa, *Loxops ochraceus*—formerly considered conspecific with Akepa, *Loxops coccineus* (AOU 2015);

Cassia Crossbill, *Loxia sinesciuris*—formerly considered conspecific with Red Crossbill, *Loxia curvirostra* (AOS 2017);

Sagebrush Sparrow, *Artemisiospiza nevadensis*—formerly considered conspecific with Sage Sparrow, *Amphispiza belli* (AOU 2013);

Morelet's Seedeater, *Sporophila morelleti*—formerly considered conspecific with White-collared Seedeater, *Sporophila torqueola* (AOS 2018).

(7) Remove eight species based on revised taxonomic treatments, either because a species is taxonomically merged with another species, either on or off the list; a species previously on the list is taxonomically split into multiple species and the new species is not known to occur within the United States or U.S. territories; or the species is considered extinct (following the classification of the AOS or, for species not covered by the AOS, the Clements Checklist or peer-reviewed literature) unless any of the following criteria apply: It is protected under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; 27 U.S.T. 1087); it resembles extant species included in the list that may be affected by its removal; or its removal would create difficulties implementing the MBTA and its underlying Conventions. In each case, we reference the publication supporting these changes:

Thayer's Gull, *Larus thayeri,* now a subspecies of Iceland Gull, *Larus glaucoides* (AOS 2017);

Great-winged Petrel, *Pterodroma macroptera* (AOS 2019);

Townsend's Shearwater, *Puffinus auricularis* (AOU 2015);

Little Shearwater, *Puffinus assimilis* (AOU 2015);

Brown Hawk-Owl, *Ninox scutulata* (AOU 2014);

Caribbean Coot, *Fulica caribaea* (AOU 2016);

Collared Kingfisher, *Todiramphus chloris* (Clements et al. 2015);

White-collared Seedeater, *Sporophila torqueola* (AOS 2018).

(8) Revise the common (English) names of 43 species to conform to the most recent nomenclatural treatment as described in AOU publications 2011 through 2017, AOS 2018 and 2019 and Clements et al. (2017). Hawaiian species names are modified to official Hawaiian spelling, following the Pukui-Elbert Hawaiian Dictionary, adding the diacritical marks to the common names where applicable. The Government Publishing Office Style Manual requires the words Hawaii and Kauai to be spelled without the diacritical mark. These revisions do not change the protective status of any of these taxa, only the names by which they are known. In each case, the update is described in the table, below.

(9) Revise the scientific names of 135 species to conform to the most recent nomenclatural treatment as described in AOU publications 2011 through 2017, AOS 2018 and 2019 and Clements et al. (2017). These revisions do not change the protective status of any of these taxa, only the names by which they are known. In each case, the update is described in the table, below.

Table of name changes, as described in categories 8 and 9, above, follows. Table is organized following AOS (2019) taxonomic order. The relevant AOS publication is provided. Hawaiian common name changes are indicated with a (—).

Publication source and year	Previous common name	Current common name
AOU 2004	Canada Goose (including *Branta hutchinsii*), *Branta canadensis*.	Canada Goose, *Branta canadensis*.
AOS 2019	Common Ground-Dove, *Columbina passerina*	Common Ground Dove, *Columbina passerina*.
AOS 2019	Ruddy Ground-Dove, *Columbina talpacoti*	Ruddy Ground Dove, *Columbina talpacoti*.
AOU 2016	Green Violetear, *Colibri thalassinus*	Mexican Violetear, *Colibri thalassinus*.
AOS 2017	Magnificent hummingbird, *Eugenes fulgens*	Rivoli's Hummingbird, *Eugenes fulgens*.
AOS 2019	Blue-throated Hummingbird, *Lampornis clemenciae*	Blue-throated Mountain-gem, *Lampornis clemenciae*.
AOU 2012	Xantus's Murrelet, *Synthliboramphus hypoleucus*	Guadalupe Murrelet, *Synthliboramphus hypoleucus*.

Publication source and year	Previous common name	Current common name
AOU 2014	Shy Albatross, *Thalassarche cauta*	White-capped Albatross, *Thalassarche cauta*.
AOU 2015	Herald Petrel, *Pterodroma arminjoniana*	Trindade Petrel, *Pterodroma arminjoniana*.
Clements et al. 2000	Pacific Reef-Egret, *Egretta sacra*	Pacific Reef-Heron, *Egretta sacra*.
AOU 2012	Gray Frog-Hawk, *Accipiter soloensis*	Chinese Sparrowhawk, *Accipiter soloensis*.
AOU 2014	Common Black-Hawk, *Buteogallus anthracinus*	Common Black Hawk, *Buteogallus anthracinus*.
AOS 2018	Gray Jay, *Perisoreus canadensis*	Canada Jay, *Perisoreus canadensis*.
AOU 2016	Western Scrub-Jay, *Aphelocoma californica*	California Scrub-Jay, *Aphelocoma californica*.
AOU 2016	Eurasian Sky Lark, *Alauda arvensis*	Eurasian Skylark, *Alauda arvensis*.
AOU 2014	Pallas's Leaf-Warbler, *Phylloscopus proregulus*	Pallas's Leaf Warbler, *Phylloscopus proregulus*.
—	Kamao, *Myadestes myadestinus*	Kāmaʻo, *Myadestes myadestinus*.
—	Olomao, *Myadestes lanaiensis*	Olomaʻo, *Myadestes lanaiensis*.
—	Omao, *Myadestes obscurus*	ʻŌmarʻo, *Myadestes obscurus*.
AOS 2017	Le Conte's Thrasher, *Toxostoma lecontei*	LeConte's Thrasher, *Toxostoma lecontei*.
AOU 2015	Nukupuu, *Hemignathus lucidus*	Oʻahu Nukupuʻu, *Hemignathus lucidus*.
—	Poo-uli, *Melamprosops phaeosoma*	Poʻouli, *Melamprosops phaeosoma*.
—	Akikiki, *Oreomystis bairdi*	ʻAkikiki, *Oreomystis bairdi*.
—	Oahu Alauahio, *Paroreomyza maculata*	Oʻahu ʻAlauahio, *Paroreomyza maculata*.
—	Kakawahie, *Paroreomyza flammea*	Kākāwahie, *Paroreomyza flammea*.
—	Maui Alauahio, *Paroreomyza montana*	Maui ʻAlauahio, *Paroreomyza montana*.
—	Akohekohe, *Palmeria dolei*	ʻAkohekohe, *Palmeria dolei*.
—	Apapane, *Himatione sanguinea*	ʻApapane, *Himatione sanguinea*.
—	Iiwi, *Drepanis coccinea*	ʻIʻiwi, *Drepanis coccinea*.
—	Ou, *Psittirostra psittacea*	ʻŌʻū, *Psittirostra psittacea*.
—	Anianiau, *Magumma parva*	ʻAnianiau, *Magumma parva*.
—	Akekee, *Loxops caeruleirostris*	ʻAkekeʻe, *Loxops caeruleirostris*.
AOU 2015	Akepa, *Loxops coccineus*	Hawaii ʻAkepa, *Loxops coccineus*.
AOS 2017	Le Conte's Sparrow, *Ammodramus leconteii*	LeConte's Sparrow, *Ammodramus leconteii*.
AOS 2017	Emperor Goose, *Chen canagica*	Emperor Goose, *Anser canagicus*.
AOS 2017	Snow Goose, *Chen caerulescens*	Snow Goose, *Anser caerulescens*.
AOS 2017	Ross's Goose, *Chen rossii*	Ross's Goose, *Anser rossii*.
AOS 2017	Baikal Teal, *Anas formosa*	Baikal Teal, *Sibirionetta formosa*.
AOS 2017	Garganey, *Anas querquedula*	Garganey, *Spatula querquedula*.
AOS 2017	Blue-winged Teal, *Anas discors*	Blue-winged Teal, *Spatula discors*.
AOS 2017	Cinnamon Teal, *Anas cyanoptera*	Cinnamon Teal, *Spatula cyanoptera*.
AOS 2017	Northern Shoveler, *Anas clypeata*	Northern Shoveler, *Spatula clypeata*.
AOS 2017	Gadwall, *Anas strepera*	Gadwall, *Mareca strepera*.
AOS 2017	Falcated Duck, *Anas falcata*	Falcated Duck, *Mareca falcata*.
AOS 2017	Eurasian Wigeon, *Anas penelope*	Eurasian Wigeon, *Mareca penelope*.
AOS 2017	American Wigeon, *Anas americana*	American Wigeon, *Mareca americana*.
AOS 2019	White-winged Scoter, *Melanitta fusca*	White-winged Scoter, *Melanitta deglandi*.
Clements et al. 2017	White-throated Ground-Dove, *Gallicolumba xanthonura*	White-throated Ground-Dove, *Alopecoenas xanthonurus*.
Clements et al. 2010	Hodgson's Hawk-Cuckoo, *Cuculus fugax*	Hodgson's Hawk-Cuckoo, *Hierococcyx nisicolor*.
AOU 2012	Chuck-will's-widow, *Caprimulgus carolinensis*	Chuck-will's-widow, *Antrostomus carolinensis*.
AOU 2012	Buff-collared Nightjar, *Caprimulgus ridgwayi*	Buff-collared Nightjar, *Antrostomus ridgwayi*.
AOU 2012	Eastern Whip-poor-will, *Caprimulgus vociferus*	Eastern Whip-poor-will, *Antrostomus vociferus*.
AOU 2012	Mexican Whip-poor-will, *Caprimulgus arizonae*	Mexican Whip-poor-will, *Antrostomus arizonae*.
AOU 2012	Puerto Rican Nightjar, *Caprimulgus noctitherus*	Puerto Rican Nightjar, *Antrostomus noctitherus*.
AOS 2018	Gray Nightjar, *Caprimulgus indicus*	Gray Nightjar, *Caprimulgus jotaka*.
AOS 2019	Bahama Woodstar, *Calliphlox evelynae*	Bahama Woodstar, *Nesophlox evelynae*.
AOU 2012	Calliope Hummingbird, *Stellula calliope*	Calliope Hummingbird, *Selasphorus calliope*.
AOU 2014	Clapper Rail, *Rallus longirostris*	Clapper Rail, *Rallus crepitans*.
AOU 2016	Yellow-breasted Crake, *Porzana flaviventer*	Yellow-breasted Crake, *Hapalocrex flaviventer*.
AOU 2012	Purple Gallinule, *Porphyrio martinica*	Purple Gallinule, *Porphyrio martinicus*.
AOU 2016	Sandhill Crane, *Grus canadensis*	Sandhill Crane, *Antigone canadensis*.
AOU 2011	Snowy Plover, *Charadrius alexandrinus*	Snowy Plover, *Charadrius nivosus*.
AOU 2013	Surfbird, *Aphriza virgata*	Surfbird, *Calidris virgata*.
AOU 2013	Ruff, *Philomachus pugnax*	Ruff, *Calidris pugnax*.
AOU 2013	Broad-billed Sandpiper, *Limicola falcinellus*	Broad-billed Sandpiper, *Calidris falcinellus*.
AOU 2013	Spoon-billed Sandpiper, *Eurynorhynchus pygmeus*	Spoon-billed Sandpiper, *Calidris pygmea*.
AOU 2013	Buff-breasted Sandpiper, *Tryngites subruficollis*	Buff-breasted Sandpiper, *Calidris subruficollis*.
AOS 2017	Blue-gray Noddy, *Procelsterna cerulea*	Blue-gray Noddy, *Anous ceruleus*.
AOU 2003	Whiskered Tern, *Chlidonias hybridus*	Whiskered Tern, *Chlidonias hybrida*.
AOS 2019	Fork-tailed Storm-Petrel, *Oceanodroma furcata*	Fork-tailed Storm-Petrel, *Hydrobates furcatus*.
AOS 2019	Ringed Storm-Petrel, *Oceanodroma hornbyi*	Ringed Storm-Petrel, *Hydrobates hornbyi*.
AOS 2019	Swinhoe's Storm-Petrel, *Oceanodroma monorhis*	Swinhoe's Storm-Petrel, *Hydrobates monorhis*.
AOS 2019	Leach's Storm-Petrel, *Oceanodroma leucorhoa*	Leach's Storm-Petrel, *Hydrobates leucorhous*.
AOS 2019	Townsend's Storm-Petrel, *Oceanodroma socorroensis*	Townsend's Storm-Petrel, *Hydrobates socorroensis*.
AOS 2019	Ashy Storm-Petrel, *Oceanodroma homochroa*	Ashy Storm-Petrel, *Hydrobates homochroa*.
AOS 2019	Band-rumped Storm-Petrel, *Oceanodroma castro*	Band-rumped Storm-Petrel, *Hydrobates castro*.
AOS 2019	Wedge-rumped Storm-Petrel, *Oceanodroma tethys*	Wedge-rumped Storm-Petrel, *Hydrobates tethys*.
AOS 2019	Black Storm-Petrel, *Oceanodroma melania*	Black Storm-Petrel, *Hydrobates melania*.
AOS 2019	Tristram's Storm-Petrel, *Oceanodroma tristrami*	Tristram's Storm-Petrel, *Hydrobates tristrami*.
AOS 2019	Least Storm-Petrel, *Oceanodroma microsoma*	Least Storm-Petrel, *Hydrobates microsoma*.

Publication source and year	Previous common name	Current common name
AOS 2018	Tahiti Petrel, *Pterodroma rostrata*	Tahiti Petrel, *Pseudobulweria rostrata*.
AOU 2016	Wedge-tailed Shearwater, *Puffinus pacificus*	Wedge-tailed Shearwater, *Ardenna pacifica*.
AOU 2016	Buller's Shearwater, *Puffinus bulleri*	Buller's Shearwater, *Ardenna bulleri*.
AOU 2016	Short-tailed Shearwater, *Puffinus tenuirostris*	Short-tailed Shearwater, *Ardenna tenuirostris*.
AOU 2016	Sooty Shearwater, *Puffinus griseus*	Sooty Shearwater, *Ardenna grisea*.
AOU 2016	Great Shearwater, *Puffinus gravis*	Great Shearwater, *Ardenna gravis*.
AOU 2016	Pink-footed Shearwater, *Puffinus creatopus*	Pink-footed Shearwater, *Ardenna creatopus*.
AOU 2016	Flesh-footed Shearwater, *Puffinus carneipes*	Flesh-footed Shearwater, *Ardenna carneipes*.
AOS 2017	Intermediate Egret, *Mesophoyx intermedia*	Intermediate Egret, *Ardea intermedia*.
AOS 2017	Northern Harrier, *Circus cyaneus*	Northern Harrier, *Circus hudsonius*.
AOU 2015	Roadside Hawk, *Buteo magnirostris*	Roadside Hawk, *Rupornis magnirostris*.
AOU 2015	White-tailed Hawk, *Buteo albicaudatus*	White-tailed Hawk, *Geranoaetus albicaudatus*.
AOS 2018	Downy Woodpecker, *Picoides pubescens*	Downy Woodpecker, *Dryobates pubescens*.
AOS 2018	Nuttall's Woodpecker, *Picoides nuttallii*	Nuttall's Woodpecker, *Dryobates nuttallii*.
AOS 2018	Ladder-backed Woodpecker, *Picoides scalaris*	Ladder-backed Woodpecker, *Dryobates scalaris*.
AOS 2018	Red-cockaded Woodpecker, *Picoides borealis*	Red-cockaded Woodpecker, *Dryobates borealis*.
AOS 2018	Hairy Woodpecker, *Picoides villosus*	Hairy Woodpecker, *Dryobates villosus*.
AOS 2018	White-headed Woodpecker, *Picoides albolarvatus*	White-headed Woodpecker, *Dryobates albolarvatus*.
AOS 2018	Arizona Woodpecker, *Picoides arizonae*	Arizona Woodpecker, *Dryobates arizonae*.
AOU 2013	Flammulated Owl, *Otus flammeolus*	Flammulated Owl, *Psiloscops flammeolus*.
AOS 2017	Northern Shrike, *Lanius excubitor*	Northern Shrike, *Lanius borealis*.
AOU 2011	Mexican Jay, *Aphelocoma ultramarina*	Mexican Jay, *Aphelocoma wollweberi*.
AOU 2012	Sinaloa Wren, *Thryothorus sinaloa*	Sinaloa Wren, *Thryophilus sinaloa*.
AOS 2018	Siberian Blue Robin, *Luscinia cyane*	Siberian Blue Robin, *Larvivora cyane*.
AOS 2018	Rufous-tailed Robin, *Luscinia sibilans*	Rufous-tailed Robin, *Larvivora sibilans*.
AOS 2018	Bluethroat, *Luscinia svecica*	Bluethroat, *Cyanecula svecica*.
AOS 2018	Siberian Rubythroat, *Luscinia calliope*	Siberian Rubythroat, *Calliope calliope*.
Clements et al. 2015	Chestnut-cheeked Starling, *Sturnus phillippensis*	Chestnut-cheeked Starling, *Agropsar philippensis*.
Clements et al. 2015	White-cheeked Starling, *Sturnus cineraceus*	White-cheeked Starling, *Spodiopsar cineraceus*.
AOU 2013	Gray Silky-flycatcher, *Ptilogonys cinereus*	Gray Silky-flycatcher, *Ptiliogonys cinereus*.
AOU 2012	House Finch, *Carpodacus mexicanus*	House Finch, *Haemorhous mexicanus*.
AOU 2012	Purple Finch, *Carpodacus purpureus*	Purple Finch, *Haemorhous purpureus*.
AOU 2012	Cassin's Finch, *Carpodacus cassinii*	Cassin's Finch, *Haemorhous cassinii*.
AOU 2015	American Tree Sparrow, *Spizella arborea*	American Tree Sparrow, *Spizelloides arborea*.
AOS 2018	LeConte's Sparrow, *Ammodramus leconteii*	LeConte's Sparrow, *Ammospiza leconteii*.
AOS 2018	Seaside Sparrow, *Ammodramus maritima*	Seaside Sparrow, *Ammospiza maritima*.
AOS 2018	Nelson's Sparrow, *Ammodramus nelsoni*	Nelson's Sparrow, *Ammospiza nelsoni*.
AOS 2018	Saltmarsh Sparrow, *Ammodramus caudacuta*	Saltmarsh Sparrow, *Ammospiza caudacuta*.
AOS 2018	Baird's Sparrow, *Ammodramus bairdii*	Baird's Sparrow, *Centronyx bairdii*.
AOS 2018	Henslow's Sparrow, *Ammodramus henslowii*	Henslow's Sparrow, *Centronyx henslowii*.
AOS 2019	Tennessee Warbler, *Oreothlypis peregrina*	Tennessee Warbler, *Leiothlypis peregrina*.
AOS 2019	Orange-crowned Warbler, *Oreothlypis celata*	Orange-crowned Warbler, *Leiothlypis celata*.
AOS 2019	Colima Warbler, *Oreothlypis crissalis*	Colima Warbler, *Leiothlypis crissalis*.
AOS 2019	Lucy's Warbler, *Oreothlypis luciae*	Lucy's Warbler, *Leiothlypis luciae*.
AOS 2019	Nashville Warbler, *Oreothlypis ruficapilla*	Nashville Warbler, *Leiothlypis ruficapilla*.
AOS 2019	Virginia's Warbler, *Oreothlypis virginiae*	Virginia's Warbler, *Leiothlypis virginiae*.
AOU 2011	MacGillivray's Warbler, *Oporornis tolmiei*	MacGillivray's Warbler, *Geothlypis tolmiei*.
AOU 2011	Mourning Warbler, *Oporornis philadelphia*	Mourning Warbler, *Geothlypis philadelphia*.
AOU 2011	Kentucky Warbler, *Oporornis formosus*	Kentucky Warbler, *Geothlypis formosa*.
AOU 2011	Elfin-woods Warbler, *Dendroica angelae*	Elfin-woods Warbler, *Setophaga angelae*.
AOU 2011	Hooded Warbler, *Wilsonia citrina*	Hooded Warbler, *Setophaga citrina*.
AOU 2011	Kirtland's Warbler, *Dendroica kirtlandii*	Kirtland's Warbler, *Setophaga kirtlandii*.
AOU 2011	Cape May Warbler, *Dendroica tigrina*	Cape May Warbler, *Setophaga tigrina*.
AOU 2011	Cerulean Warbler, *Dendroica cerulea*	Cerulean Warbler, *Setophaga cerulea*.
AOU 2011	Northern Parula, *Parula americana*	Northern Parula, *Setophaga americana*.
AOU 2011	Tropical Parula, *Parula pitiayumi*	Tropical Parula, *Setophaga pitiayumi*.
AOU 2011	Magnolia Warbler, *Dendroica magnolia*	Magnolia Warbler, *Setophaga magnolia*.
AOU 2011	Bay-breasted Warbler, *Dendroica castanea*	Bay-breasted Warbler, *Setophaga castanea*.
AOU 2011	Blackburnian Warbler, *Dendroica fusca*	Blackburnian Warbler, *Setophaga fusca*.
AOU 2011	Yellow Warbler, *Dendroica petechia*	Yellow Warbler, *Setophaga petechia*.
AOU 2011	Chestnut-sided Warbler, *Dendroica pensylvanica*	Chestnut-sided Warbler, *Setophaga pensylvanica*.
AOU 2011	Blackpoll Warbler, *Dendroica striata*	Blackpoll Warbler, *Setophaga striata*.
AOU 2011	Black-throated Blue Warbler, *Dendroica caerulescens*	Black-throated Blue Warbler, *Setophaga caerulescens*.
AOU 2011	Palm Warbler, *Dendroica palmarum*	Palm Warbler, *Setophaga palmarum*.
AOU 2011	Pine Warbler, *Dendroica pinus*	Pine Warbler, *Setophaga pinus*.
AOU 2011	Yellow-rumped Warbler, *Dendroica coronata*	Yellow-rumped Warbler, *Setophaga coronata*.
AOU 2011	Yellow-throated Warbler, *Dendroica dominica*	Yellow-throated Warbler, *Setophaga dominica*.
AOU 2011	Prairie Warbler, *Dendroica discolor*	Prairie Warbler, *Setophaga discolor*.
AOU 2011	Adelaide's Warbler, *Dendroica adelaidae*	Adelaide's Warbler, *Setophaga adelaidae*.
AOU 2011	Grace's Warbler, *Dendroica graciae*	Grace's Warbler, *Setophaga graciae*.
AOU 2011	Black-throated Gray Warbler, *Dendroica nigrescens*	Black-throated Gray Warbler, *Setophaga nigrescens*.
AOU 2011	Townsend's Warbler, *Dendroica townsendi*	Townsend's Warbler, *Setophaga townsendi*.
AOU 2011	Hermit Warbler, *Dendroica occidentalis*	Hermit Warbler, *Setophaga occidentalis*.

Publication source and year	Previous common name	Current common name
AOU 2011	Golden-cheeked Warbler, *Dendroica chrysoparia*	Golden-cheeked Warbler, *Setophaga chrysoparia*.
AOU 2011	Black-throated Green Warbler, *Dendroica virens*	Black-throated Green Warbler, *Setophaga virens*.
AOU 2011	Fan-tailed Warbler, *Euthlypis lachrymosa*	Fan-tailed Warbler, *Basileuterus lachrymosus*.
AOU 2011	Canada Warbler, *Wilsonia canadensis*	Canada Warbler, *Cardellina canadensis*.
AOU 2011	Wilson's Warbler, *Wilsonia pusilla*	Wilson's Warbler, *Cardellina pusilla*.
AOS 2019	Black-faced Grassquit, *Tiaris bicolor*	Black-faced Grassquit, *Melanospiza bicolor*.
AOS 2018	Puerto Rican Bullfinch, *Loxigilla portoricensis*	Puerto Rican Bullfinch, *Melopyrrha portoricensis*.
Clements et al. 2017	Friendly Ground-Dove, *Gallicolumba stairi*	Shy Ground-Dove, *Alopecoenas stairi*.
Clements et al. 2006	Micronesian Kingfisher, *Todirhamphus cinnamominus*	Guam Kingfisher, *Todiramphus cinnamominus*.
Clements et al. 2006, 2017.	Nightingale Reed-Warbler, *Acrocephalus luscinia*	Nightingale Reed Warbler, *Acrocephalus luscinius*.
AOU 2015	Akiapolaau, *Hemignathus munroi*	ʻAkiapolaʻau, *Hemignathus wilsoni*.
AOU 2015	Greater Akialoa, *Hemignathus ellisianus*	Oʻahu ʻAkialoa, *Akialoa ellisiana*.
AOU 2015	Hawaii Amakihi, *Hemignathus virens*	Hawaii ʻAmakihi, *Chlorodrepanis virens*.
AOU 2015	Oahu Amakihi, *Hemignathus flavus*	Oʻahu ʻAmakihi, *Chlorodrepanis flava*.
AOU 2015	Kauai Amakihi, *Hemignathus kauaiensis*	Kauai ʻAmakihi, *Chlorodrepanis stejnegeri*.
AOU 2012, 2013	Sage Sparrow, *Amphispiza belli*	Bell's Sparrow, *Artemisiospiza belli*.

How do the changes adopted in this rule differ from those described in the proposed rule?

On November 28, 2018, we published in the **Federal Register** (83 FR 61288) a proposed rule to revise the list of migratory birds at 50 CFR 10.13; we accepted public comments on the proposed rule for 60 days, ending January 28, 2019. Subsequently, on November 12, 2019, we published in the **Federal Register** (84 FR 60998) a revised proposed rule, and we accepted comments on our proposed revisions for 30 days, ending December 12, 2019. Taken together, our publications, the November 28, 2018, proposed rule, as revised by the November 12, 2019, revised proposed rule, include all the changes adopted in this rule with one exception: On the taxonomic list, we are correcting the scientific name of the Puerto Rican bullfinch from *Loxigilla portoricensis* to *Melopyrrha portoricensis.*

How is the List of Migratory Birds organized?

The species are listed in two formats to suit the needs of different segments of the public: Alphabetically in 50 CFR 10.13(c)(1) and taxonomically in 50 CFR 10.13(c)(2). In the alphabetical listing, species are listed by common (English) group names, with the scientific name of each species following the English group name. This format, similar to that used in modern telephone directories, is most useful to members of the lay public. In the taxonomic listing, species are listed in phylogenetic sequence by scientific name, with the English name following the scientific name. To help clarify species relationships, we also list the higher-level taxonomic categories of Order, Family, and Subfamily. This format follows the sequence adopted by the AOS (1998, 2019) and is most useful to ornithologists and other scientists.

What species are not protected by the Migratory Bird Treaty Act?

The MBTA does not apply to:

(1) Nonnative species introduced into the United States or U.S. territories by means of intentional or unintentional human assistance that belong to families or groups covered by the Canadian, Mexican, or Russian Conventions. Elsewhere in today's **Federal Register**, we publish the revised list of nonnative bird species that are not protected under the MBTA. Note, though, that native species introduced into parts of the United States where they are not native are still protected under the MBTA regardless of where they occur in the United States or U.S. territories (*e.g.,* cattle egrets in Hawaii).

(2) Species native or nonnative to the United States or U.S. territories that either belong to families or groups not referred to in the Canada, Mexico, and Russia Conventions or are not included by species name in the Japan Convention. This includes the Tinamidae (tinamous), Megapodiidae (megapodes), Cracidae (chachalacas), Odontophoridae (New World quail), Phasianidae (grouse, ptarmigan, and turkeys), Pteroclidae (sandgrouse), Heliornithidae (finfoots), Burhinidae (thick-knees), Glareolidae (pratincoles), Todidae (todies), Psittacidae (parrots), Psittaculidae (Old World parrots), Meliphagidae (honeyeaters), Dicruridae (drongos), Monarchidae (monarchs), Pycnonotidae (bulbuls), Scotocercidae (bush warblers and allies), Zosteropidae (white-eyes), Sturnidae (starlings, except as listed in Japanese treaty), Ploceidae (weavers), Estrildidae (estrildid finches), and Passeridae (Old World sparrows, including house or English sparrow), as well as numerous other families not represented in the United States or U.S. territories.

Summary of Comments and Responses

On November 28, 2018, we published in the **Federal Register** (83 FR 61288) a proposed rule to revise the list of migratory birds at 50 CFR 10.13; we accepted public comments on the proposed rule for 60 days, ending January 28, 2019. We received eight comments in response to the proposed rule; seven were from private individuals, one was from an organization. Subsequently, on November 12, 2019, we published in the **Federal Register** (84 FR 60998) a revised proposed rule, and we accepted comments on our proposed revisions for 30 days, ending December 12, 2019. We received two comments in response to the revised proposed rule; one was from a private individual, one was from an organization. The following text discusses the substantive comments we received and provides our responses.

Comment (1): One individual requested that the list be available in a more user-friendly format.

Response: As noted above, in the Code of Federal Regulations (CFR), the list is provided in two formats for different needs. One format is ordered alphabetically by group (English) name and the other is in taxonomic order. For informational purposes only, we also provide a downloadable list online at *https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php,* in a spreadsheet format that includes multiple fields to allow for easy sorting and searching for users comfortable working with this format.

Comment (2): One individual requested that we clarify why we are adding to the List the 16 species that we

say qualify for protection by the MBTA but have not been added previously.

Response: For this update, the Service reviewed previously excluded AOS taxonomic updates using contemporary scientific literature to make its determinations. For species that we are adding based on evidence of natural distribution in the United States or U.S. territories, the Service reviewed historical scientific literature prompted by recommendations made by Service staff with ornithological expertise and knowledge of species' natural distribution.

Comment (3): One individual commented on the importance of updating the List of Migratory Birds for the public to be informed of what species are protected and to provide clarification about the taxonomy of species.

Response: The Service agrees that it is important to maintain a current List of Migratory Birds that reflects the best available science and can inform the American public of the species that are protected by the MBTA.

Comment (4): One commenter made the following comments:

- The proposed action of the Service implicates the Just Compensation Clause of the Fifth Amendment; as a result, the action is not in compliance with Executive Order 12630 as it has significant takings implications.
- The Service has provided the public with no meaningful opportunity to comment due to incorrect citations.
- The Service has provided the public with no meaningful opportunity to comment because the correct citations are conclusory summations without details relating to the factual determinations.
- The Service has unlawfully delegated its decision-making authority to a private organization.
- The Service is unlawfully applying the MBTA by misinterpreting the plain language meaning of the term ''occurring.''

Response: Regarding the first bullet, there are no takings implications stemming from this rulemaking. Under 50 CFR 21.2, migratory birds that are lawfully acquired prior to the effective date of Federal protection under the MBTA (in this case, their addition to the List of Migratory Birds at 50 CFR 10.13) may continue to be possessed or transported without a permit. However, 50 CFR 21.2 prohibits import, export, purchase, sale, barter, or offer for purchase, sale, or barter of those species. The Supreme Court held in *Andrus* v. *Allard,* 444 U.S. 51, 65–68 (1979), that the prohibitions in 50 CFR 21.2 do not amount to a regulatory taking that requires compensation under the Just Compensation Clause of the Fifth Amendment.

Regarding the second bullet, we apologize for the incorrect citations in the November 28, 2018, proposed rule; they were corrected and described individually in the November 12, 2019, revised proposed rule, for which we accepted public comment for 30 days, and they are correct in this final rule.

Regarding the third and fourth bullets, which we combine because they are interrelated with regard to the process the Service follows for determining species protected by the MBTA, the Service must rely on accepted scientific authorities and best available science when feasible. The Service has determined that the checklist published by the AOS is the best available science and a primary resource from which to reference updates in taxonomy and natural distribution for the reasons outlined above under What Scientific Authorities Are Used to Amend the List of Migratory Birds? The Service reviews and makes its own determinations for inclusion and updates to the list of protected migratory bird species, as evidenced by the Service not recognizing ackling Gogose, *Branta hutchinsii,* as a distinct species for protection until this update when the AOU made this determination in its 2004 supplement (see our response to comments in 78 FR 65844, November 1, 2013, at p. 78 FR 65849). Copies of the AOS checklist and supplements are publicly available, and these publications cite published resources used in the committee deliberations that are also considered by the Service for this rulemaking. Persons wishing to obtain more information about deliberations and evidence used by the AOS in their determinations should contact AOS directly. The Service also solicits public comments through a proposed rule when we make revisions to the list of protected species to obtain any additional information the public wishes to provide to aid us in our decision-making.

Regarding the fifth bullet, the use of the word ''occurring'' is ambiguous in the legislative history, and there is no evidence that Congress was concerned with the number of records documenting a species' natural occurrence in the United States or U.S. Territories. There is also no established or accepted scientific process to determine a species is occurring in the United States or U.S. Territories based on an undefined threshold number of documented records. A single documented, reviewed, and accepted record of natural occurrence in the United States or U.S. Territories is thus the threshold to qualify a species for protection by the MBTA.

Required Determinations

Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 804(2)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic

impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities. This rule is an administrative action to update the list of migratory bird species protected under the Conventions. Consequently, we certify that this rule will not have a significant economic impact on a substantial number of small entities; therefore, a regulatory flexibility analysis is not required.

This rule is not a major rule under SBREFA (5 U.S.C. 804(2)). It will not have a significant impact on a substantial number of small entities.

a. This rule will not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. This rule is an administrative action to update the list of migratory bird species protected under the Conventions; it will not affect small government activities in any significant way.

b. This rule will not produce a Federal mandate of $100 million or greater in any year; *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

Under Executive Order 12630, this rule does not have significant takings implications. While certain activities that were previously unregulated will now be regulated, possession and transport of migratory bird species acquired prior to being added to the List of Migratory Birds in this rulemaking will remain unregulated under Federal law. Therefore, a takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a federalism summary impact statement under Executive Order 13132. It does not interfere with the States' ability to manage themselves or their funds. No significant economic impacts are expected to result from the updating of the list of migratory bird species.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA)

Given that the revision of 50 CFR 10.13 is strictly administrative in nature and will have no or minor environmental effects, it is categorically excluded from further NEPA requirements (43 CFR 46.210(i)).

Endangered Species Act (ESA)

Of the species on the List of Migratory Birds, 102 species, subspecies, or distinct population segments are also listed as endangered or threatened under section 4 of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*). No legal complications arise from the dual listing as the two lists are developed under separate authorities and for different purposes. Because this rule is strictly administrative in nature, it has no effect on endangered or threatened species. Thus, it does not require consultation under section 7 of the ESA.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The revisions to existing regulations in this rule are purely administrative in nature and do not interfere with the tribes' ability to manage themselves or their funds or to regulate migratory bird activities on tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 addressing regulations that significantly affect energy supply, distribution, or use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule will only affect the listing of protected species in the United States, it is not a significant regulatory action under Executive Order 12866, and does not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited is available on *http://www.regulations.gov* under Docket No. FWS–HQ–MB–2018–0047, and upon request (see **FOR FURTHER INFORMATION CONTACT**, above).

List of Subjects in Part 10

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

Regulation Promulgation

For the reasons discussed in the preamble, we amend title 50, chapter I, subchapter B, part 10 of the Code of Federal Regulations, as follows:

PART 10—GENERAL PROVISIONS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 668a–d, 703–712, 742a–j–l, 1361–1384, 1401–1407, 1531–1543, 3371–3378; 18 U.S.C. 42; 19 U.S.C. 1202.

■ 2. Amend § 10.13 by revising paragraph (c) to read as follows:

§ 10.13 List of Migratory Birds.

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(c) *What species are protected as migratory birds?* Species protected as migratory birds are listed in two formats to suit the varying needs of the user: Alphabetically in paragraph (c)(1) of this section and taxonomically in paragraph (c)(2) of this section. Taxonomy and nomenclature generally follow the 7th edition of the American Ornithologists' Union's (AOU, now recognized as American Ornithological

Society (AOS)) *Check-list of North American birds* (1998, as amended through 2019). For species not treated by the AOS *Check-list,* we generally follow *Clements Checklist of Birds of the World* (Clements et al. 2017).

(1) *Alphabetical listing.* Species are listed alphabetically by common (English) group names, with the scientific name of each species following the common name.

ACCENTOR, Siberian, *Prunella montanella*
ʻAKEKEʻE, *Loxops caeruleirostris*
ʻAKEPA, Hawaii, *Loxops coccineus*
Maui, *Loxops ochraceus*
Oʻahu, *Loxops wolstenholmei*
ʻAKIALOA, Kauai, *Akialoa stejnegeri*
Maui Nui, *Akialoa lanaiensis*
Oʻahu, *Akialoa ellisiana*
ʻAKIAPOLAʻAU, *Hemignathus wilsoni*
ʻAKIKIKI, *Oreomystis bairdi*
ʻAKOHEKOHE, *Palmeria dolei*
ʻALAUAHIO, Maui, *Paroreomyza montana*
Oʻahu, *Paroreomyza maculata*
ALBATROSS, Black-browed, *Thalassarche melanophris*
Black-footed, *Phoebastria nigripes*
Chatham, *Thalassarche eremita*
Laysan, *Phoebastria immutabilis*
Light-mantled, *Phoebetria palpebrata*
Salvin's, *Thalassarche salvini*
Short-tailed, *Phoebastria albatrus*
Wandering, *Diomedea exulans*
White-capped, *Thalassarche cauta*
Yellow-nosed, *Thalassarche chlororhynchos*
ʻAMAKIHI, Hawaii, *Chlorodrepanis virens*
Kauai, *Chlorodrepanis stejnegeri*
Oʻahu, *Chlorodrepanis flava*
ANHINGA, *Anhinga anhinga*
ANI, Groove-billed, *Crotophaga sulcirostris*
Smooth-billed, *Crotophaga ani*
ʻANIANIAU, *Magumma parva*
ʻAPAPANE, *Himatione sanguinea*
AUKLET, Cassin's, *Ptychoramphus aleuticus*
Crested, *Aethia cristatella*
Least, *Aethia pusilla*
Parakeet, *Aethia psittacula*
Rhinoceros, *Cerorhinca monocerata*
Whiskered, *Aethia pygmaea*
AVOCET, American, *Recurvirostra americana*
BANANAQUIT, *Coereba flaveola*
BEAN–GOOSE, Taiga, *Anser fabalis*
Tundra, *Anser serrirostris*
BEARDLESS–TYRANNULET, Northern, *Camptostoma imberbe*
BECARD, Gray-collared, *Pachyramphus major*
Rose-throated, *Pachyramphus aglaiae*
BITTERN, American, *Botaurus lentiginosus*
Black, *Ixobrychus flavicollis*
Least, *Ixobrychus exilis*
Schrenck's, *Ixobrychus eurhythmus*
Yellow, *Ixobrychus sinensis*
BLACKBIRD, Brewer's, *Euphagus cyanocephalus*
Red-winged, *Agelaius phoeniceus*
Rusty, *Euphagus carolinus*
Tawny-shouldered, *Agelaius humeralis*
Tricolored, *Agelaius tricolor*
Yellow-headed, *Xanthocephalus xanthocephalus*
Yellow-shouldered, *Agelaius xanthomus*
BLUEBIRD, Eastern, *Sialia sialis*
Mountain, *Sialia currucoides*
Western, *Sialia mexicana*
BLUETAIL, Red-flanked, *Tarsiger cyanurus*
BLUETHROAT, *Cyanecula svecica*
BOBOLINK, *Dolichonyx oryzivorus*
BOOBOOK, Northern, *Ninox japonica*
BOOBY, Abbott's, *Papasula abbotti*
Blue-footed, *Sula nebouxii*
Brown, *Sula leucogaster*
Masked, *Sula dactylatra*
Nazca, *Sula granti*
Red-footed, *Sula sula*
BRAMBLING, *Fringilla montifringilla*
BRANT, *Branta bernicla*
BUFFLEHEAD, *Bucephala albeola*
BULLFINCH, Eurasian, *Pyrrhula pyrrhula*
Puerto Rican, *Melopyrrha portoricensis*
BUNTING, Blue, *Cyanocompsa parellina*
Gray, *Emberiza variabilis*
Indigo, *Passerina cyanea*
Lark, *Calamospiza melanocorys*
Lazuli, *Passerina amoena*
Little, *Emberiza pusilla*
McKay's, *Plectrophenax hyperboreus*
Painted, *Passerina ciris*
Pallas's, *Emberiza pallasi*
Pine, *Emberiza leucocephalos*
Reed, *Emberiza schoeniclus*
Rustic, *Emberiza rustica*
Snow, *Plectrophenax nivalis*
Varied, *Passerina versicolor*
Yellow-breasted, *Emberiza aureola*
Yellow-browed, *Emberiza chrysophrys*
Yellow-throated, *Emberiza elegans*
BUSHTIT, *Psaltriparus minimus*
BUZZARD, Gray-faced, *Butastur indicus*
CANVASBACK, *Aythya valisineria*
CARACARA, Crested, *Caracara cheriway*
CARDINAL, Northern, *Cardinalis cardinalis*
CARIB, Green-throated, *Eulampis holosericeus*
Purple-throated, *Eulampis jugularis*
CATBIRD, Black, *Melanoptila glabrirostris*
Gray, *Dumetella carolinensis*
CHAFFINCH, Common, *Fringilla coelebs*
CHAT, Yellow-breasted, *Icteria virens*
CHICKADEE, Black-capped, *Poecile atricapillus*
Boreal, *Poecile hudsonicus*
Carolina, *Poecile carolinensis*
Chestnut-backed, *Poecile rufescens*
Gray-headed, *Poecile cinctus*
Mexican, *Poecile sclateri*
Mountain, *Poecile gambeli*
CHIFFCHAFF, Common, *Phylloscopus collybita*
CHUCK-WILL'S-WIDOW, *Antrostomus carolinensis*
CONDOR, California, *Gymnogyps californianus*
COOT, American, *Fulica americana*
Eurasian, *Fulica atra*
Hawaiian, *Fulica alai*
CORMORANT, Brandt's, *Phalacrocorax penicillatus*
Double-crested, *Phalacrocorax auritus*
Great, *Phalacrocorax carbo*
Little Pied, *Phalacrocorax melanoleucos*
Neotropic, *Phalacrocorax brasilianus*
Pelagic, *Phalacrocorax pelagicus*
Red-faced, *Phalacrocorax urile*
COWBIRD, Bronzed, *Molothrus aeneus*
Brown-headed, *Molothrus ater*
Shiny, *Molothrus bonariensis*
CRAKE, Corn, *Crex crex*
Paint-billed, *Neocrex erythrops*
Spotless, *Porzana tabuensis*
Yellow-breasted, *Hapalocrex flaviventer*
CRANE, Common, *Grus grus*
Sandhill, *Antigone canadensis*
Whooping, *Grus americana*
CREEPER, Brown, *Certhia americana*
Hawaii, *Loxops mana*
CROSSBILL, Cassia, *Loxia sinesciuris*
Red, *Loxia curvirostra*
White-winged, *Loxia leucoptera*
CROW, American, *Corvus brachyrhynchos*
Fish, *Corvus ossifragus*
Hawaiian, *Corvus hawaiiensis*
Mariana, *Corvus kubaryi*
Northwestern, *Corvus caurinus*
Tamaulipas, *Corvus imparatus*
White-necked, *Corvus leucognaphalus*
CUCKOO, Black-billed, *Coccyzus erythropthalmus*
Common, *Cuculus canorus*
Mangrove, *Coccyzus minor*
Oriental, *Cuculus optatus*
Yellow-billed, *Coccyzus americanus*
CURLEW, Bristle-thighed, *Numenius tahitiensis*
Eskimo, *Numenius borealis*
Eurasian, *Numenius arquata*
Far Eastern, *Numenius madagascariensis*
Little, *Numenius minutus*
Long-billed, *Numenius americanus*
DICKCISSEL, *Spiza americana*
DIPPER, American, *Cinclus mexicanus*
DOTTEREL, Eurasian, *Charadrius morinellus*

DOVE, Common Ground, *Columbina passerina*
Inca, *Columbina inca*
Mourning, *Zenaida macroura*
Ruddy Ground, *Columbina talpacoti*
White-tipped, *Leptotila verreauxi*
White-winged, *Zenaida asiatica*
Zenaida, *Zenaida aurita*
DOVEKIE, *Alle alle*
DOWITCHER, Long-billed, *Limnodromus scolopaceus*
Short-billed, *Limnodromus griseus*
DUCK, American Black, *Anas rubripes*
Eastern Spot-billed, *Anas zonorhyncha*
Falcated, *Mareca falcata*
Harlequin, *Histrionicus histrionicus*
Hawaiian, *Anas wyvilliana*
Laysan, *Anas laysanensis*
Long-tailed, *Clangula hyemalis*
Masked, *Nomonyx dominicus*
Mottled, *Anas fulvigula*
Muscovy, *Cairina moschata*
Pacific Black, *Anas superciliosa*
Ring-necked, *Aythya collaris*
Ruddy, *Oxyura jamaicensis*
Tufted, *Aythya fuligula*
Wood, *Aix sponsa*
DUNLIN, *Calidris alpina*
EAGLE, Bald, *Haliaeetus leucocephalus*
Golden, *Aquila chrysaetos*
White-tailed, *Haliaeetus albicilla*
EGRET, Cattle, *Bubulcus ibis*
Chinese, *Egretta eulophotes*
Great, *Ardea alba*
Intermediate, *Ardea intermedia*
Little, *Egretta garzetta*
Reddish, *Egretta rufescens*
Snowy, *Egretta thula*
EIDER, Common, *Somateria mollissima*
King, *Somateria spectabilis*
Spectacled, *Somateria fischeri*
Steller's, *Polysticta stelleri*
ELAENIA, Caribbean, *Elaenia martinica*
Greenish, *Myiopagis viridicata*
White-crested, *Elaenia albiceps*
EMERALD, Puerto Rican, *Chlorostilbon maugaeus*
EUPHONIA, Antillean, *Euphonia musica*
FALCON, Amur, *Falco amurensis*
Aplomado, *Falco femoralis*
Peregrine, *Falco peregrinus*
Prairie, *Falco mexicanus*
Red-footed, *Falco vespertinus*
FIELDFARE, *Turdus pilaris*
FINCH, Cassin's, *Haemorhous cassinii*
House, *Haemorhous mexicanus*
Laysan, *Telespiza cantans*
Nihoa, *Telespiza ultima*
Purple, *Haemorhous purpureus*
FLAMINGO, American, *Phoenicopterus ruber*
FLICKER, Gilded, *Colaptes chrysoides*
Northern, *Colaptes auratus*
FLYCATCHER, Acadian, *Empidonax virescens*
Alder, *Empidonax alnorum*
Ash-throated, *Myiarchus cinerascens*
Asian Brown, *Muscicapa dauurica*
Brown-crested, *Myiarchus tyrannulus*
Buff-breasted, *Empidonax fulvifrons*
Cordilleran, *Empidonax occidentalis*
Crowned Slaty, *Empidonomus aurantioatrocristatus*
Dark-sided, *Muscicapa sibirica*
Dusky, *Empidonax oberholseri*
Dusky-capped, *Myiarchus tuberculifer*
Fork-tailed, *Tyrannus savana*
Gray, *Empidonax wrightii*
Gray-streaked, *Muscicapa griseisticta*
Great Crested, *Myiarchus crinitus*
Hammond's, *Empidonax hammondii*
La Sagra's, *Myiarchus sagrae*
Least, *Empidonax minimus*
Mugimaki, *Ficedula mugimaki*
Narcissus, *Ficedula narcissina*
Nutting's, *Myiarchus nuttingi*
Olive-sided, *Contopus cooperi*
Pacific-slope, *Empidonax difficilis*
Pine, *Empidonax affinis*
Piratic, *Legatus leucophaius*
Puerto Rican, *Myiarchus antillarum*
Scissor-tailed, *Tyrannus forficatus*
Social, *Myiozetetes similis*
Spotted, *Muscicapa striata*
Sulphur-bellied, *Myiodynastes luteiventris*
Taiga, *Ficedula albicilla*
Tufted, *Mitrephanes phaeocercus*
Variegated, *Empidonomus varius*
Vermilion, *Pyrocephalus rubinus*
Willow, *Empidonax traillii*
Yellow-bellied, *Empidonax flaviventris*
FOREST-FALCON, Collared, *Micrastur semitorquatus*
FRIGATEBIRD, Great, *Fregata minor*
Lesser, *Fregata ariel*
Magnificent, *Fregata magnificens*
FRUIT-DOVE, Crimson-crowned, *Ptilinopus porphyraceus*
Many-colored, *Ptilinopus perousii*
Mariana, *Ptilinopus roseicapilla*
FULMAR, Northern, *Fulmarus glacialis*
GADWALL, *Mareca strepera*
GALLINULE, Azure, *Porphyrio flavirostris*
Common, *Gallinula galeata*
Purple, *Porphyrio martinicus*
GANNET, Northern, *Morus bassanus*
GARGANEY, *Spatula querquedula*
GNATCATCHER, Black-capped, *Polioptila nigriceps*
Black-tailed, *Polioptila melanura*
Blue-Gray, *Polioptila caerulea*
California, *Polioptila californica*
GODWIT, Bar-tailed, *Limosa lapponica*
Black-tailed, *Limosa limosa*
Hudsonian, *Limosa haemastica*
Marbled, *Limosa fedoa*
GOLDENEYE, Barrow's, *Bucephala islandica*
Common, *Bucephala clangula*
GOLDEN-PLOVER, American, *Pluvialis dominica*
European, *Pluvialis apricaria*
Pacific, *Pluvialis fulva*
GOLDFINCH, American, *Spinus tristis*
Lawrence's, *Spinus lawrencei*
Lesser, *Spinus psaltria*
GOOSE, Barnacle, *Branta leucopsis*
Cackling, *Branta hutchinsii*
Canada, *Branta canadensis*
Emperor, *Anser canagicus*
Greater White-fronted, *Anser albifrons*
Hawaiian, *Branta sandvicensis*
Lesser White-fronted, *Anser erythropus*
Pink-footed, *Anser brachyrhynchus*
Ross's, *Anser rossii*
Snow, *Anser caerulescens*
GOSHAWK, Northern, *Accipiter gentilis*
GRACKLE, Boat-tailed, *Quiscalus major*
Common, *Quiscalus quiscula*
Greater Antillean, *Quiscalus niger*
Great-tailed, *Quiscalus mexicanus*
GRASSHOPPER-WARBLER, Middendorff's, *Locustella ochotensis*
GRASSQUIT, Black-faced, *Melanospiza bicolor*
Yellow-faced, *Tiaris olivaceus*
GREBE, Clark's, *Aechmophorus clarkii*
Eared, *Podiceps nigricollis*
Horned, *Podiceps auritus*
Least, *Tachybaptus dominicus*
Pied-billed, *Podilymbus podiceps*
Red-necked, *Podiceps grisegena*
Western, *Aechmophorus occidentalis*
GREENFINCH, Oriental, *Chloris sinica*
GREENSHANK, Common, *Tringa nebularia*
Nordmann's, *Tringa guttifer*
GROSBEAK, Black-headed, *Pheucticus melanocephalus*
Blue, *Passerina caerulea*
Crimson-collared, *Rhodothraupis celaeno*
Evening, *Coccothraustes vespertinus*
Pine, *Pinicola enucleator*
Rose-breasted, *Pheucticus ludovicianus*
Yellow, *Pheucticus chrysopeplus*
GROUND-DOVE, Shy, *Alopecoenas stairi*
White-throated, *Alopecoenas xanthonurus*
GUILLEMOT, Black, *Cepphus grylle*
Pigeon, *Cepphus columba*
GULL, Belcher's, *Larus belcheri*
Black-headed, *Chroicocephalus ridibundus*
Black-tailed, *Larus crassirostris*
Bonaparte's, *Chroicocephalus philadelphia*
California, *Larus californicus*
Franklin's, *Leucophaeus pipixcan*
Glaucous, *Larus hyperboreus*
Glaucous-winged, *Larus glaucescens*
Gray-hooded, *Chroicocephalus cirrocephalus*
Great Black-backed, *Larus marinus*
Heermann's, *Larus heermanni*
Herring, *Larus argentatus*
Iceland, *Larus glaucoides*
Ivory, *Pagophila eburnea*

Kelp, *Larus dominicanus*
Laughing, *Leucophaeus atricilla*
Lesser Black-backed, *Larus fuscus*
Little, *Hydrocoloeus minutus*
Mew, *Larus canus*
Ring-billed, *Larus delawarensis*
Ross's, *Rhodostethia rosea*
Sabine's, *Xema sabini*
Slaty-backed, *Larus schistisagus*
Swallow-tailed, *Creagrus furcatus*
Western, *Larus occidentalis*
Yellow-footed, *Larus livens*
Yellow-legged, *Larus michahellis*
GYRFALCON, *Falco rusticolus*
HARRIER, Northern, *Circus hudsonius*
HAWFINCH, *Coccothraustes coccothraustes*
HAWK, Broad-winged, *Buteo platypterus*
Common Black, *Buteogallus anthracinus*
Cooper's, *Accipiter cooperii*
Crane, *Geranospiza caerulescens*
Ferruginous, *Buteo regalis*
Gray, *Buteo plagiatus*
Great Black, *Buteogallus urubitinga*
Harris's, *Parabuteo unicinctus*
Hawaiian, *Buteo solitarius*
Red-shouldered, *Buteo lineatus*
Red-tailed, *Buteo jamaicensis*
Roadside, *Rupornis magnirostris*
Rough-legged, *Buteo lagopus*
Sharp-shinned, *Accipiter striatus*
Short-tailed, *Buteo brachyurus*
Swainson's, *Buteo swainsoni*
White-tailed, *Geranoaetus albicaudatus*
Zone-tailed, *Buteo albonotatus*
HAWK-CUCKOO, Hodgson's, *Hierococcyx nisicolor*
HERON, Gray, *Ardea cinerea*
Great Blue, *Ardea herodias*
Green, *Butorides virescens*
Little Blue, *Egretta caerulea*
Tricolored, *Egretta tricolor*
HOBBY, Eurasian, *Falco subbuteo*
HONEYCREEPER, Laysan, *Himatione fraithii*
Red-legged, *Cyanerpes cyaneus*
HOOPOE, Eurasian, *Upupa epops*
HOUSE-MARTIN, Common, *Delichon urbicum*
HUMMINGBIRD, Allen's, *Selasphorus sasin*
Anna's, *Calypte anna*
Antillean Crested, *Orthorhyncus cristatus*
Berylline, *Amazilia beryllina*
Black-chinned, *Archilochus alexandri*
Broad-billed, *Cynanthus latirostris*
Broad-tailed, *Selasphorus platycercus*
Buff-bellied, *Amazilia yucatanensis*
Bumblebee, *Atthis heloisa*
Calliope, *Selasphorus calliope*
Cinnamon, *Amazilia rutila*
Costa's, *Calypte costae*
Lucifer, *Calothorax lucifer*
Rivoli's, *Eugenes fulgens*
Ruby-throated, *Archilochus colubris*
Rufous, *Selasphorus rufus*
Vervain, *Mellisuga minima*
Violet-crowned, *Amazilia violiceps*
White-eared, *Hylocharis leucotis*
Xantus's, *Hylocharis xantusii*
IBIS, Glossy, *Plegadis falcinellus*
Scarlet, *Eudocimus ruber*
White, *Eudocimus albus*
White-faced, *Plegadis chihi*
'I'IWI, *Drepanis coccinea*
IMPERIAL-PIGEON, Pacific, *Ducula pacifica*
JABIRU, *Jabiru mycteria*
JACANA, Northern, *Jacana spinosa*
JACKDAW, Eurasian, *Corvus monedula*
JAEGER, Long-tailed, *Stercorarius longicaudus*
Parasitic, *Stercorarius parasiticus*
Pomarine, *Stercorarius pomarinus*
JAY, Blue, *Cyanocitta cristata*
Brown, *Psilorhinus morio*
Canada, *Perisoreus canadensis*
Green, *Cyanocorax yncas*
Mexican, *Aphelocoma wollweberi*
Pinyon, *Gymnorhinus cyanocephalus*
Steller's, *Cyanocitta stelleri*
JUNCO, Dark-eyed, *Junco hyemalis*
Yellow-eyed, *Junco phaeonotus*
KĀKĀWAHIE, *Paroreomyza flammea*
KĀMA'O, *Myadestes myadestinus*
KESTREL, American, *Falco sparverius*
Eurasian, *Falco tinnunculus*
KILLDEER, *Charadrius vociferus*
KINGBIRD, Cassin's, *Tyrannus vociferans*
Couch's, *Tyrannus couchii*
Eastern, *Tyrannus tyrannus*
Gray, *Tyrannus dominicensis*
Loggerhead, *Tyrannus caudifasciatus*
Thick-billed, *Tyrannus crassirostris*
Tropical, *Tyrannus melancholicus*
Western, *Tyrannus verticalis*
KINGFISHER, Amazon, *Chloroceryle amazona*
Belted, *Megaceryle alcyon*
Common, *Alcedo atthis*
Green, *Chloroceryle americana*
Guam, *Todiramphus cinnamominus*
Mariana, *Todiramphus albicilla*
Pacific, *Todiramphus sacer*
Ringed, *Megaceryle torquata*
KINGLET, Golden-crowned, *Regulus satrapa*
Ruby-crowned, *Regulus calendula*
KISKADEE, Great, *Pitangus sulphuratus*
KITE, Black, *Milvus migrans*
Double-toothed, *Harpagus bidentatus*
Hook-billed, *Chondrohierax uncinatus*
Mississippi, *Ictinia mississippiensis*
Snail, *Rostrhamus sociabilis*
Swallow-tailed, *Elanoides forficatus*
White-tailed, *Elanus leucurus*
KITTIWAKE, Black-legged, *Rissa tridactyla*
Red-legged, *Rissa brevirostris*
KNOT, Great, *Calidris tenuirostris*
Red, *Calidris canutus*
KOEL, Long-tailed, *Urodynamis taitensis*
LAPWING, Northern, *Vanellus vanellus*
LARK, Horned, *Eremophila alpestris*
LIMPKIN, *Aramus guarauna*
LIZARD-CUCKOO, Puerto Rican, *Coccyzus vieilloti*
LONGSPUR, Chestnut-collared, *Calcarius ornatus*
Lapland, *Calcarius lapponicus*
McCown's, *Rhynchophanes mccownii*
Smith's, *Calcarius pictus*
LOON, Arctic, *Gavia arctica*
Common, *Gavia immer*
Pacific, *Gavia pacifica*
Red-throated, *Gavia stellata*
Yellow-billed, *Gavia adamsii*
MAGPIE, Black-billed, *Pica hudsonia*
Yellow-billed, *Pica nuttalli*
MALLARD, *Anas platyrhynchos*
MANGO, Antillean, *Anthracothorax dominicus*
Green, *Anthracothorax viridis*
Green-breasted, *Anthracothorax prevostii*
MARSH-HARRIER, Eastern, *Circus spilonotus*
MARTIN, Brown-chested, *Progne tapera*
Caribbean, *Progne dominicensis*
Cuban, *Progne cryptoleuca*
Gray-breasted, *Progne chalybea*
Purple, *Progne subis*
Southern, *Progne elegans*
MEADOWLARK, Eastern, *Sturnella magna*
Western, *Sturnella neglecta*
MERGANSER, Common, *Mergus merganser*
Hooded, *Lophodytes cucullatus*
Red-breasted, *Mergus serrator*
MERLIN, *Falco columbarius*
MILLERBIRD, *Acrocephalus familiaris*
MOCKINGBIRD, Bahama, *Mimus gundlachii*
Blue, *Melanotis caerulescens*
Northern, *Mimus polyglottos*
MOORHEN, Common, *Gallinula chloropus*
MOUNTAIN-GEM, Amethyst-throated, *Lampornis amethystinus*
Blue-throated, *Lampornis clemenciae*
MURRE, Common, *Uria aalge*
Thick-billed, *Uria lomvia*
MURRELET, Ancient, *Synthliboramphus antiquus*
Craveri's, *Synthliboramphus craveri*
Guadalupe, *Synthliboramphus hypoleucus*
Kittlitz's, *Brachyramphus brevirostris*
Long-billed, *Brachyramphus perdix*
Marbled, *Brachyramphus marmoratus*
Scripps's, *Synthliboramphus scrippsi*
NEEDLETAIL, White-throated, *Hirundapus caudacutus*
NIGHTHAWK, Antillean, *Chordeiles gundlachii*
Common, *Chordeiles minor*
Lesser, *Chordeiles acutipennis*
NIGHT-HERON, Black-crowned, *Nycticorax nycticorax*
Japanese, *Gorsachius goisagi*

Malayan, *Gorsachius melanolophus*
Rufous, *Nycticorax caledonicus*
Yellow-crowned, *Nyctanassa violacea*
NIGHTINGALE-THRUSH, Black-headed, *Catharus mexicanus*
Orange-billed, *Catharus aurantiirostris*
NIGHTJAR, Buff-collared, *Antrostomus ridgwayi*
Gray, *Caprimulgus jotaka*
Puerto Rican, *Antrostomus noctitherus*
White-tailed, *Hydropsalis cayennensis*
NODDY, Black, *Anous minutus*
Blue-gray, *Anous ceruleus*
Brown, *Anous stolidus*
NUKUPUʻU, Kauai, *Hemignathus hanapepe*
Maui, *Hemignathus affinis*
Oʻahu, *Hemignathus lucidus*
NUTCRACKER, Clark's, *Nucifraga columbiana*
NUTHATCH, Brown-headed, *Sitta pusilla*
Pygmy, *Sitta pygmaea*
Red-breasted, *Sitta canadensis*
White-breasted, *Sitta carolinensis*
OLOMAʻO, *Myadestes lanaiensis*
ʻŌMAʻO, *Myadestes obscurus*
ORIOLE, Altamira, *Icterus gularis*
Audubon's, *Icterus graduacauda*
Baltimore, *Icterus galbula*
Black-backed, *Icterus abeillei*
Black-vented, *Icterus wagleri*
Bullock's, *Icterus bullockii*
Hooded, *Icterus cucullatus*
Orchard, *Icterus spurius*
Puerto Rican, *Icterus portoricensis*
Scott's, *Icterus parisorum*
Streak-backed, *Icterus pustulatus*
OSPREY, *Pandion haliaetus*
ʻŌʻŪ, *Psittirostra psittacea*
OVENBIRD, *Seiurus aurocapilla*
OWL, Barn, *Tyto alba*
Barred, *Strix varia*
Boreal, *Aegolius funereus*
Burrowing, *Athene cunicularia*
Elf, *Micrathene whitneyi*
Flammulated, *Psiloscops flammeolus*
Great Gray, *Strix nebulosa*
Great Horned, *Bubo virginianus*
Long-eared, *Asio otus*
Mottled, *Ciccaba virgata*
Northern Hawk, *Surnia ulula*
Northern Saw-whet, *Aegolius acadicus*
Short-eared, *Asio flammeus*
Snowy, *Bubo scandiacus*
Spotted, *Strix occidentalis*
Stygian, *Asio stygius*
OYSTERCATCHER, American, *Haematopus palliatus*
Black, *Haematopus bachmani*
Eurasian, *Haematopus ostralegus*
PALILA, *Loxioides bailleui*
PALM-SWIFT, Antillean, *Tachornis phoenicobia*
PARROTBILL, Maui, *Pseudonestor xanthophrys*
PARULA, Northern, *Setophaga americana*
Tropical, *Setophaga pitiayumi*
PAURAQUE, Common, *Nyctidromus albicollis*
PELICAN, American White, *Pelecanus erythrorhynchos*
Brown, *Pelecanus occidentalis*
PETREL, Bermuda, *Pterodroma cahow*
Black-capped, *Pterodroma hasitata*
Black-winged, *Pterodroma nigripennis*
Bonin, *Pterodroma hypoleuca*
Bulwer's, *Bulweria bulwerii*
Cook's, *Pterodroma cookii*
Fea's, *Pterodroma feae*
Gould's, *Pterodroma leucoptera*
Gray-faced, *Pterodroma gouldi*
Hawaiian, *Pterodroma sandwichensis*
Herald, *Pterodroma heraldica*
Jouanin's, *Bulweria fallax*
Juan Fernandez, *Pterodroma externa*
Kermadec, *Pterodroma neglecta*
Mottled, *Pterodroma inexpectata*
Murphy's, *Pterodroma ultima*
Parkinson's, *Procellaria parkinsoni*
Phoenix, *Pterodroma alba*
Providence, *Pterodroma solandri*
Stejneger's, *Pterodroma longirostris*
Tahiti, *Pseudobulweria rostrata*
Trindade, *Pterodroma arminjoniana*
White-chinned, *Procellaria aequinoctialis*
White-necked, *Pterodroma cervicalis*
Zino's, *Pterodroma madeira*
PEWEE, Cuban, *Contopus caribaeus*
Greater, *Contopus pertinax*
Hispaniolan, *Contopus hispaniolensis*
Lesser Antillean, *Contopus latirostris*
PHAINOPEPLA, *Phainopepla nitens*
PHALAROPE, Red, *Phalaropus fulicarius*
Red-necked, *Phalaropus lobatus*
Wilson's, *Phalaropus tricolor*
PHOEBE, Black, *Sayornis nigricans*
Eastern, *Sayornis phoebe*
Say's, *Sayornis saya*
PIGEON, Band-tailed, *Patagioenas fasciata*
Plain, *Patagioenas inornata*
Red-billed, *Patagioenas flavirostris*
Scaly-naped, *Patagioenas squamosa*
White-crowned, *Patagioenas leucocephala*
PINTAIL, Northern, *Anas acuta*
White-cheeked, *Anas bahamensis*
PIPIT, American, *Anthus rubescens*
Olive-backed, *Anthus hodgsoni*
Pechora, *Anthus gustavi*
Red-throated, *Anthus cervinus*
Sprague's, *Anthus spragueii*
Tree, *Anthus trivialis*
PLOVER, Black-bellied, *Pluvialis squatarola*
Collared, *Charadrius collaris*
Common Ringed, *Charadrius hiaticula*
Kentish, *Charadrius alexandrinus*
Little Ringed, *Charadrius dubius*
Mountain, *Charadrius montanus*
Piping, *Charadrius melodus*
Semipalmated, *Charadrius semipalmatus*
Snowy, *Charadrius nivosus*
Wilson's, *Charadrius wilsonia*
POCHARD, Baer's, *Aythya baeri*
Common, *Aythya ferina*
POND-HERON, Chinese, *Ardeola bacchus*
POORWILL, Common, *Phalaenoptilus nuttallii*
POʻOULI, *Melamprosops phaeosoma*
PUAIOHI, *Myadestes palmeri*
PUFFIN, Atlantic, *Fratercula arctica*
Horned, *Fratercula corniculata*
Tufted, *Fratercula cirrhata*
PYGMY-OWL, Ferruginous, *Glaucidium brasilianum*
Northern, *Glaucidium gnoma*
PYRRHULOXIA, *Cardinalis sinuatus*
QUAIL-DOVE, Bridled, *Geotrygon mystacea*
Key West, *Geotrygon chrysia*
Ruddy, *Geotrygon montana*
QUETZAL, Eared, *Euptilotis neoxenus*
RAIL, Black, *Laterallus jamaicensis*
Buff-banded, *Gallirallus philippensis*
Clapper, *Rallus crepitans*
Guam, *Gallirallus owstoni*
King, *Rallus elegans*
Ridgway's, *Rallus obsoletus*
Spotted, *Pardirallus maculatus*
Virginia, *Rallus limicola*
Yellow, *Coturnicops noveboracensis*
RAVEN, Chihuahuan, *Corvus cryptoleucus*
Common, *Corvus corax*
RAZORBILL, *Alca torda*
REDHEAD, *Aythya americana*
REDPOLL, Common, *Acanthis flammea*
Hoary, *Acanthis hornemanni*
REDSHANK, Common, *Tringa totanus*
Spotted, *Tringa erythropus*
REDSTART, American, *Setophaga ruticilla*
Common, *Phoenicurus phoenicurus*
Painted, *Myioborus pictus*
Slate-throated, *Myioborus miniatus*
REDWING, *Turdus iliacus*
REEF-HERON, Pacific, *Egretta sacra*
Western, *Egretta gularis*
ROADRUNNER, Greater, *Geococcyx californianus*
ROBIN, American, *Turdus migratorius*
European, *Erithacus rubecula*
Rufous-backed, *Turdus rufopalliatus*
Rufous-tailed, *Larvivora sibilans*
Siberian Blue, *Larvivora cyane*
ROCK-THRUSH, Blue, *Monticola solitarius*
ROSEFINCH, Common, *Carpodacus erythrinus*
Pallas's, *Carpodacus roseus*
ROSY-FINCH, Asian, *Leucosticte arctoa*
Black, *Leucosticte atrata*
Brown-capped, *Leucosticte australis*
Gray-crowned, *Leucosticte tephrocotis*
RUBYTHROAT, Siberian, *Calliope calliope*

RUFF, *Calidris pugnax*
SANDERLING, *Calidris alba*
SANDPIPER, Baird's, *Calidris bairdii*
Broad-billed, *Calidris falcinellus*
Buff-breasted, *Calidris subruficollis*
Common, *Actitis hypoleucos*
Curlew, *Calidris ferruginea*
Green, *Tringa ochropus*
Least, *Calidris minutilla*
Marsh, *Tringa stagnatilis*
Pectoral, *Calidris melanotos*
Purple, *Calidris maritima*
Rock, *Calidris ptilocnemis*
Semipalmated, *Calidris pusilla*
Sharp-tailed, *Calidris acuminata*
Solitary, *Tringa solitaria*
Spoon-billed, *Calidris pygmea*
Spotted, *Actitis macularius*
Stilt, *Calidris himantopus*
Terek, *Xenus cinereus*
Upland, *Bartramia longicauda*
Western, *Calidris mauri*
White-rumped, *Calidris fuscicollis*
Wood, *Tringa glareola*
SAND-PLOVER, Greater, *Charadrius leschenaultii*
Lesser, *Charadrius mongolus*
SAPSUCKER, Red-breasted, *Sphyrapicus ruber*
Red-naped, *Sphyrapicus nuchalis*
Williamson's, *Sphyrapicus thyroideus*
Yellow-bellied, *Sphyrapicus varius*
SCAUP, Greater, *Aythya marila*
Lesser, *Aythya affinis*
SCOPS-OWL, Oriental, *Otus sunia*
SCOTER, Black, *Melanitta americana*
Common, *Melanitta nigra*
Stejneger's, *Melanitta stejnegeri*
Surf, *Melanitta perspicillata*
White-winged, *Melanitta deglandi*
SCREECH-OWL, Eastern, *Megascops asio*
Puerto Rican, *Megascops nudipes*
Western, *Megascops kennicottii*
Whiskered, *Megascops trichopsis*
SCRUB-JAY, California, *Aphelocoma californica*
Florida, *Aphelocoma coerulescens*
Island, *Aphelocoma insularis*
Woodhouse's, *Aphelocoma woodhouseii*
SEA-EAGLE, Steller's, *Haliaeetus pelagicus*
SEEDEATER, Morelet's, *Sporophila morelleti*
SHEARWATER, Audubon's, *Puffinus lherminieri*
Barolo, *Puffinus baroli*
Black-vented, *Puffinus opisthomelas*
Bryan's, *Puffinus bryani*
Buller's, *Ardenna bulleri*
Cape Verde, *Calonectris edwardsii*
Christmas, *Puffinus nativitatis*
Cory's, *Calonectris diomedea*
Flesh-footed, *Ardenna carneipes*
Great, *Ardenna gravis*
Manx, *Puffinus puffinus*
Newell's, *Puffinus newelli*
Pink-footed, *Ardenna creatopus*
Short-tailed, *Ardenna tenuirostris*
Sooty, *Ardenna grisea*
Streaked, *Calonectris leucomelas*
Wedge-tailed, *Ardenna pacifica*
SHOVELER, Northern, *Spatula clypeata*
SHRIKE, Brown, *Lanius cristatus*
Loggerhead, *Lanius ludovicianus*
Northern, *Lanius borealis*
SILKY-FLYCATCHER, Gray, *Ptiliogonys cinereus*
SISKIN, Eurasian, *Spinus spinus*
Pine, *Spinus pinus*
SKIMMER, Black, *Rynchops niger*
SKUA, Great, *Stercorarius skua*
South Polar, *Stercorarius maccormicki*
SKYLARK, Eurasian, *Alauda arvensis*
SMEW, *Mergellus albellus*
SNIPE, Common, *Gallinago gallinago*
Jack, *Lymnocryptes minimus*
Pin-tailed, *Gallinago stenura*
Solitary, *Gallinago solitaria*
Swinhoe's, *Gallinago megala*
Wilson's, *Gallinago delicata*
SOLITAIRE, Brown-backed, *Myadestes occidentalis*
Townsend's, *Myadestes townsendi*
SORA, *Porzana carolina*
SPARROW, American Tree, *Spizelloides arborea*
Bachman's, *Peucaea aestivalis*
Baird's, *Centronyx bairdii*
Bell's, *Artemisiospiza belli*
Black-chinned, *Spizella atrogularis*
Black-throated, *Amphispiza bilineata*
Botteri's, *Peucaea botterii*
Brewer's, *Spizella breweri*
Cassin's, *Peucaea cassinii*
Chipping, *Spizella passerina*
Clay-colored, *Spizella pallida*
Field, *Spizella pusilla*
Five-striped, *Amphispiza quinquestriata*
Fox, *Passerella iliaca*
Golden-crowned, *Zonotrichia atricapilla*
Grasshopper, *Ammodramus savannarum*
Harris's, *Zonotrichia querula*
Henslow's, *Centronyx henslowii*
Lark, *Chondestes grammacus*
LeConte's, *Ammospiza leconteii*
Lincoln's, *Melospiza lincolnii*
Nelson's, *Ammospiza nelsoni*
Olive, *Arremonops rufivirgatus*
Rufous-crowned, *Aimophila ruficeps*
Rufous-winged, *Peucaea carpalis*
Sagebrush, *Artemisiospiza nevadensis*
Saltmarsh, *Ammospiza caudacuta*
Savannah, *Passerculus sandwichensis*
Seaside, *Ammospiza maritima*
Song, *Melospiza melodia*
Swamp, *Melospiza georgiana*
Vesper, *Pooecetes gramineus*
White-crowned, *Zonotrichia leucophrys*
White-throated, *Zonotrichia albicollis*
Worthen's, *Spizella wortheni*
SPARROWHAWK, Chinese, *Accipiter soloensis*
Japanese, *Accipiter gularis*
SPINDALIS, Puerto Rican, *Spindalis portoricensis*
Western, *Spindalis zena*
SPOONBILL, Roseate, *Platalea ajaja*
STARLING, Chestnut-cheeked, *Agropsar philippensis*
White-cheeked, *Spodiopsar cineraceus*
STARTHROAT, Plain-capped, *Heliomaster constantii*
STILT, Black-necked, *Himantopus mexicanus*
Black-winged, *Himantopus himantopus*
STINT, Little, *Calidris minuta*
Long-toed, *Calidris subminuta*
Red-necked, *Calidris ruficollis*
Temminck's, *Calidris temminckii*
STONECHAT, *Saxicola torquatus*
STORK, Wood, *Mycteria americana*
STORM-PETREL, Ashy, *Hydrobates homochroa*
Band-rumped, *Hydrobates castro*
Black, *Hydrobates melania*
Black-bellied, *Fregetta tropica*
European, *Hydrobates pelagicus*
Fork-tailed, *Hydrobates furcatus*
Leach's, *Hydrobates leucorhous*
Least, *Hydrobates microsoma*
Matsudaira's, *Oceanodroma matsudairae*
Polynesian, *Nesofregetta fuliginosa*
Ringed, *Hydrobates hornbyi*
Swinhoe's, *Hydrobates monorhis*
Townsend's, *Hydrobates socorroensis*
Tristram's, *Hydrobates tristrami*
Wedge-rumped, *Hydrobates tethys*
White-bellied, *Fregetta grallaria*
White-faced, *Pelagodroma marina*
Wilson's, *Oceanites oceanicus*
SURFBIRD, *Calidris virgata*
SWALLOW, Bahama, *Tachycineta cyaneoviridis*
Bank, *Riparia riparia*
Barn, *Hirundo rustica*
Cave, *Petrochelidon fulva*
Cliff, *Petrochelidon pyrrhonota*
Mangrove, *Tachycineta albilinea*
Northern Rough-winged, *Stelgidopteryx serripennis*
Tree, *Tachycineta bicolor*
Violet-green, *Tachycineta thalassina*
SWAMPHEN, Purple, *Porphyrio porphyrio*
SWAN, Trumpeter, *Cygnus buccinator*
Tundra, *Cygnus columbianus*
Whooper, *Cygnus cygnus*
SWIFT, Alpine, *Apus melba*
Black, *Cypseloides niger*
Chimney, *Chaetura pelagica*
Common, *Apus apus*
Fork-tailed, *Apus pacificus*
Short-tailed, *Chaetura brachyura*
Vaux's, *Chaetura vauxi*
White-collared, *Streptoprocne zonaris*
White-throated, *Aeronautes saxatalis*
SWIFTLET, Mariana, *Aerodramus bartschi*

White-rumped, *Aerodramus spodiopygius*
TANAGER, Flame-colored, *Piranga bidentata*
Hepatic, *Piranga flava*
Puerto Rican, *Nesospingus speculiferus*
Scarlet, *Piranga olivacea*
Summer, *Piranga rubra*
Western, *Piranga ludoviciana*
TATTLER, Gray-tailed, *Tringa brevipes*
Wandering, *Tringa incana*
TEAL, Baikal, *Sibirionetta formosa*
Blue-winged, *Spatula discors*
Cinnamon, *Spatula cyanoptera*
Green-winged, *Anas crecca*
TERN, Aleutian, *Onychoprion aleuticus*
Arctic, *Sterna paradisaea*
Black, *Chlidonias niger*
Black-naped, *Sterna sumatrana*
Bridled, *Onychoprion anaethetus*
Caspian, *Hydroprogne caspia*
Common, *Sterna hirundo*
Elegant, *Thalasseus elegans*
Forster's, *Sterna forsteri*
Gray-backed, *Onychoprion lunatus*
Great Crested, *Thalasseus bergii*
Gull-billed, *Gelochelidon nilotica*
Large-billed, *Phaetusa simplex*
Least, *Sternula antillarum*
Little, *Sternula albifrons*
Roseate, *Sterna dougallii*
Royal, *Thalasseus maximus*
Sandwich, *Thalasseus sandvicensis*
Sooty, *Onychoprion fuscatus*
Whiskered, *Chlidonias hybrida*
White, *Gygis alba*
White-winged, *Chlidonias leucopterus*
THRASHER, Bendire's, *Toxostoma bendirei*
Brown, *Toxostoma rufum*
California, *Toxostoma redivivum*
Crissal, *Toxostoma crissale*
Curve-billed, *Toxostoma curvirostre*
LeConte's, *Toxostoma lecontei*
Long-billed, *Toxostoma longirostre*
Pearly-eyed, *Margarops fuscatus*
Sage, *Oreoscoptes montanus*
THRUSH, Aztec, *Ridgwayia pinicola*
Bicknell's, *Catharus bicknelli*
Clay-colored, *Turdus grayi*
Dusky, *Turdus naumanni*
Eyebrowed, *Turdus obscurus*
Gray-cheeked, *Catharus minimus*
Hermit, *Catharus guttatus*
Red-legged, *Turdus plumbeus*
Swainson's, *Catharus ustulatus*
Varied, *Ixoreus naevius*
White-throated, *Turdus assimilis*
Wood, *Hylocichla mustelina*
TIGER-HERON, Bare-throated, *Tigrisoma mexicanum*
TITMOUSE, Black-crested, *Baeolophus atricristatus*
Bridled, *Baeolophus wollweberi*
Juniper, *Baeolophus ridgwayi*
Oak, *Baeolophus inornatus*
Tufted, *Baeolophus bicolor*
TITYRA, Masked, *Tityra semifasciata*
TOWHEE, Abert's, *Melozone aberti*
California, *Melozone crissalis*
Canyon, *Melozone fusca*
Eastern, *Pipilo erythrophthalmus*
Green-tailed, *Pipilo chlorurus*
Spotted, *Pipilo maculatus*
TROGON, Elegant, *Trogon elegans*
TROPICBIRD, Red-billed, *Phaethon aethereus*
Red-tailed, *Phaethon rubricauda*
White-tailed, *Phaethon lepturus*
TURNSTONE, Black, *Arenaria melanocephala*
Ruddy, *Arenaria interpres*
TURTLE-DOVE, Oriental, *Streptopelia orientalis*
VEERY, *Catharus fuscescens*
VERDIN, *Auriparus flaviceps*
VIOLETEAR, Mexican, *Colibri thalassinus*
VIREO, Bell's, *Vireo bellii*
Black-capped, *Vireo atricapilla*
Black-whiskered, *Vireo altiloquus*
Blue-headed, *Vireo solitarius*
Cassin's, *Vireo cassinii*
Cuban, *Vireo gundlachii*
Gray, *Vireo vicinior*
Hutton's, *Vireo huttoni*
Philadelphia, *Vireo philadelphicus*
Plumbeous, *Vireo plumbeus*
Puerto Rican, *Vireo latimeri*
Red-eyed, *Vireo olivaceus*
Thick-billed, *Vireo crassirostris*
Warbling, *Vireo gilvus*
White-eyed, *Vireo griseus*
Yellow-green, *Vireo flavoviridis*
Yellow-throated, *Vireo flavifrons*
Yucatan, *Vireo magister*
VULTURE, Black, *Coragyps atratus*
Turkey, *Cathartes aura*
WAGTAIL, Citrine, *Motacilla citreola*
Eastern Yellow, *Motacilla tschutschensis*
Gray, *Motacilla cinerea*
White, *Motacilla alba*
WARBLER, Adelaide's, *Setophaga adelaidae*
Aguiguan Reed, *Acrocephalus nijoi*
Arctic, *Phylloscopus borealis*
Bachman's, *Vermivora bachmanii*
Bay-breasted, *Setophaga castanea*
Black-and-white, *Mniotilta varia*
Blackburnian, *Setophaga fusca*
Blackpoll, *Setophaga striata*
Black-throated Blue, *Setophaga caerulescens*
Black-throated Gray, *Setophaga nigrescens*
Black-throated Green, *Setophaga virens*
Blue-winged, *Vermivora cyanoptera*
Blyth's Reed, *Acrocephalus dumetorum*
Canada, *Cardellina canadensis*
Cape May, *Setophaga tigrina*
Cerulean, *Setophaga cerulea*
Chestnut-sided, *Setophaga pensylvanica*
Colima, *Leiothlypis crissalis*
Connecticut, *Oporornis agilis*
Crescent-chested, *Oreothlypis superciliosa*
Dusky, *Phylloscopus fuscatus*
Elfin-woods, *Setophaga angelae*
Fan-tailed, *Basileuterus lachrymosus*
Golden-cheeked, *Setophaga chrysoparia*
Golden-crowned, *Basileuterus culicivorus*
Golden-winged, *Vermivora chrysoptera*
Grace's, *Setophaga graciae*
Hermit, *Setophaga occidentalis*
Hooded, *Setophaga citrina*
Kamchatka Leaf, *Phylloscopus examinandus*
Kentucky, *Geothlypis formosa*
Kirtland's, *Setophaga kirtlandii*
Lanceolated, *Locustella lanceolata*
Lucy's, *Leiothlypis luciae*
MacGillivray's, *Geothlypis tolmiei*
Magnolia, *Setophaga magnolia*
Mourning, *Geothlypis philadelphia*
Nashville, *Leiothlypis ruficapilla*
Nightingale Reed, *Acrocephalus luscinius*
Olive, *Peucedramus taeniatus*
Orange-crowned, *Leiothlypis celata*
Pagan Reed, *Acrocephalus yamashinae*
Pallas's Leaf, *Phylloscopus proregulus*
Palm, *Setophaga palmarum*
Pine, *Setophaga pinus*
Prairie, *Setophaga discolor*
Prothonotary, *Protonotaria citrea*
Red-faced, *Cardellina rubrifrons*
River, *Locustella fluviatilis*
Rufous-capped, *Basileuterus rufifrons*
Saipan Reed, *Acrocephalus hiwae*
Sedge, *Acrocephalus schoenobaenus*
Swainson's, *Limnothlypis swainsonii*
Tennessee, *Leiothlypis peregrina*
Thick-billed, *Arundinax aedon*
Townsend's, *Setophaga townsendi*
Virginia's, *Leiothlypis virginiae*
Willow, *Phylloscopus trochilus*
Wilson's, *Cardellina pusilla*
Wood, *Phylloscopus sibilatrix*
Worm-eating, *Helmitheros vermivorum*
Yellow, *Setophaga petechia*
Yellow-browed, *Phylloscopus inornatus*
Yellow-rumped, *Setophaga coronata*
Yellow-throated, *Setophaga dominica*
WATERTHRUSH, Louisiana, *Parkesia motacilla*
Northern, *Parkesia noveboracensis*
WAXWING, Bohemian, *Bombycilla garrulus*
Cedar, *Bombycilla cedrorum*
WHEATEAR, Northern, *Oenanthe oenanthe*
Pied, *Oenanthe pleschanka*
WHIMBREL, *Numenius phaeopus*
WHIP-POOR-WILL, Eastern, *Antrostomus vociferus*

Mexican, *Antrostomus arizonae*
WHISTLING-DUCK, Black-bellied, *Dendrocygna autumnalis*
Fulvous, *Dendrocygna bicolor*
West Indian, *Dendrocygna arborea*
WHITETHROAT, Lesser, *Sylvia curruca*
WIGEON, American, *Mareca americana*
Eurasian, *Mareca penelope*
WILLET, *Tringa semipalmata*
WOODCOCK, American, *Scolopax minor*
Eurasian, *Scolopax rusticola*
WOODPECKER, Acorn, *Melanerpes formicivorus*
American Three-toed, *Picoides dorsalis*
Arizona, *Dryobates arizonae*
Black-backed, *Picoides arcticus*
Downy, *Dryobates pubescens*
Gila, *Melanerpes uropygialis*
Golden-fronted, *Melanerpes aurifrons*
Great Spotted, *Dendrocopos major*
Hairy, *Dryobates villosus*
Ivory-billed, *Campephilus principalis*
Ladder-backed, *Dryobates scalaris*
Lewis's, *Melanerpes lewis*
Nuttall's, *Dryobates nuttallii*
Pileated, *Dryocopus pileatus*
Puerto Rican, *Melanerpes portoricensis*
Red-bellied, *Melanerpes carolinus*
Red-cockaded, *Dryobates borealis*
Red-headed, *Melanerpes erythrocephalus*
White-headed, *Dryobates albolarvatus*
WOOD-PEWEE, Eastern, *Contopus virens*
Western, *Contopus sordidulus*
WOOD-RAIL, Rufous-necked, *Aramides axillaris*
WOODSTAR, Bahama, *Nesophlox evelynae*
WREN, Bewick's, *Thryomanes bewickii*
Cactus, *Campylorhynchus brunneicapillus*
Canyon, *Catherpes mexicanus*
Carolina, *Thryothorus ludovicianus*
House, *Troglodytes aedon*
Marsh, *Cistothorus palustris*
Pacific, *Troglodytes pacificus*
Rock, *Salpinctes obsoletus*
Sedge, *Cistothorus platensis*
Sinaloa, *Thryophilus sinaloa*
Winter, *Troglodytes hiemalis*
WRENTIT, *Chamaea fasciata*
WRYNECK, Eurasian, *Jynx torquilla*
YELLOWLEGS, Greater, *Tringa melanoleuca*
Lesser, *Tringa flavipes*
YELLOWTHROAT, Common, *Geothlypis trichas*
Gray-crowned, *Geothlypis poliocephala*

(2) *Taxonomic listing.* Species are listed in phylogenetic sequence by scientific name, with the common (English) name following the scientific name. To help clarify species relationships, we also list the higher-level taxonomic categories of Order, Family, and Subfamily.

Order ANSERIFORMES
Family ANATIDAE
Subfamily DENDROCYGNINAE
Dendrocygna autumnalis, Black-bellied Whistling-Duck
Dendrocygna arborea, West Indian Whistling-Duck
Dendrocygna bicolor, Fulvous Whistling-Duck
Subfamily ANSERINAE
Anser canagicus, Emperor Goose
Anser caerulescens, Snow Goose
Anser rossii, Ross's Goose
Anser albifrons, Greater White-fronted Goose
Anser erythropus, Lesser White-fronted Goose
Anser fabalis, Taiga Bean-Goose
Anser serrirostris, Tundra Bean-Goose
Anser brachyrhynchus, Pink-footed Goose
Branta bernicla, Brant
Branta leucopsis, Barnacle Goose
Branta hutchinsii, Cackling Goose
Branta canadensis, Canada Goose
Branta sandvicensis, Hawaiian Goose
Cygnus buccinator, Trumpeter Swan
Cygnus columbianus, Tundra Swan
Cygnus cygnus, Whooper Swan
Subfamily ANATINAE
Cairina moschata, Muscovy Duck
Aix sponsa, Wood Duck
Sibirionetta formosa, Baikal Teal
Spatula querquedula, Garganey
Spatula discors, Blue-winged Teal
Spatula cyanoptera, Cinnamon Teal
Spatula clypeata, Northern Shoveler
Mareca strepera, Gadwall
Mareca falcata, Falcated Duck
Mareca penelope, Eurasian Wigeon
Mareca americana, American Wigeon
Anas laysanensis, Laysan Duck
Anas wyvilliana, Hawaiian Duck
Anas zonorhyncha, Eastern Spot-billed Duck
Anas platyrhynchos, Mallard
Anas rubripes, American Black Duck
Anas fulvigula, Mottled Duck
Anas superciliosa, Pacific Black Duck
Anas bahamensis, White-cheeked Pintail
Anas acuta, Northern Pintail
Anas crecca, Green-winged Teal
Aythya valisineria, Canvasback
Aythya americana, Redhead
Aythya ferina, Common Pochard
Aythya baeri, Baer's Pochard
Aythya collaris, Ring-necked Duck
Aythya fuligula, Tufted Duck
Aythya marila, Greater Scaup
Aythya affinis, Lesser Scaup
Polysticta stelleri, Steller's Eider
Somateria fischeri, Spectacled Eider
Somateria spectabilis, King Eider
Somateria mollissima, Common Eider
Histrionicus histrionicus, Harlequin Duck
Melanitta perspicillata, Surf Scoter
Melanitta deglandi, White-winged Scoter
Melanitta stejnegeri, Stejneger's Scoter
Melanitta nigra, Common Scoter
Melanitta americana, Black Scoter
Clangula hyemalis, Long-tailed Duck
Bucephala albeola, Bufflehead
Bucephala clangula, Common Goldeneye
Bucephala islandica, Barrow's Goldeneye
Mergellus albellus, Smew
Lophodytes cucullatus, Hooded Merganser
Mergus merganser, Common Merganser
Mergus serrator, Red-breasted Merganser
Nomonyx dominicus, Masked Duck
Oxyura jamaicensis, Ruddy Duck
Order PHOENICOPTERIFORMES
Family PHOENICOPTERIDAE
Phoenicopterus ruber, American Flamingo
Order PODICIPEDIFORMES
Family PODICIPEDIDAE
Tachybaptus dominicus, Least Grebe
Podilymbus podiceps, Pied-billed Grebe
Podiceps auritus, Horned Grebe
Podiceps grisegena, Red-necked Grebe
Podiceps nigricollis, Eared Grebe
Aechmophorus occidentalis, Western Grebe
Aechmophorus clarkii, Clark's Grebe
Order COLUMBIFORMES
Family COLUMBIDAE
Patagioenas squamosa, Scaly-naped Pigeon
Patagioenas leucocephala, White-crowned Pigeon
Patagioenas flavirostris, Red-billed Pigeon
Patagioenas inornata, Plain Pigeon
Patagioenas fasciata, Band-tailed Pigeon
Streptopelia orientalis, Oriental Turtle-Dove
Alopecoenas xanthonurus, White-throated Ground-Dove
Alopecoenas stairi, Shy Ground-Dove
Columbina inca, Inca Dove
Columbina passerina, Common Ground Dove
Columbina talpacoti, Ruddy Ground Dove
Geotrygon montana, Ruddy Quail-Dove
Geotrygon chrysia, Key West Quail-Dove
Geotrygon mystacea, Bridled Quail-Dove
Leptotila verreauxi, White-tipped Dove
Zenaida asiatica, White-winged Dove

Zenaida aurita, Zenaida Dove
Zenaida macroura, Mourning Dove
Ptilinopus perousii, Many-colored Fruit-Dove
Ptilinopus porphyraceus, Crimson-crowned Fruit-Dove
Ptilinopus roseicapilla, Mariana Fruit-Dove
Ducula pacifica, Pacific Imperial-Pigeon
Order CUCULIFORMES
Family CUCULIDAE
Subfamily CROTOPHAGINAE
Crotophaga ani, Smooth-billed Ani
Crotophaga sulcirostris, Groove-billed Ani
Subfamily NEOMORPHINAE
Geococcyx californianus, Greater Roadrunner
Subfamily CUCULINAE
Urodynamis taitensis, Long-tailed Koel
Hierococcyx nisicolor, Hodgson's Hawk-Cuckoo
Cuculus canorus, Common Cuckoo
Cuculus optatus, Oriental Cuckoo
Coccyzus americanus, Yellow-billed Cuckoo
Coccyzus minor, Mangrove Cuckoo
Coccyzus erythropthalmus, Black-billed Cuckoo
Coccyzus vieilloti, Puerto Rican Lizard-Cuckoo
Order CAPRIMULGIFORMES
Family CAPRIMULGIDAE
Subfamily CHORDEILINAE
Chordeiles acutipennis, Lesser Nighthawk
Chordeiles minor, Common Nighthawk
Chordeiles gundlachii, Antillean Nighthawk
Subfamily CAPRIMULGINAE
Nyctidromus albicollis, Common Pauraque
Phalaenoptilus nuttallii, Common Poorwill
Antrostomus carolinensis, Chuck-will's-widow
Antrostomus ridgwayi, Buff-collared Nightjar
Antrostomus vociferus, Eastern Whip-poor-will
Antrostomus arizonae, Mexican Whip-poor-will
Antrostomus noctitherus, Puerto Rican Nightjar
Hydropsalis cayennensis, White-tailed Nightjar
Caprimulgus jotaka, Gray Nightjar
Order APODIFORMES
Family APODIDAE
Subfamily CYPSELOIDINAE
Cypseloides niger, Black Swift
Streptoprocne zonaris, White-collared Swift
Subfamily CHAETURINAE
Chaetura pelagica, Chimney Swift
Chaetura vauxi, Vaux's Swift
Chaetura brachyura, Short-tailed Swift
Hirundapus caudacutus, White-throated Needletail
Aerodramus spodiopygius, White-rumped Swiftlet
Aerodramus bartschi, Mariana Swiftlet
Subfamily APODINAE
Apus apus, Common Swift
Apus pacificus, Fork-tailed Swift
Apus melba, Alpine Swift
Aeronautes saxatalis, White-throated Swift
Tachornis phoenicobia, Antillean Palm-Swift
Family TROCHILIDAE
Subfamily TROCHILINAE
Colibri thalassinus, Mexican Violetear
Anthracothorax prevostii, Green-breasted Mango
Anthracothorax dominicus, Antillean Mango
Anthracothorax viridis, Green Mango
Eulampis jugularis, Purple-throated Carib
Eulampis holosericeus, Green-throated Carib
Eugenes fulgens, Rivoli's Hummingbird
Heliomaster constantii, Plain-capped Starthroat
Lampornis amethystinus, Amethyst-throated Mountain-gem
Lampornis clemenciae, Blue-throated Mountain-gem
Calothorax lucifer, Lucifer Hummingbird
Archilochus colubris, Ruby-throated Hummingbird
Archilochus alexandri, Black-chinned Hummingbird
Mellisuga minima, Vervain Hummingbird
Nesophlox evelynae, Bahama Woodstar
Calypte anna, Anna's Hummingbird
Calypte costae, Costa's Hummingbird
Atthis heloisa, Bumblebee Hummingbird
Selasphorus platycercus, Broad-tailed Hummingbird
Selasphorus rufus, Rufous Hummingbird
Selasphorus sasin, Allen's Hummingbird
Selasphorus calliope, Calliope Hummingbird
Chlorostilbon maugaeus, Puerto Rican Emerald
Cynanthus latirostris, Broad-billed Hummingbird
Orthorhyncus cristatus, Antillean Crested Hummingbird
Amazilia beryllina, Berylline Hummingbird
Amazilia yucatanensis, Buff-bellied Hummingbird
Amazilia rutila, Cinnamon Hummingbird
Amazilia violiceps, Violet-crowned Hummingbird
Hylocharis leucotis, White-eared Hummingbird
Hylocharis xantusii, Xantus's Hummingbird
Order GRUIFORMES
Family RALLIDAE
Coturnicops noveboracensis, Yellow Rail
Laterallus jamaicensis, Black Rail
Gallirallus philippensis, Buff-banded Rail
Gallirallus owstoni, Guam Rail
Crex crex, Corn Crake
Rallus obsoletus, Ridgway's Rail
Rallus crepitans, Clapper Rail
Rallus elegans, King Rail
Rallus limicola, Virginia Rail
Aramides axillaris, Rufous-necked Wood-Rail
Porzana carolina, Sora
Porzana tabuensis, Spotless Crake
Hapalocrex flaviventer, Yellow-breasted Crake
Neocrex erythrops, Paint-billed Crake
Pardirallus maculatus, Spotted Rail
Porphyrio martinicus, Purple Gallinule
Porphyrio flavirostris, Azure Gallinule
Porphyrio porphyrio, Purple Swamphen
Gallinula galeata, Common Gallinule
Gallinula chloropus, Common Moorhen
Fulica atra, Eurasian Coot
Fulica alai, Hawaiian Coot
Fulica americana, American Coot
Family ARAMIDAE
Aramus guarauna, Limpkin
Family GRUIDAE
Subfamily GRUINAE
Antigone canadensis, Sandhill Crane
Grus grus, Common Crane
Grus americana, Whooping Crane
Order CHARADRIIFORMES
Family RECURVIROSTRIDAE
Himantopus himantopus, Black-winged Stilt
Himantopus mexicanus, Black-necked Stilt
Recurvirostra americana, American Avocet
Family HAEMATOPODIDAE
Haematopus ostralegus, Eurasian Oystercatcher
Haematopus palliatus, American Oystercatcher
Haematopus bachmani, Black Oystercatcher
Family CHARADRIIDAE
Subfamily VANELLINAE
Vanellus vanellus, Northern Lapwing
Subfamily CHARADRIINAE
Pluvialis squatarola, Black-bellied Plover
Pluvialis apricaria, European Golden-Plover

Pluvialis dominica, American Golden-Plover
Pluvialis fulva, Pacific Golden-Plover
Charadrius morinellus, Eurasian Dotterel
Charadrius vociferus, Killdeer
Charadrius hiaticula, Common Ringed Plover
Charadrius semipalmatus, Semipalmated Plover
Charadrius melodus, Piping Plover
Charadrius dubius, Little Ringed Plover
Charadrius mongolus, Lesser Sand-Plover
Charadrius leschenaultii, Greater Sand-Plover
Charadrius wilsonia, Wilson's Plover
Charadrius collaris, Collared Plover
Charadrius montanus, Mountain Plover
Charadrius alexandrinus, Kentish Plover
Charadrius nivosus, Snowy Plover
Family JACANIDAE
Jacana spinosa, Northern Jacana
Family SCOLOPACIDAE
Subfamily NUMENIINAE
Bartramia longicauda, Upland Sandpiper
Numenius tahitiensis, Bristle-thighed Curlew
Numenius phaeopus, Whimbrel
Numenius minutus, Little Curlew
Numenius borealis, Eskimo Curlew
Numenius americanus, Long-billed Curlew
Numenius madagascariensis, Far Eastern Curlew
Numenius arquata, Eurasian Curlew
Subfamily LIMOSINAE
Limosa lapponica, Bar-tailed Godwit
Limosa limosa, Black-tailed Godwit
Limosa haemastica, Hudsonian Godwit
Limosa fedoa, Marbled Godwit
Subfamily ARENARIINAE
Arenaria interpres, Ruddy Turnstone
Arenaria melanocephala, Black Turnstone
Calidris tenuirostris, Great Knot
Calidris canutus, Red Knot
Calidris virgata, Surfbird
Calidris pugnax, Ruff
Calidris falcinellus, Broad-billed Sandpiper
Calidris acuminata, Sharp-tailed Sandpiper
Calidris himantopus, Stilt Sandpiper
Calidris ferruginea, Curlew Sandpiper
Calidris temminckii, Temminck's Stint
Calidris subminuta, Long-toed Stint
Calidris pygmea, Spoon-billed Sandpiper
Calidris ruficollis, Red-necked Stint
Calidris alba, Sanderling
Calidris alpina, Dunlin
Calidris ptilocnemis, Rock Sandpiper
Calidris maritima, Purple Sandpiper
Calidris bairdii, Baird's Sandpiper
Calidris minuta, Little Stint
Calidris minutilla, Least Sandpiper
Calidris fuscicollis, White-rumped Sandpiper
Calidris subruficollis, Buff-breasted Sandpiper
Calidris melanotos, Pectoral Sandpiper
Calidris pusilla, Semipalmated Sandpiper
Calidris mauri, Western Sandpiper
Subfamily SCOLOPACINAE
Limnodromus griseus, Short-billed Dowitcher
Limnodromus scolopaceus, Long-billed Dowitcher
Lymnocryptes minimus, Jack Snipe
Scolopax rusticola, Eurasian Woodcock
Scolopax minor, American Woodcock
Gallinago solitaria, Solitary Snipe
Gallinago stenura, Pin-tailed Snipe
Gallinago megala, Swinhoe's Snipe
Gallinago gallinago, Common Snipe
Gallinago delicata, Wilson's Snipe
Subfamily TRINGINAE
Xenus cinereus, Terek Sandpiper
Actitis hypoleucos, Common Sandpiper
Actitis macularius, Spotted Sandpiper
Tringa ochropus, Green Sandpiper
Tringa solitaria, Solitary Sandpiper
Tringa brevipes, Gray-tailed Tattler
Tringa incana, Wandering Tattler
Tringa flavipes, Lesser Yellowlegs
Tringa semipalmata, Willet
Tringa erythropus, Spotted Redshank
Tringa nebularia, Common Greenshank
Tringa guttifer, Nordmann's Greenshank
Tringa melanoleuca, Greater Yellowlegs
Tringa totanus, Common Redshank
Tringa glareola, Wood Sandpiper
Tringa stagnatilis, Marsh Sandpiper
Phalaropus tricolor, Wilson's Phalarope
Phalaropus lobatus, Red-necked Phalarope
Phalaropus fulicarius, Red Phalarope
Family STERCORARIIDAE
Stercorarius skua, Great Skua
Stercorarius maccormicki, South Polar Skua
Stercorarius pomarinus, Pomarine Jaeger
Stercorarius parasiticus, Parasitic Jaeger
Stercorarius longicaudus, Long-tailed Jaeger
Family ALCIDAE
Alle alle, Dovekie
Uria aalge, Common Murre
Uria lomvia, Thick-billed Murre
Alca torda, Razorbill
Cepphus grylle, Black Guillemot
Cepphus columba, Pigeon Guillemot
Brachyramphus perdix, Long-billed Murrelet
Brachyramphus marmoratus, Marbled Murrelet
Brachyramphus brevirostris, Kittlitz's Murrelet
Synthliboramphus scrippsi, Scripps's Murrelet
Synthliboramphus hypoleucus, Guadalupe Murrelet
Synthliboramphus craveri, Craveri's Murrelet
Synthliboramphus antiquus, Ancient Murrelet
Ptychoramphus aleuticus, Cassin's Auklet
Aethia psittacula, Parakeet Auklet
Aethia pusilla, Least Auklet
Aethia pygmaea, Whiskered Auklet
Aethia cristatella, Crested Auklet
Cerorhinca monocerata, Rhinoceros Auklet
Fratercula arctica, Atlantic Puffin
Fratercula corniculata, Horned Puffin
Fratercula cirrhata, Tufted Puffin
Family LARIDAE
Subfamily LARINAE
Creagrus furcatus, Swallow-tailed Gull
Rissa tridactyla, Black-legged Kittiwake
Rissa brevirostris, Red-legged Kittiwake
Pagophila eburnea, Ivory Gull
Xema sabini, Sabine's Gull
Chroicocephalus philadelphia, Bonaparte's Gull
Chroicocephalus cirrocephalus, Gray-hooded Gull
Chroicocephalus ridibundus, Black-headed Gull
Hydrocoloeus minutus, Little Gull
Rhodostethia rosea, Ross's Gull
Leucophaeus atricilla, Laughing Gull
Leucophaeus pipixcan, Franklin's Gull
Larus belcheri, Belcher's Gull
Larus crassirostris, Black-tailed Gull
Larus heermanni, Heermann's Gull
Larus canus, Mew Gull
Larus delawarensis, Ring-billed Gull
Larus occidentalis, Western Gull
Larus livens, Yellow-footed Gull
Larus californicus, California Gull
Larus argentatus, Herring Gull
Larus michahellis, Yellow-legged Gull
Larus glaucoides, Iceland Gull
Larus fuscus, Lesser Black-backed Gull
Larus schistisagus, Slaty-backed Gull
Larus glaucescens, Glaucous-winged Gull
Larus hyperboreus, Glaucous Gull
Larus marinus, Great Black-backed Gull
Larus dominicanus, Kelp Gull
Subfamily STERNINAE
Anous stolidus, Brown Noddy

Anous minutus, Black Noddy
Anous ceruleus, Blue-gray Noddy
Gygis alba, White Tern
Onychoprion fuscatus, Sooty Tern
Onychoprion lunatus, Gray-backed Tern
Onychoprion anaethetus, Bridled Tern
Onychoprion aleuticus, Aleutian Tern
Sternula albifrons, Little Tern
Sternula antillarum, Least Tern
Phaetusa simplex, Large-billed Tern
Gelochelidon nilotica, Gull-billed Tern
Hydroprogne caspia, Caspian Tern
Chlidonias niger, Black Tern
Chlidonias leucopterus, White-winged Tern
Chlidonias hybrida, Whiskered Tern
Sterna dougallii, Roseate Tern
Sterna sumatrana, Black-naped Tern
Sterna hirundo, Common Tern
Sterna paradisaea, Arctic Tern
Sterna forsteri, Forster's Tern
Thalasseus maximus, Royal Tern
Thalasseus bergii, Great Crested Tern
Thalasseus sandvicensis, Sandwich Tern
Thalasseus elegans, Elegant Tern
Subfamily RYNCHOPINAE
Rynchops niger, Black Skimmer
Order PHAETHONTIFORMES
Family PHAETHONTIDAE
Phaethon lepturus, White-tailed Tropicbird
Phaethon aethereus, Red-billed Tropicbird
Phaethon rubricauda, Red-tailed Tropicbird
Order GAVIIFORMES
Family GAVIIDAE
Gavia stellata, Red-throated Loon
Gavia arctica, Arctic Loon
Gavia pacifica, Pacific Loon
Gavia immer, Common Loon
Gavia adamsii, Yellow-billed Loon
Order PROCELLARIIFORMES
Family DIOMEDEIDAE
Thalassarche chlororhynchos, Yellow-nosed Albatross
Thalassarche cauta, White-capped Albatross
Thalassarche eremita, Chatham Albatross
Thalassarche salvini, Salvin's Albatross
Thalassarche melanophris, Black-browed Albatross
Phoebetria palpebrata, Light-mantled Albatross
Diomedea exulans, Wandering Albatross
Phoebastria immutabilis, Laysan Albatross
Phoebastria nigripes, Black-footed Albatross
Phoebastria albatrus, Short-tailed Albatross
Family OCEANITIDAE
Oceanites oceanicus, Wilson's Storm-Petrel
Pelagodroma marina, White-faced Storm-Petrel
Fregetta tropica, Black-bellied Storm-Petrel
Family HYDROBATIDAE
Hydrobates pelagicus, European Storm-Petrel
Fregetta grallaria, White-bellied Storm-Petrel
Nesofregetta fuliginosa, Polynesian Storm-Petrel
Hydrobates furcatus, Fork-tailed Storm-Petrel
Hydrobates hornbyi, Ringed Storm-Petrel
Hydrobates monorhis, Swinhoe's Storm-Petrel
Hydrobates leucorhous, Leach's Storm-Petrel
Hydrobates socorroensis, Townsend's Storm-Petrel
Hydrobates homochroa, Ashy Storm-Petrel
Hydrobates castro, Band-rumped Storm-Petrel
Hydrobates tethys, Wedge-rumped Storm-Petrel
Oceanodroma matsudairae, Matsudaira's Storm-Petrel
Hydrobates melania, Black Storm-Petrel
Hydrobates tristrami, Tristram's Storm-Petrel
Hydrobates microsoma, Least Storm-Petrel
Family PROCELLARIIDAE
Fulmarus glacialis, Northern Fulmar
Pterodroma gouldi, Gray-faced Petrel
Pterodroma solandri, Providence Petrel
Pterodroma neglecta, Kermadec Petrel
Pterodroma arminjoniana, Trindade Petrel
Pterodroma heraldica, Herald Petrel
Pterodroma ultima, Murphy's Petrel
Pterodroma inexpectata, Mottled Petrel
Pterodroma cahow, Bermuda Petrel
Pterodroma hasitata, Black-capped Petrel
Pterodroma externa, Juan Fernandez Petrel
Pterodroma sandwichensis, Hawaiian Petrel
Pterodroma cervicalis, White-necked Petrel
Pterodroma hypoleuca, Bonin Petrel
Pterodroma nigripennis, Black-winged Petrel
Pterodroma feae, Fea's Petrel
Pterodroma madeira, Zino's Petrel
Pterodroma cookii, Cook's Petrel
Pterodroma longirostris, Stejneger's Petrel
Pterodroma alba, Phoenix Petrel
Pterodroma leucoptera, Gould's Petrel
Pseudobulweria rostrata, Tahiti Petrel
Bulweria bulwerii, Bulwer's Petrel
Bulweria fallax, Jouanin's Petrel
Procellaria aequinoctialis, White-chinned Petrel
Procellaria parkinsoni, Parkinson's Petrel
Calonectris leucomelas, Streaked Shearwater
Calonectris diomedea, Cory's Shearwater
Calonectris edwardsii, Cape Verde Shearwater
Ardenna pacifica, Wedge-tailed Shearwater
Ardenna bulleri, Buller's Shearwater
Ardenna tenuirostris, Short-tailed Shearwater
Ardenna grisea, Sooty Shearwater
Ardenna gravis, Great Shearwater
Ardenna creatopus, Pink-footed Shearwater
Ardenna carneipes, Flesh-footed Shearwater
Puffinus nativitatis, Christmas Shearwater
Puffinus puffinus, Manx Shearwater
Puffinus newelli, Newell's Shearwater
Puffinus bryani, Bryan's Shearwater
Puffinus opisthomelas, Black-vented Shearwater
Puffinus lherminieri, Audubon's Shearwater
Puffinus baroli, Barolo Shearwater
Order CICONIIFORMES
Family CICONIIDAE
Jabiru mycteria, Jabiru
Mycteria americana, Wood Stork
Order SULIFORMES
Family FREGATIDAE
Fregata ariel, Lesser Frigatebird
Fregata magnificens, Magnificent Frigatebird
Fregata minor, Great Frigatebird
Family SULIDAE
Sula dactylatra, Masked Booby
Sula granti, Nazca Booby
Sula nebouxii, Blue-footed Booby
Sula leucogaster, Brown Booby
Sula sula, Red-footed Booby
Papasula abbotti, Abbott's Booby
Morus bassanus, Northern Gannet
Family PHALACROCORACIDAE
Phalacrocorax melanoleucos, Little Pied Cormorant
Phalacrocorax penicillatus, Brandt's Cormorant
Phalacrocorax brasilianus, Neotropic Cormorant
Phalacrocorax auritus, Double-crested Cormorant
Phalacrocorax carbo, Great Cormorant
Phalacrocorax urile, Red-faced Cormorant
Phalacrocorax pelagicus, Pelagic Cormorant
Family ANHINGIDAE
Anhinga anhinga, Anhinga
Order PELECANIFORMES
Family PELECANIDAE

Pelecanus erythrorhynchos, American White Pelican
Pelecanus occidentalis, Brown Pelican
Family ARDEIDAE
Botaurus lentiginosus, American Bittern
Ixobrychus sinensis, Yellow Bittern
Ixobrychus exilis, Least Bittern
Ixobrychus eurhythmus, Schrenck's Bittern
Ixobrychus flavicollis, Black Bittern
Tigrisoma mexicanum, Bare-throated Tiger-Heron
Ardea herodias, Great Blue Heron
Ardea cinerea, Gray Heron
Ardea alba, Great Egret
Ardea intermedia, Intermediate Egret
Egretta eulophotes, Chinese Egret
Egretta garzetta, Little Egret
Egretta sacra, Pacific Reef-Heron
Egretta gularis, Western Reef-Heron
Egretta thula, Snowy Egret
Egretta caerulea, Little Blue Heron
Egretta tricolor, Tricolored Heron
Egretta rufescens, Reddish Egret
Bubulcus ibis, Cattle Egret
Ardeola bacchus, Chinese Pond-Heron
Butorides virescens, Green Heron
Nycticorax nycticorax, Black-crowned Night-Heron
Nycticorax caledonicus, Rufous Night-Heron
Nyctanassa violacea, Yellow-crowned Night-Heron
Gorsachius goisagi, Japanese Night-Heron
Gorsachius melanolophus, Malayan Night-Heron
Family THRESKIORNITHIDAE
Subfamily THRESKIORNITHINAE
Eudocimus albus, White Ibis
Eudocimus ruber, Scarlet Ibis
Plegadis falcinellus, Glossy Ibis
Plegadis chihi, White-faced Ibis
Subfamily PLATALEINAE
Platalea ajaja, Roseate Spoonbill
Order CARTHARTIFORMES
Family CATHARTIDAE
Coragyps atratus, Black Vulture
Cathartes aura, Turkey Vulture
Gymnogyps californianus, California Condor
Order ACCIPITRIFORMES
Family PANDIONIDAE
Pandion haliaetus, Osprey
Family ACCIPITRIDAE
Subfamily ELANINAE
Elanus leucurus, White-tailed Kite
Subfamily GYPAETINAE
Chondrohierax uncinatus, Hook-billed Kite
Elanoides forficatus, Swallow-tailed Kite
Subfamily ACCIPITRINAE
Aquila chrysaetos, Golden Eagle
Harpagus bidentatus, Double-toothed Kite
Circus spilonotus, Eastern Marsh-Harrier
Circus hudsonius, Northern Harrier
Accipiter soloensis, Chinese Sparrowhawk
Accipiter gularis, Japanese Sparrowhawk
Accipiter striatus, Sharp-shinned Hawk
Accipiter cooperii, Cooper's Hawk
Accipiter gentilis, Northern Goshawk
Milvus migrans, Black Kite
Haliaeetus leucocephalus, Bald Eagle
Haliaeetus albicilla, White-tailed Eagle
Haliaeetus pelagicus, Steller's Sea-Eagle
Ictinia mississippiensis, Mississippi Kite
Butastur indicus, Gray-faced Buzzard
Geranospiza caerulescens, Crane Hawk
Rostrhamus sociabilis, Snail Kite
Buteogallus anthracinus, Common Black Hawk
Buteogallus urubitinga, Great Black Hawk
Rupornis magnirostris, Roadside Hawk
Parabuteo unicinctus, Harris's Hawk
Geranoaetus albicaudatus, White-tailed Hawk
Buteo plagiatus, Gray Hawk
Buteo lineatus, Red-shouldered Hawk
Buteo platypterus, Broad-winged Hawk
Buteo solitarius, Hawaiian Hawk
Buteo brachyurus, Short-tailed Hawk
Buteo swainsoni, Swainson's Hawk
Buteo albonotatus, Zone-tailed Hawk
Buteo jamaicensis, Red-tailed Hawk
Buteo lagopus, Rough-legged Hawk
Buteo regalis, Ferruginous Hawk
Order STRIGIFORMES
Family TYTONIDAE
Tyto alba, Barn Owl
Family STRIGIDAE
Otus sunia, Oriental Scops-Owl
Psiloscops flammeolus, Flammulated Owl
Megascops kennicottii, Western Screech-Owl
Megascops asio, Eastern Screech-Owl
Megascops trichopsis, Whiskered Screech-Owl
Megascops nudipes, Puerto Rican Screech-Owl
Bubo virginianus, Great Horned Owl
Bubo scandiacus, Snowy Owl
Surnia ulula, Northern Hawk Owl
Glaucidium gnoma, Northern Pygmy-Owl
Glaucidium brasilianum, Ferruginous Pygmy-Owl
Micrathene whitneyi, Elf Owl
Athene cunicularia, Burrowing Owl
Ciccaba virgata, Mottled Owl
Strix occidentalis, Spotted Owl
Strix varia, Barred Owl
Strix nebulosa, Great Gray Owl
Asio otus, Long-eared Owl
Asio stygius, Stygian Owl
Asio flammeus, Short-eared Owl
Aegolius funereus, Boreal Owl
Aegolius acadicus, Northern Saw-whet Owl
Ninox japonica, Northern Boobook
Order TROGONIFORMES
Family TROGONIDAE
Subfamily TROGONINAE
Trogon elegans, Elegant Trogon
Euptilotis neoxenus, Eared Quetzal
Order UPUPIFORMES
Family UPUPIDAE
Upupa epops, Eurasian Hoopoe
Order CORACIIFORMES
Family ALCEDINIDAE
Subfamily ALCEDININAE
Alcedo atthis, Common Kingfisher
Subfamily HALCYONINAE
Todiramphus sacer, Pacific Kingfisher
Todiramphus cinnamominus, Guam Kingfisher
Todiramphus albicilla, Mariana Kingfisher
Subfamily CERYLINAE
Megaceryle torquata, Ringed Kingfisher
Megaceryle alcyon, Belted Kingfisher
Chloroceryle amazona, Amazon Kingfisher
Chloroceryle americana, Green Kingfisher
Order PICIFORMES
Family PICIDAE
Subfamily JYNGINAE
Jynx torquilla, Eurasian Wryneck
Subfamily PICINAE
Melanerpes lewis, Lewis's Woodpecker
Melanerpes portoricensis, Puerto Rican Woodpecker
Melanerpes erythrocephalus, Red-headed Woodpecker
Melanerpes formicivorus, Acorn Woodpecker
Melanerpes uropygialis, Gila Woodpecker
Melanerpes aurifrons, Golden-fronted Woodpecker
Melanerpes carolinus, Red-bellied Woodpecker
Sphyrapicus thyroideus, Williamson's Sapsucker
Sphyrapicus varius, Yellow-bellied Sapsucker
Sphyrapicus nuchalis, Red-naped Sapsucker
Sphyrapicus ruber, Red-breasted Sapsucker
Picoides dorsalis, American Three-toed Woodpecker
Picoides arcticus, Black-backed Woodpecker
Dendrocopos major, Great Spotted Woodpecker
Dryobates pubescens, Downy Woodpecker

Dryobates nuttallii, Nuttall's Woodpecker
Dryobates scalaris, Ladder-backed Woodpecker
Dryobates borealis, Red-cockaded Woodpecker
Dryobates villosus, Hairy Woodpecker
Dryobates albolarvatus, White-headed Woodpecker
Dryobates arizonae, Arizona Woodpecker
Colaptes auratus, Northern Flicker
Colaptes chrysoides, Gilded Flicker
Dryocopus pileatus, Pileated Woodpecker
Campephilus principalis, Ivory-billed Woodpecker
Order FALCONIFORMES
Family FALCONIDAE
Subfamily HERPETOTHERINAE
Micrastur semitorquatus, Collared Forest-Falcon
Subfamily FALCONINAE
Caracara cheriway, Crested Caracara
Falco tinnunculus, Eurasian Kestrel
Falco sparverius, American Kestrel
Falco vespertinus, Red-footed Falcon
Falco amurensis, Amur Falcon
Falco columbarius, Merlin
Falco subbuteo, Eurasian Hobby
Falco femoralis, Aplomado Falcon
Falco rusticolus, Gyrfalcon
Falco peregrinus, Peregrine Falcon
Falco mexicanus, Prairie Falcon
Order PASSERIFORMES
Family TITYRIDAE
Tityra semifasciata, Masked Tityra
Pachyramphus major, Gray-collared Becard
Pachyramphus aglaiae, Rose-throated Becard
Family TYRANNIDAE
Subfamily ELAENIINAE
Camptostoma imberbe, Northern Beardless-Tyrannulet
Myiopagis viridicata, Greenish Elaenia
Elaenia martinica, Caribbean Elaenia
Elaenia albiceps, White-crested Elaenia
Subfamily FLUVICOLINAE
Mitrephanes phaeocercus, Tufted Flycatcher
Contopus cooperi, Olive-sided Flycatcher
Contopus pertinax, Greater Pewee
Contopus sordidulus, Western Wood-Pewee
Contopus virens, Eastern Wood-Pewee
Contopus caribaeus, Cuban Pewee
Contopus hispaniolensis, Hispaniolan Pewee
Contopus latirostris, Lesser Antillean Pewee
Empidonax flaviventris, Yellow-bellied Flycatcher
Empidonax virescens, Acadian Flycatcher
Empidonax alnorum, Alder Flycatcher
Empidonax traillii, Willow Flycatcher
Empidonax minimus, Least Flycatcher
Empidonax hammondii, Hammond's Flycatcher
Empidonax wrightii, Gray Flycatcher
Empidonax oberholseri, Dusky Flycatcher
Empidonax affinis, Pine Flycatcher
Empidonax difficilis, Pacific-slope Flycatcher
Empidonax occidentalis, Cordilleran Flycatcher
Empidonax fulvifrons, Buff-breasted Flycatcher
Sayornis nigricans, Black Phoebe
Sayornis phoebe, Eastern Phoebe
Sayornis saya, Say's Phoebe
Pyrocephalus rubinus, Vermilion Flycatcher
Subfamily TYRANNINAE
Myiarchus tuberculifer, Dusky-capped Flycatcher
Myiarchus cinerascens, Ash-throated Flycatcher
Myiarchus nuttingi, Nutting's Flycatcher
Myiarchus crinitus, Great Crested Flycatcher
Myiarchus tyrannulus, Brown-crested Flycatcher
Myiarchus sagrae, La Sagra's Flycatcher
Myiarchus antillarum, Puerto Rican Flycatcher
Pitangus sulphuratus, Great Kiskadee
Myiozetetes similis, Social Flycatcher
Myiodynastes luteiventris, Sulphur-bellied Flycatcher
Legatus leucophaius, Piratic Flycatcher
Empidonomus varius, Variegated Flycatcher
Empidonomus aurantioatrocristatus, Crowned Slaty Flycatcher
Tyrannus melancholicus, Tropical Kingbird
Tyrannus couchii, Couch's Kingbird
Tyrannus vociferans, Cassin's Kingbird
Tyrannus crassirostris, Thick-billed Kingbird
Tyrannus verticalis, Western Kingbird
Tyrannus tyrannus, Eastern Kingbird
Tyrannus dominicensis, Gray Kingbird
Tyrannus caudifasciatus, Loggerhead Kingbird
Tyrannus forficatus, Scissor-tailed Flycatcher
Tyrannus savana, Fork-tailed Flycatcher
Family LANIIDAE
Lanius cristatus, Brown Shrike
Lanius ludovicianus, Loggerhead Shrike
Lanius borealis, Northern Shrike
Family VIREONIDAE
Vireo atricapilla, Black-capped Vireo
Vireo griseus, White-eyed Vireo
Vireo crassirostris, Thick-billed Vireo
Vireo latimeri, Puerto Rican Vireo
Vireo gundlachii, Cuban Vireo
Vireo bellii, Bell's Vireo
Vireo vicinior, Gray Vireo
Vireo huttoni, Hutton's Vireo
Vireo flavifrons, Yellow-throated Vireo
Vireo cassinii, Cassin's Vireo
Vireo solitarius, Blue-headed Vireo
Vireo plumbeus, Plumbeous Vireo
Vireo philadelphicus, Philadelphia Vireo
Vireo gilvus, Warbling Vireo
Vireo olivaceus, Red-eyed Vireo
Vireo flavoviridis, Yellow-green Vireo
Vireo altiloquus, Black-whiskered Vireo
Vireo magister, Yucatan Vireo
Family CORVIDAE
Perisoreus canadensis, Canada Jay
Psilorhinus morio, Brown Jay
Cyanocorax yncas, Green Jay
Gymnorhinus cyanocephalus, Pinyon Jay
Cyanocitta stelleri, Steller's Jay
Cyanocitta cristata, Blue Jay
Aphelocoma coerulescens, Florida Scrub-Jay
Aphelocoma insularis, Island Scrub-Jay
Aphelocoma californica, California Scrub-Jay
Aphelocoma woodhouseii, Woodhouse's Scrub-Jay
Aphelocoma wollweberi, Mexican Jay
Nucifraga columbiana, Clark's Nutcracker
Pica hudsonia, Black-billed Magpie
Pica nuttalli, Yellow-billed Magpie
Corvus monedula, Eurasian Jackdaw
Corvus kubaryi, Mariana Crow
Corvus brachyrhynchos, American Crow
Corvus caurinus, Northwestern Crow
Corvus leucognaphalus, White-necked Crow
Corvus imparatus, Tamaulipas Crow
Corvus ossifragus, Fish Crow
Corvus hawaiiensis, Hawaiian Crow
Corvus cryptoleucus, Chihuahuan Raven
Corvus corax, Common Raven
Family ALAUDIDAE
Alauda arvensis, Eurasian Skylark
Eremophila alpestris, Horned Lark
Family HIRUNDINIDAE
Subfamily HIRUNDININAE
Riparia riparia, Bank Swallow
Tachycineta bicolor, Tree Swallow
Tachycineta cyaneoviridis, Bahama Swallow
Tachycineta thalassina, Violet-green Swallow
Tachycineta albilinea, Mangrove Swallow
Stelgidopteryx serripennis, Northern

Rough-winged Swallow
Progne tapera, Brown-chested Martin
Progne dominicensis, Caribbean Martin
Progne subis, Purple Martin
Progne cryptoleuca, Cuban Martin
Progne chalybea, Gray-breasted Martin
Progne elegans, Southern Martin
Hirundo rustica, Barn Swallow
Delichon urbicum, Common House-Martin
Petrochelidon pyrrhonota, Cliff Swallow
Petrochelidon fulva, Cave Swallow
Family PARIDAE
Poecile carolinensis, Carolina Chickadee
Poecile atricapillus, Black-capped Chickadee
Poecile gambeli, Mountain Chickadee
Poecile sclateri, Mexican Chickadee
Poecile rufescens, Chestnut-backed Chickadee
Poecile hudsonicus, Boreal Chickadee
Poecile cinctus, Gray-headed Chickadee
Baeolophus wollweberi, Bridled Titmouse
Baeolophus inornatus, Oak Titmouse
Baeolophus ridgwayi, Juniper Titmouse
Baeolophus bicolor, Tufted Titmouse
Baeolophus atricristatus, Black-crested Titmouse
Family REMIZIDAE
Auriparus flaviceps, Verdin
Family AEGITHALIDAE
Psaltriparus minimus, Bushtit
Family SITTIDAE
Subfamily SITTINAE
Sitta canadensis, Red-breasted Nuthatch
Sitta carolinensis, White-breasted Nuthatch
Sitta pygmaea, Pygmy Nuthatch
Sitta pusilla, Brown-headed Nuthatch
Family CERTHIIDAE
Subfamily CERTHIINAE
Certhia americana, Brown Creeper
Family TROGLODYTIDAE
Salpinctes obsoletus, Rock Wren
Catherpes mexicanus, Canyon Wren
Troglodytes aedon, House Wren
Troglodytes pacificus, Pacific Wren
Troglodytes hiemalis, Winter Wren
Cistothorus platensis, Sedge Wren
Cistothorus palustris, Marsh Wren
Thryothorus ludovicianus, Carolina Wren
Thryomanes bewickii, Bewick's Wren
Campylorhynchus brunneicapillus, Cactus Wren
Thryophilus sinaloa, Sinaloa Wren
Family POLIOPTILIDAE
Polioptila caerulea, Blue-Gray Gnatcatcher
Polioptila californica, California Gnatcatcher
Polioptila melanura, Black-tailed Gnatcatcher
Polioptila nigriceps, Black-capped Gnatcatcher
Family CINCLIDAE
Cinclus mexicanus, American Dipper
Family REGULIDAE
Regulus satrapa, Golden-crowned Kinglet
Regulus calendula, Ruby-crowned Kinglet
Family PHYLLOSCOPIDAE
Phylloscopus trochilus, Willow Warbler
Phylloscopus collybita, Common Chiffchaff
Phylloscopus sibilatrix, Wood Warbler
Phylloscopus fuscatus, Dusky Warbler
Phylloscopus proregulus, Pallas's Leaf Warbler
Phylloscopus inornatus, Yellow-browed Warbler
Phylloscopus borealis, Arctic Warbler
Phylloscopus examinandus, Kamchatka Leaf Warbler
Family SYLVIIDAE
Sylvia curruca, Lesser Whitethroat
Chamaea fasciata, Wrentit
Family ACROCEPHALIDAE
Arundinax aedon, Thick-billed Warbler
Acrocephalus luscinius, Nightingale Reed Warbler
Acrocephalus hiwae, Saipan Reed Warbler
Acrocephalus nijoi, Aguiguan Reed Warbler
Acrocephalus yamashinae, Pagan Reed Warbler
Acrocephalus familiaris, Millerbird
Acrocephalus schoenobaenus, Sedge Warbler
Acrocephalus dumetorum, Blyth's Reed Warbler
Family LOCUSTELLIDAE
Locustella ochotensis, Middendorff's Grasshopper-Warbler
Locustella fluviatilis, River Warbler
Locustella lanceolata, Lanceolated Warbler
Family MUSCICAPIDAE
Muscicapa griseisticta, Gray-streaked Flycatcher
Muscicapa dauurica, Asian Brown Flycatcher
Muscicapa striata, Spotted Flycatcher
Muscicapa sibirica, Dark-sided Flycatcher
Erithacus rubecula, European Robin
Larvivora cyane, Siberian Blue Robin
Larvivora sibilans, Rufous-tailed Robin
Cyanecula svecica, Bluethroat
Calliope calliope, Siberian Rubythroat
Tarsiger cyanurus, Red-flanked Bluetail
Ficedula narcissina, Narcissus Flycatcher
Ficedula mugimaki, Mugimaki Flycatcher
Ficedula albicilla, Taiga Flycatcher
Phoenicurus phoenicurus, Common Redstart
Saxicola torquatus, Stonechat
Oenanthe oenanthe, Northern Wheatear
Oenanthe pleschanka, Pied Wheatear
Family TURDIDAE
Monticola solitarius, Blue Rock-Thrush
Sialia sialis, Eastern Bluebird
Sialia mexicana, Western Bluebird
Sialia currucoides, Mountain Bluebird
Myadestes townsendi, Townsend's Solitaire
Myadestes occidentalis, Brown-backed Solitaire
Myadestes myadestinus, Kāmaʻo
Myadestes lanaiensis, Olomao
Myadestes obscurus, Ōmaʻo
Myadestes palmeri, Puaiohi
Catharus aurantiirostris, Orange-billed Nightingale-Thrush
Catharus mexicanus, Black-headed Nightingale-Thrush
Catharus fuscescens, Veery
Catharus minimus, Gray-cheeked Thrush
Catharus bicknelli, Bicknell's Thrush
Catharus ustulatus, Swainson's Thrush
Catharus guttatus, Hermit Thrush
Hylocichla mustelina, Wood Thrush
Turdus obscurus, Eyebrowed Thrush
Turdus naumanni, Dusky Thrush
Turdus pilaris, Fieldfare
Turdus iliacus, Redwing
Turdus grayi, Clay-colored Thrush
Turdus assimilis, White-throated Thrush
Turdus rufopalliatus, Rufous-backed Robin
Turdus migratorius, American Robin
Turdus plumbeus, Red-legged Thrush
Ixoreus naevius, Varied Thrush
Ridgwayia pinicola, Aztec Thrush
Family MIMIDAE
Melanotis caerulescens, Blue Mockingbird
Melanoptila glabrirostris, Black Catbird
Dumetella carolinensis, Gray Catbird
Margarops fuscatus, Pearly-eyed Thrasher
Toxostoma curvirostre, Curve-billed Thrasher
Toxostoma rufum, Brown Thrasher
Toxostoma longirostre, Long-billed Thrasher
Toxostoma bendirei, Bendire's Thrasher
Toxostoma redivivum, California Thrasher
Toxostoma lecontei, LeConte's Thrasher
Toxostoma crissale, Crissal Thrasher

Oreoscoptes montanus, Sage Thrasher
Mimus gundlachii, Bahama Mockingbird
Mimus polyglottos, Northern Mockingbird
Family STURNIDAE
Agropsar philippensis, Chestnut-cheeked Starling
Spodiopsar cineraceus, White-cheeked Starling
Family BOMBYCILLIDAE
Bombycilla garrulus, Bohemian Waxwing
Bombycilla cedrorum, Cedar Waxwing
Family PTILIOGONATIDAE
Ptiliogonys cinereus, Gray Silky-flycatcher
Phainopepla nitens, Phainopepla
Family PEUCEDRAMIDAE
Peucedramus taeniatus, Olive Warbler
Family PRUNELLIDAE
Prunella montanella, Siberian Accentor
Family MOTACILLIDAE
Motacilla tschutschensis, Eastern Yellow Wagtail
Motacilla citreola, Citrine Wagtail
Motacilla cinerea, Gray Wagtail
Motacilla alba, White Wagtail
Anthus trivialis, Tree Pipit
Anthus hodgsoni, Olive-backed Pipit
Anthus gustavi, Pechora Pipit
Anthus cervinus, Red-throated Pipit
Anthus rubescens, American Pipit
Anthus spragueii, Sprague's Pipit
Family FRINGILLIDAE
Subfamily FRINGILLINAE
Fringilla coelebs, Common Chaffinch
Fringilla montifringilla, Brambling
Subfamily EUPHONIINAE
Euphonia musica, Antillean Euphonia
Subfamily CARDUELINAE
Coccothraustes vespertinus, Evening Grosbeak
Coccothraustes coccothraustes, Hawfinch
Carpodacus erythrinus, Common Rosefinch
Carpodacus roseus, Pallas's Rosefinch
Melamprosops phaeosoma, Poʻouli
Oreomystis bairdi, ʻAkikiki
Paroreomyza maculata, Oʻahu ʻAlauahio
*Paroreomyza flammea,*Kākāwahie
Paroreomyza montana, Maui ʻAlauahio
Loxioides bailleui, Palila
Telespiza cantans, Laysan Finch
Telespiza ultima, Nihoa Finch
Palmeria dolei, ʻAkohekohe
Himatione fraithii, Laysan Honeycreeper
Himatione sanguinea, ʻApapane
Drepanis coccinea, ʻIʻiwi
Psittirostra psittacea, ʻŌʻū
Pseudonestor xanthophrys, Maui Parrotbill
Hemignathus hanapepe, Kauai Nukupuʻu
Hemignathus lucidus, Oʻahu Nukupuʻu
Hemignathus affinis, Maui Nukupuʻu
Hemignathus wilsoni, ʻAkiapolaʻau
Akialoa stejnegeri, Kauai ʻAkialoa
Akialoa ellisiana, Oʻahu ʻAkialoa
Akialoa lanaiensis, Maui Nui ʻAkialoa
Magumma parva, ʻAnianiau
Chlorodrepanis virens, Hawaii ʻAmakihi
Chlorodrepanis flava, Oʻahu ʻAmakihi
Chlorodrepanis stejnegeri, Kauai ʻAmakihi
Loxops mana, Hawaii Creeper
Loxops caeruleirostris, ʻAkekeʻe
Loxops wolstenholmei, Oʻahu ʻAkepa
Loxops ochraceus, Maui ʻAkepa
Loxops coccineus, Hawaii ʻAkepa
Pinicola enucleator, Pine Grosbeak
Pyrrhula pyrrhula, Eurasian Bullfinch
Leucosticte arctoa, Asian Rosy-Finch
Leucosticte tephrocotis, Gray-crowned Rosy-Finch
Leucosticte atrata, Black Rosy-Finch
Leucosticte australis, Brown-capped Rosy-Finch
Haemorhous mexicanus, House Finch
Haemorhous purpureus, Purple Finch
Haemorhous cassinii, Cassin's Finch
Chloris sinica, Oriental Greenfinch
Acanthis flammea, Common Redpoll
Acanthis hornemanni, Hoary Redpoll
Loxia curvirostra, Red Crossbill
Loxia sinesciuris, Cassia Crossbill
Loxia leucoptera, White-winged Crossbill
Spinus spinus, Eurasian Siskin
Spinus pinus, Pine Siskin
Spinus psaltria, Lesser Goldfinch
Spinus lawrencei, Lawrence's Goldfinch
Spinus tristis, American Goldfinch
Family CALCARIIDAE
Calcarius lapponicus, Lapland Longspur
Calcarius ornatus, Chestnut-collared Longspur
Calcarius pictus, Smith's Longspur
Rhynchophanes mccownii, McCown's Longspur
Plectrophenax nivalis, Snow Bunting
Plectrophenax hyperboreus, McKay's Bunting
Family EMBERIZIDAE
Emberiza leucocephalos, Pine Bunting
Emberiza chrysophrys, Yellow-browed Bunting
Emberiza pusilla, Little Bunting
Emberiza rustica, Rustic Bunting
Emberiza elegans, Yellow-throated Bunting
Emberiza aureola, Yellow-breasted Bunting
Emberiza variabilis, Gray Bunting
Emberiza pallasi, Pallas's Bunting
Emberiza schoeniclus, Reed Bunting
Family PASSERELLIDAE
Peucaea carpalis, Rufous-winged Sparrow
Peucaea botterii, Botteri's Sparrow
Peucaea cassinii, Cassin's Sparrow
Peucaea aestivalis, Bachman's Sparrow
Ammodramus savannarum, Grasshopper Sparrow
Arremonops rufivirgatus, Olive Sparrow
Amphispiza quinquestriata, Five-striped Sparrow
Amphispiza bilineata, Black-throated Sparrow
Chondestes grammacus, Lark Sparrow
Calamospiza melanocorys, Lark Bunting
Spizella passerina, Chipping Sparrow
Spizella pallida, Clay-colored Sparrow
Spizella atrogularis, Black-chinned Sparrow
Spizella pusilla, Field Sparrow
Spizella breweri, Brewer's Sparrow
Spizella wortheni, Worthen's Sparrow
Passerella iliaca, Fox Sparrow
Spizelloides arborea, American Tree Sparrow
Junco hyemalis, Dark-eyed Junco
Junco phaeonotus, Yellow-eyed Junco
Zonotrichia leucophrys, White-crowned Sparrow
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* * * * *

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–06779 Filed 4–15–20; 8:45 am]

BILLING CODE 4333–15–P

FEDERAL REGISTER

Vol. 85 Thursday,

No. 74 April 16, 2020

Part III

The President

Proclamation 10009—Pan American Day and Pan American Week, 2020

Federal Register
Vol. 85, No. 74
Thursday, April 16, 2020

Presidential Documents

Title 3—

The President

Proclamation 10009 of April 13, 2020

Pan American Day and Pan American Week, 2020

By the President of the United States of America

A Proclamation

This year marks 130 years since the spirit of cooperation, hope, and progress brought together the nations of the Americas at the First International Conference of American States. This historic meeting chartered the course for the establishment of the Organization of American States in 1948, an institution that has ever since worked toward peace and prosperity throughout the Americas, encouraging the nonviolent resolution of conflict and promoting mutual social and economic growth. As we celebrate our remarkable progress this Pan American Day and Pan American Week, let us also reaffirm our resolve to uphold and bolster liberty, democracy, and freedom in our Hemisphere.

As part of our commitment to advancing dignity and freedom, my Administration will always work to combat human trafficking. This work requires enhanced border security and a well-functioning immigration system. Through our cooperation with the Governments of Mexico and our Central American partners, we have instituted reforms that help ensure the security and well-being of our peoples. By signing the United States-Mexico Joint Declaration last June, the Government of Mexico affirmed its commitment to reducing the number of illegal immigrants who arrive at our southern border. We have also signed agreements with the Governments of El Salvador, Guatemala, and Honduras to enhance our countries' cooperative efforts. These partnerships have helped expand humanitarian protections for asylum seekers, combat transnational criminal organizations, strengthen border security, and reduce human slavery and smuggling.

My Administration also remains committed to implementing trade deals that will bolster the economies of the United States and our allies in the Americas. I am proud to have delivered on my promise to end the outdated and unbalanced North American Free Trade Agreement (NAFTA) by signing the United States-Mexico-Canada Agreement (USMCA) into law, modernizing and rebalancing trade in a manner that supports robust economic growth throughout North America. Additionally, through the *América Crece* initiative, we are deepening private-sector investment in energy and infrastructure, enhancing economic opportunity and growth across the Americas, and continuing an historic period of cooperation.

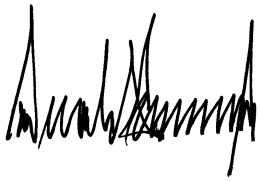
We also recognize that citizen-responsive democratic governance, characterized by free and fair elections, is essential to peace and security, and we therefore remain committed to advocating for freedom and democracy for those living under authoritarian regimes in Venezuela, Cuba, and Nicaragua. As part of the growing global consensus of nearly 60 countries that have recognized the legitimacy of interim President of Venezuela Juan Guaido, we are doing everything we can to support the Venezuelan people, address the humanitarian crisis in Venezuela and the region, peacefully restore democracy, and return Venezuela to its status as a stable and prosperous nation. In February, I was pleased to host interim President Guaido as an honored guest at my State of the Union address. During his visit, I reaffirmed the dedication of the United States to bringing the full range of diplomatic and economic tools to bear on the Maduro regime until its

illegitimate rule comes to an end. The United States also remains committed to helping the people of Cuba and Nicaragua create stable and free countries. Together with our regional partners, we will ensure the realization of the democratic dreams of those oppressed by tyrannical regimes.

We are grateful for the blessings of freedom enjoyed in the United States and in so many other parts of the Western Hemisphere. We also remain steadfast in our determination to secure a freer and more democratic Western Hemisphere for all. On this day and during this week, let us celebrate the liberty we have fostered together with our regional partners and pledge our continuing support for a future where it is enjoyed even more widely throughout our Hemisphere.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 14, 2020, as Pan American Day and April 12 through April 18, 2020, as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of the other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

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



[FR Doc. 2020–08246
Filed 4–15–20; 11:15 am]
Billing code 3295–F0–P

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