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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2014–N–1021]

RIN 0910–AH00

Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA or we) is correcting a final rule that published in the **Federal Register** of August 13, 2020. The final rule establishes requirements concerning ''gluten-free'' labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients.

DATES: Effective October 13, 2020.

FOR FURTHER INFORMATION CONTACT: Carol D'Lima, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2371, *Carol.Dlima@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, August 13, 2020, (85 FR 49240), FDA published the final rule ''Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods'' with a typographical error in the **SUMMARY** section. In addition, the rule was published with two different effective dates.

In FR Doc. 2020–17088, appearing in the **Federal Register** of Thursday, August 13, 2020, the following corrections are made:

On page 49241, in the first column, the second sentence is corrected to read as follows: ''These requirements are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as 'gluten-free.'''

On page 49254, in section VI. Effective and Compliance Dates, in the first column, the first sentence is corrected to read as follows: ''This rule is effective October 13, 2020.'' This confirms the rule is effective October 13, 2020, and is consistent with the effective date stated earlier on page 49241.

Dated: August 31, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2020–19569 Filed 9–4–20; 4:15 pm]

BILLING CODE 4164–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

RIN 1212–AB41

Lump Sum Payment Assumptions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule modifies the assumptions the Pension Benefit Guaranty Corporation (PBGC) uses to determine de minimis lump sum benefits in PBGC-trusteed terminated single-employer defined benefit pension plans and discontinues monthly publication of PBGC's lump sum interest rate assumptions.

DATES: *Effective date:* This rule is effective January 1, 2021.

Applicability date: The amendments affecting PBGC's calculation and payment of lump sum benefits apply to trusteed plans with termination dates on or after January 1, 2021.

FOR FURTHER INFORMATION CONTACT: Gregory M. Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–3829. TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–229–3829.

SUPPLEMENTARY INFORMATION:

Executive Summary—Purpose and Authority

This rule is intended to modernize the methodology used to determine de minimis lump sums in terminated underfunded single-employer plans. Specifically, PBGC is adopting the interest and mortality assumptions from section 417(e)(3) of the Internal Revenue Code (Code) [1] for this purpose. It also discontinues PBGC's monthly calculation and publication of interest rate assumptions. Because some private-sector plans use PBGC's lump sum interest rates, the rule provides a table for plans to use to determine interest assumptions in accordance with PBGC's historical methodology.

Legal authority for this action comes from section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA and section 4022 of ERISA (Single-Employer Plan Benefits Guaranteed).

Background

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private-sector defined benefit pension plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. This rule applies only to the single-employer program.

PBGC has identified these amendments as part of its ongoing retrospective review of its regulations to ensure that PBGC provides clear and helpful guidance, minimizes burdens and maximizes benefits, and addresses ineffective and outdated rules.

Use of Lump Sum Assumptions by PBGC

Covered single-employer plans that are underfunded may terminate in either a distress termination under section 4041(c) of ERISA or in an involuntary termination (one initiated by PBGC) under section 4042 of ERISA. When such a plan terminates, PBGC typically is appointed statutory trustee of the plan and becomes responsible for

[1] Section 417(e)(3) of the Code and section 205(g)(3) of the Employee Retirement Income Security Act of 1974 (ERISA) are parallel provisions in ERISA and the Code.

paying guaranteed benefits in accordance with section 4022 of ERISA and PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022).[2]

PBGC calculates the present value of each participant's benefit to determine whether it is de minimis (present value of $5,000 or less) and therefore may be paid as a lump sum.[3] Assumptions used to value benefits for this purpose are set forth in PBGC's benefit payments regulation. The interest assumption, published each month, employs a four-tiered structure to discount future benefit payments for determining their lump sum equivalent. This structure consists of an ''immediate'' rate for discounting benefits for the period between the annuity starting date and each future payment date, and up to three ''deferred'' rates for discounting benefits during specified parts of the period leading up to the annuity starting date (*e.g.,* first 7 years, next 8 years, and years beyond). The mortality assumption is the 1984 Unisex Pensioners Mortality Table.

Use of PBGC's Lump Sum Interest Rates by Private Sector

PBGC is aware that a relatively small number of plans use PBGC's interest rates as computed using its historical methodology (legacy interest rates) to determine the lump sum equivalents of annuity benefits.[4] It is PBGC's understanding that these plans do so because, before 1994, under section 417(e)(3) of the Code, plans were required to use PBGC's legacy interest rates to determine the minimum permissible lump sum equivalent of an annuity benefit.[5]

The Retirement Protection Act of 1994, Public Law 103–465 (RPA '94) changed the interest rate specified in section 417(e)(3) of the Code. As a result, private-sector plans were no longer required to use PBGC's lump sum interest rates to determine the minimum lump sum equivalents of annuity benefits. Anecdotal evidence suggests many, if not most, plans were amended to discontinue use of PBGC's legacy interest rates for calculating lump sum equivalents of annuity benefits by adopting the new interest assumption under section 417(e)(3) of the Code.

To preserve the possibility of a change in the way PBGC-paid lump sums are determined without affecting private-sector plans that use PBGC's legacy interest rates to determine lump sums, PBGC publishes two separate tables of lump sum interest rates. Appendix B provides the interest rates for PBGC-paid lump sums, and appendix C provides the legacy interest rates for use by the private sector. The tables have always been identical.

PBGC first started publishing two sets of interest rates in 2000. At that time, PBGC recommended that plan sponsors amend (or draft) plans to explicitly refer to ''PBGC's lump sum interest rates for private-sector payments'' (*i.e.,* appendix C) if they wanted to ensure plans would not be affected by a future change to the way in which PBGC-paid lump sums are determined.[6]

Proposed Rule

On September 30, 2019 (at 84 FR 51490), PBGC published a proposed rule to modernize the assumptions it uses to determine de minimis lump sum benefits. PBGC also proposed to discontinue monthly publication of the interest rates used for this purpose and to provide a final interest rate set for use by private-sector plans. PBGC received seven comments on the proposal. Commenters generally supported PBGC's proposal with respect to plans PBGC trustees in the future. Commenters expressed concern about the proposed interest assumptions for use by private-sector plans and the proposed effective date, both of which have been addressed with modifications in the final rule. The public comments, PBGC's responses, and the provisions of this final rule are discussed below.

Regulatory Changes

Adopt Lump Sum Assumptions From Section 417(e)(3) of the Code

Actuarial practice, with the help of technology, has moved toward a yield-curve approach where future benefits are discounted to the measurement date based on yields on bonds of similar duration. By associating an interest rate with a specific time horizon, a yield curve better approximates the present value of future benefits. As a result, the immediate-and-deferred structure of PBGC's legacy interest rates has become increasingly obsolete.

Additionally, the methodology PBGC uses to compute each month's immediate and deferred interest rates, which was established at a time when computing resources were limited, is simplistic and typically results in interest rates significantly lower than the rates most private-sector plans use to determine lump sums.

Taking into consideration modern structures and methods, PBGC proposed to adopt the lump sum interest rate assumption from section 417(e)(3) of the Code. Specifically, PBGC proposed to amend its benefit payments regulation to provide that PBGC will use the ''applicable interest rate'' [7] specified in section 417(e)(3)(C) of the Code for the month containing a plan's termination date to calculate the present value of annuity benefits (for the purposes of determining if a benefit is de minimis and if so, the amount payable as a lump sum).

In developing the proposal, PBGC also considered whether the lump sum mortality assumption (*i.e.* the 1984 Unisex Pensioners Mortality Table) should be replaced. Although that table does not reflect recent mortality improvements, the combination of using it with PBGC's legacy interest rates typically results in lump sum amounts that are similar to amounts determined using the interest and mortality assumptions under section 417(e)(3) of the Code. Because this would no longer hold true if PBGC were to adopt the interest rates under section 417(e)(3) of the Code without also revising its lump sum mortality assumption, PBGC proposed to amend its benefit payments regulation to provide that it will use the ''applicable mortality table'' specified in section 417(e)(3)(B) of the Code.

In the proposed rule, PBGC stated that the changes to the interest and mortality assumptions were expected to have a minimal effect on participants and beneficiaries of plans it trustees because PBGC uses these assumptions only for purposes of determining de minimis lump sum amounts. In addition, PBGC noted that because the interest and mortality changes would generally have offsetting effects, the net impact would be small.

PBGC also noted that the actual impact of the proposal on any particular individual would depend on the participant's age and the assumptions in effect at the time of plan termination and that, depending on those factors, PBGC-paid lump sums under the proposal could be larger or smaller than

[2] PBGC also pays non-guaranteed benefits when there are sufficient plan assets or recoveries.

[3] *See* 29 CFR 4022.7(b)(1)(i).

[4] Some insurers may also use PBGC's legacy interest rates to determine lump sums payable under a group annuity contract for a pension plan that used such rates after it closed out in a standard termination.

[5] To determine the minimum lump sum equivalent of an annuity benefit, plans used PBGC's lump sum interest rates for benefits under $25,000 and used 120 percent of PBGC's lump sum interest rates for benefits $25,000 and over. Section 417(e)(3) of the Code (1988) (amended 1994).

[6] *See* 65 FR 14753, 14755 (March 17, 2000).

[7] The interest assumption in section 417(e)(3) of the Code was updated by section 302(b) of the Pension Protection Act of 2006, Public Law 109–280. The applicable interest rate is defined as the spot segment rates published by the Internal Revenue Service each month.

had PBGC's legacy assumptions remained in effect. For example, for a participant aged 40, the legacy assumptions have resulted in lump sums that are about the same as those determined using the assumptions from section 417(e)(3) of the Code for the past few years.[8] By contrast, during times when interest rates are very high, PBGC's legacy assumptions result in larger lump sums than those determined using the assumptions from section 417(e)(3) of the Code. Finally, in a very low interest rate environment, the converse is true.

Commenters generally supported the proposed changes to the interest and mortality assumptions to be used by PBGC when determining the lump sum equivalent of benefits in plans PBGC trustees in the future. The final rule, like the proposed rule, amends PBGC's benefit payments regulation to provide that it will use the ''applicable interest rate'' and ''applicable mortality table'' specified in section 417(e)(3) of the Code. As explained further in the section discussing the effective date, commenters suggested delaying the effective date for these changes, which PBGC incorporated into the final rule.

Discontinue Monthly Publication of Legacy Interest Rates

As noted in the background section, PBGC is aware that a relatively small number of plans still use its legacy interest rates to determine lump sums. In developing the proposed rule, PBGC considered whether to continue calculating and publishing legacy interest rates in appendix C for use by private-sector plans.[9] Given that the legacy interest rates' structure and methodology have become increasingly obsolete, PBGC proposed to discontinue publication of the legacy interest rates and to publish a final set of interest rates in appendix C for private-sector plans to use for valuation dates on or after the effective date of the final rule. Under the proposal, the final interest rate set was equal to the average immediate and deferred rates for the 120-month period ending in July 2019, rounded to the nearest quarter percent. Thus, PBGC proposed that for valuation dates on or after the effective date of the final rule, appendix C would provide for an immediate rate of 1.5 percent for discounting benefits for the period between the annuity starting date and each future payment date and a deferred rate of 4 percent for discounting benefits during the period leading up to the annuity starting date.

Although most of the commenters reported that they were aware of ''few, if any'' plans that explicitly refer to appendix C (or the rates PBGC publishes for private sector use), these same commenters expressed concern with permanently ''locking in'' legacy interest rates for plans that do refer to appendix C. These commenters had no objection to PBGC ceasing publication of the legacy interest rates but requested that PBGC adopt an alternative basis for appendix C rates that is responsive to market conditions. For example, commenters suggested alternatives such as amending appendix C to use the 10-year Treasury yield curve rate, the 30-year Treasury yield curve rate, or the rate from Moody's Daily Long-term Corporate Bond Yield Averages for Aa bonds.

PBGC believes it would be inappropriate to adopt a completely new methodology for appendix C (such as the alternatives suggested by the commenters) solely for private-sector use. But, even though, ''few, if any, plans'' would be affected by the proposal to permanently fix the legacy rates at the 120-month average, PBGC appreciates the commenters' concerns about that approach. Therefore, PBGC is not adopting that part of its proposal. Instead, the final rule provides in appendix C legacy interest rate information determined in accordance with PBGC's long-standing, albeit outdated, methodology, with two minor modifications. Some background information is needed to explain these modifications.

PBGC's methodology for determining the legacy interest rates is based, in part, on an applicable external bond rate: A blend of the mean Aa and A Moody's Daily Long-term Corporate Bond Yield Averages for the last five days of the second preceding month. For example, the ''mean 5-day rate'' for the last five days of October is one of the parameters used to determine the immediate legacy interest rate for December. Given any specific ''mean 5-day rate,'' the methodology produces a single set of immediate-and-deferred rates. Therefore, it is possible to create a table that shows the range of external rates that result in each particular set of immediate-and-deferred rates (*e.g.,* if the ''mean 5-day rate'' for the last 5 days of October is between X percent and Y percent, for December, the immediate rate is A percent, and the three deferred rates are B, C, and D percent, respectively).

The first modification is that instead of continuing to determine and publish the legacy interest rates each month, the final rule provides a table in appendix C that replicates PBGC's methodology by associating any given applicable external bond rate with the set of immediate-and-deferred rates the methodology would have yielded. This allows practitioners to determine which set of legacy interest rates applies for any month indefinitely. And, instead of having to wait for PBGC to publish the legacy rates each month, practitioners will be able to look up the rates themselves as soon as the applicable external bond rate is published.

The second modification is a change to the applicable external bond rate. The Moody's indices PBGC uses for this purpose are available only for a fee. To avoid increasing burden on plans that use PBGC's legacy interest rates, the final rule substitutes the publicly available 12-year rate for the second preceding month from the corporate bond yield curve (without regard to 24-month averaging) published by the Secretary of the Treasury and described in section 430(h)(2)(D)(ii) of the Code, which is closely correlated with the ''mean 5-day rates'' PBGC uses. Although PBGC believes this substitution will result in exactly the same immediate-and-deferred rates the majority of the time, in some cases, the resulting rates may differ by a small amount. For example, PBGC analyzed what the legacy interest rates would have been for the 120-month period ending December 2019 had PBGC used this substitute applicable external bond rate instead of the ''mean 5-day rate'' determined using Moody's rates. This analysis showed that the resulting immediate rate would have been exactly the same 58 percent of the time and 25 basis points above or below the actual legacy interest rate 41 percent of the time. In other words, 99 percent of the time, the resulting immediate rate would have been no more than 25 basis points different.

The following example illustrates how to use the table in appendix C. For purposes of this example, assume the final rule became effective in January 2020, and a practitioner needed to determine the March 2020 rates. A practitioner would first determine the 12-year rate for the second preceding month, January 2020. The January 2020 corporate bond yield curve is published as Table 2020–1 in IRS Notice 2020–11

[8] Age 40 was used for this illustration because over the past 10 years, the median age of participants with de minimis benefits in trusteed plans was age 40.

[9] PBGC previously considered revising its methodology for determining lump sum interest rates and discontinuing publication of its legacy interest rates in 1998. *See* 63 FR 57228 (October 26, 1998); 65 FR 14753 (March 17, 2000).

I.R.B. 492.[10] That table shows a 12-year rate for January 2020 of 3.00 percent. Turning to the table in appendix C, a practitioner would see that because the January 2020 12-year rate, 3.00 percent, is below 3.18 percent, the immediate annuity rate for March 2020 is 0.00 percent, and the three deferred annuity rates are 4.00 percent. Similarly, if the 12-year rate for January 2020 had been 4.75 percent, the immediate annuity rate for March 2020 would have been 1.75 percent.

With respect to plans that use PBGC's legacy rates but do not explicitly reference appendix C (*i.e.,* plans that include a more general reference to PBGC's lump sum interest rates), the preamble to the proposed rule stated that ''once the appendix C rates are no longer identical to the rates used by PBGC, the plan terms [for such a plan] may have an ambiguity that should be resolved.'' One commenter questioned the use of the word ''ambiguity.'' This commenter stated that there would be no ambiguity as to how the proposed rule would affect those plans because if PBGC started using the applicable interest rates under section 417(e)(3) of the Code to determine lump sums, absent a plan amendment, such plans would do the same. Further, the commenter asserted that the Internal Revenue Service's (IRS) Revenue Ruling 81–12 makes clear that, absent a plan amendment, the anti-cutback requirements in section 411(d)(6) of the Code would not apply to such plans.

In retrospect, PBGC realizes that this sentence in the preamble to the proposed rule may have unintentionally caused some confusion. The word ''ambiguity'' in PBGC's preamble was not intended to suggest whether any particular plan provision might be ambiguous, or how a plan administrator should interpret any particular plan provision.

With respect to the application of section 411(d)(6) of the Code, PBGC staff consulted with staff at the Department of the Treasury and the IRS (as interpretation of that statutory provision is within the jurisdiction of the Secretary of the Treasury). The Department of the Treasury and the IRS informed PBGC that, in the case of a plan provision under which the amount of a lump sum distribution is determined using PBGC's lump sum interest rate, the anti-cutback rules of section 411(d)(6) of the Code are not violated merely because the application of this final rule results in a change in the underlying interest rate(s) used to determine the amount of a lump sum distribution.

Effective Date

PBGC received five comments concerning the timing of the final rule. These commenters noted that, with respect to plans that use PBGC's legacy interest rates to determine lump sum amounts, the amount payable as a lump sum would, in some cases, decrease as soon as the rule takes effect. These commenters reported that affected plans may need time to communicate the changes to participants, to update administrative systems, and to determine whether to (or how to) mitigate any undesired effects (*e.g.,* a rush to retire among participants concerned about an upcoming decrease in lump sum amounts). For these reasons, they requested that PBGC provide a period of time between the date the final rule is published and when it takes effect.

With the final rule's continuation of PBGC's legacy interest rates in appendix C, participants in plans that use appendix C rates will not see significant changes in lump sum amounts, and there will be no incentive for participants to retire sooner than planned, so there is no need for a delayed effective date. However, for plans that use PBGC's legacy interest rates without specific reference to appendix C or the rates for private-sector use, which commenters report represent the vast majority of the relatively few plans that use the legacy interest rates, PBGC agrees that a delayed effective date could be helpful for communicating and implementing the change. A delayed effective date could also be helpful for giving plans time to consider whether (and how) to mitigate any concerns they may have. In response to these comments, PBGC is providing a delayed effective date of January 1, 2021. This means PBGC will continue to publish monthly legacy interest rates for both appendix B and appendix C through December 2020.

Executive Orders 12866, 13563, and 13771

OMB has determined that this rulemaking is not a ''significant regulatory action'' under Executive Order 12866. Accordingly, this final rule is exempt from the requirements of Executive Order 13771 and OMB has not reviewed the rule under Executive Order 12866. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Although this is not a significant regulatory action under Executive Order 12866, PBGC has examined the economic implications of this final rule and has concluded that the changes will have minimal impact on PBGC's payment of lump sum benefits. As discussed above, applying the assumptions under section 417(e)(3) of the Code to a benefit could slightly raise or lower a lump sum benefit paid by PBGC. Additionally, with respect to PBGC-trusteed plans terminating on or after the effective date, some benefits that would have been considered de minimis using the prior assumptions would not be de minimis using the revised assumptions (and vice versa). Because PBGC only pays de minimis lump sums, from an aggregate cost perspective, any change in PBGC's lump sum payments is minimal.

PBGC also has concluded that the final rule will have minimal impact on private-sector plans. As explained in the preamble, relatively few plans use PBGC's legacy interest rates to determine lump sums. Plans that refer specifically to appendix C will continue to use PBGC's legacy interest rates. To determine the immediate-and-deferred interest rates in effect for each month, plan administrators will look up an interest rate published by the IRS, which is no more burdensome than determining the immediate-and-deferred rates under current regulations. For plans that refer generally to PBGC's lump sum interest rates or the rates PBGC uses, commenters said that there could be administrative costs associated with implementing processes and procedures, updating systems for administering benefits, and communicating with participants, but did not quantify these costs. The costs will be contingent on plans' individual circumstances and plan sponsors' responses to these changes.

Section 6 of Executive Order 13563 requires agencies to rethink existing regulations by periodically reviewing their regulatory program for rules that ''may be outmoded, ineffective, insufficient, or excessively burdensome.'' These rules should be modified, streamlined, expanded, or repealed as appropriate. PBGC has identified the assumptions used for lump sums in its benefit payments regulation as outmoded and the

[10] As of the date of publication of this rule, IRS notices containing monthly yield curves are available at *https://www.irs.gov/retirement-plans/recent-interest-rate-notices.* In addition, a spreadsheet containing ''recent yield curve spot rates'' is available at *https://www.irs.gov/retirement-plans/monthly-yield-curve-tables.*

amendment to discontinue publication of these assumptions as consistent with the principles for review under Executive Order 13563.

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to rules that are subject to the notice-and-comment requirements of section 553(b) of the Administrative Procedure Act and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a rule is not likely to have a significant economic impact on a substantial number of small entities, section 604 of the Regulatory Flexibility Act requires that the agency present a final regulatory flexibility analysis at the time of the publication of the final rule describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations, and governmental jurisdictions.

For purposes of the Regulatory Flexibility Act requirements with respect to this final rule, PBGC considers a small entity to be a plan with fewer than 100 participants. This is substantially the same criterion PBGC uses in other regulations [11] and is consistent with certain requirements in title I of ERISA [12] and the Code,[13] as well as the definition of a small entity that the Department of Labor has used for purposes of the Regulatory Flexibility Act.[14]

Further, while some large employers operate small plans along with larger ones, in general, most small plans are maintained by small employers. Thus, PBGC believes that assessing the impact of the final rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act. PBGC requested comments on the appropriateness of the size standard used in evaluating the impact of the proposed rule on small entities. PBGC did not receive any such comments.

On the basis of its definition of small entity, PBGC certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the amendments in this rule will not have a significant economic impact on a substantial number of small entities because this rule primarily impacts participants in PBGC-trusteed plans. In addition, commenters confirmed that relatively few plans of any size use PBGC's legacy interest rates to calculate lump sums. Therefore, it is unlikely that the rule will significantly impact a substantial number of small plans. Accordingly, as provided in section 605 of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Reporting and recordkeeping requirements.

For the reasons given above, PBGC is amending 29 CFR part 4022 as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. Amend § 4022.7 by revising paragraphs (d)(2) and (e) to read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(d) * * *

(2) *Actuarial assumptions.* PBGC will calculate the lump sum value of a benefit by valuing the monthly annuity benefits payable in the form determined under § 4044.51(a) of this chapter and commencing at the time determined under § 4044.51(b) of this chapter. The actuarial assumptions used will be those described in § 4044.52 of this chapter, except as follows:

(i) *Loading for expenses.* There will be no adjustment to reflect the loading for expenses.

(ii) *Mortality assumption.* The ''applicable mortality table'' specified in section 205(g)(3)(B)(i) of ERISA and section 417(e)(3)(B) of the Code for the year containing the termination date will apply.

(iii) *Interest rate assumption.* The ''applicable interest rate'' specified in section 205(g)(3)(B)(ii) of ERISA and section 417(e)(3)(C) of the Code for the month containing the termination date will apply.

(iv) *Date for determining lump sum value.* The date as of which a lump sum value is calculated is the termination date, except that in the case of a subsequent insufficiency it is the date described in section 4062(b)(1)(B) of ERISA.

(e) *Private-sector lump sum rates.* PBGC provides lump sum interest rates for private-sector payments in appendix C to this part.

Appendix A to Part 4022—[Removed and Reserved]

■ 3. Remove and reserve appendix A.

Appendix B to Part 4022—[Removed and Reserved]

■ 4. Remove and reserve appendix B.

■ 5. Revise appendix C to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

[In using this table:

(1) To determine the applicable rate set for any given month (month x), use the applicable 12-year rate for the second preceding month (month $x-2$) to find the corresponding rate set. The applicable 12-year rate for the second preceding month is the 12-year rate from the corporate bond yield curve described in section 430(h)(2)(D)(ii) of the Code determined without regard to 24-month averaging for the second month preceding the month of the desired applicable rate set.

(2) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq 7$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (where y is an integer and $7 < y \leq 15$), interest rate i_2 shall apply from the valuation date for a period of $y-7$ years; interest rate i_1 shall apply for the following 7 years; thereafter the immediate annuity rate shall apply.

(5) For benefits for which the deferral period is y years (where y is an integer and $y > 15$), interest rate i_3 shall apply from the valuation date for a period of $y-15$ years; interest rate i_2 shall apply for the following 8 years; interest rate i_1 shall apply for the following 7 years; thereafter the immediate annuity rate shall apply.]

[11] *See, e.g.,* special rules for small plans under part 4007 (Payment of Premiums).

[12] *See, e.g.,* section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

[13] *See, e.g.,* section 430(g)(2)(B) of the Code, which permits plans with 100 or fewer participants to use valuation dates other than the first day of the plan year.

[14] *See, e.g.,* DOL's final rule on Prohibited Transaction Exemption Procedures, 76 FR 66,637, 66,644 (Oct. 27, 2011).

FOR PLANS WITH A VALUATION DATE ON OR AFTER JANUARY 1, 2021

Applicable 12-year rate for month x − 2 (percent)	Applicable rate set for month x			
	Immediate annuity rate (percent)	Deferred annuity rates (percent)		
		i_1	i_2	i_3
Below 3.18	0.00	4.00	4.00	4.00
3.18 to 3.40	0.25	4.00	4.00	4.00
3.41 to 3.63	0.50	4.00	4.00	4.00
3.64 to 3.87	0.75	4.00	4.00	4.00
3.88 to 4.10	1.00	4.00	4.00	4.00
4.11 to 4.34	1.25	4.00	4.00	4.00
4.35 to 4.57	1.50	4.00	4.00	4.00
4.58 to 4.81	1.75	4.00	4.00	4.00
4.82 to 5.04	2.00	4.00	4.00	4.00
5.05 to 5.28	2.25	4.00	4.00	4.00
5.29 to 5.51	2.50	4.00	4.00	4.00
5.52 to 5.75	2.75	4.00	4.00	4.00
5.76 to 5.98	3.00	4.00	4.00	4.00
5.99 to 6.22	3.25	4.00	4.00	4.00
6.23 to 6.46	3.50	4.00	4.00	4.00
6.47 to 6.69	3.75	4.00	4.00	4.00
6.70 to 6.93	4.00	4.00	4.00	4.00
6.94 to 7.16	4.25	4.00	4.00	4.00
7.17 to 7.40	4.50	4.00	4.00	4.00
7.41 to 7.64	4.75	4.00	4.00	4.00
7.65 to 7.87	5.00	4.25	4.00	4.00
7.88 to 8.11	5.25	4.50	4.00	4.00
8.12 to 8.35	5.50	4.75	4.00	4.00
8.36 to 8.58	5.75	5.00	4.00	4.00
8.59 to 8.82	6.00	5.25	4.00	4.00
8.83 to 9.06	6.25	5.50	4.25	4.00
9.07 to 9.30	6.50	5.75	4.50	4.00
9.31 to 9.53	6.75	6.00	4.75	4.00
9.54 to 9.78	7.00	6.25	5.00	4.00
9.79 to 10.02	7.25	6.50	5.25	4.00
Above 10.02	7.50	6.75	5.50	4.00

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2020–19610 Filed 9–8–20; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200811–0215]

RIN 0648–BJ69

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 8

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Framework Amendment 8 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources (CMP) of the Gulf of Mexico (Gulf) and Atlantic Region (CMP FMP), as prepared by the South Atlantic Fishery Management Council (Council). This final rule revises the Atlantic migratory group king mackerel commercial trip limit in a portion of the Atlantic southern zone during the October through February fishing season. The purpose of this final rule is to support increased fishing activity and economic opportunity while continuing to constrain harvest to the annual catch limit (ACL).

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

ADDRESSES: Electronic copies Framework Amendment 8 may be obtained from the Southeast Regional Office website at: *https://www.fisheries.noaa.gov/action/framework-amendment-8-king-mackerel-trip-limits.*

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727–551–5753, or email: *karla.gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The CMP fishery is managed under the CMP FMP which includes king mackerel and Spanish mackerel, and cobia in the Gulf of Mexico. The Council and the Gulf of Mexico Fishery Management Council jointly manage the CMP FMP. The CMP FMP was prepared by both Councils and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under the CMP FMP, each Council has the ability to develop individual framework amendments to the FMP for certain actions that are specific to each region.

On May 19, 2020, NMFS published the proposed rule for Framework Amendment 8 and requested public comment (85 FR 29916). The proposed rule and the Framework Amendment 8 outline the rationale for the actions contained in this final rule. A summary of the management measures described in the Framework Amendment 8 and implemented by this final rule is described below.

Background

The fishery for Atlantic migratory group of king mackerel (Atlantic king mackerel) has fishing zones, a split season, and a commercial trip limit system implemented through Amendment 26 to the CMP FMP (82 FR 17387, April 11, 2017). In the exclusive economic zone (EEZ), the Atlantic king mackerel fishery is divided into a northern zone and a southern zone with the quota for this migratory group divided between the two zones. The northern zone extends from the North Carolina/South Carolina boundary through New York, and the southern zone extends from the North Carolina/South Carolina boundary to the Miami-Dade/Monroe County, Florida, boundary. The fishing year for the commercial sector for the Atlantic king mackerel fishery is March 1 through the end of February. Annually, the Atlantic southern zone has two commercial seasons, March 1 through September 30 (Season 1), and October 1 through the end of February (Season 2). The Atlantic southern zone quota is further allocated into two seasonal quotas: 60 percent of the zone quota is allocated to Season 1 and 40 percent of the zone quota is allocated to Season 2. During the fishing year, any unused quota from Season 1 transfers to Season 2. There is no carryover of any unused quota at the end of Season 2. When the quota for a season is reached or projected to be reached, commercial harvest of king mackerel in the Atlantic southern zone is prohibited for the remainder of the respective season.

When the Atlantic commercial trip limit system was restructured and revised through Amendment 26, it had the goal of ensuring the longest commercial fishing season possible for Atlantic king mackerel and providing commercial fishermen continued access to king mackerel. The trip limit system for the southern zone includes a 3,500 lb (1,588 kg) year-round trip limit north of the Flagler/Volusia County, Florida, boundary. For the area between the Flagler/Volusia County, Florida, boundary (29°25′ N lat.), and the Miami-Dade/Monroe County, Florida, boundary (25°20′24″ N lat.), the trip limit is 50 fish during Season 2 from October 1 through January 31. The trip limit remains at 50 fish during the month of February, unless NMFS determines that less than 70 percent of the commercial quota for the southern zone's second season has been landed. In that case, NMFS announces the trip limit increase to 75 fish for February in the **Federal Register**.

Since the implementation of Amendment 26 in 2017, fishermen have expressed concern about some of the trip limits contained in the amendment. Specifically, commercial king mackerel fishermen targeting king mackerel south of the Flagler/Volusia County, Florida, boundary indicate that the current Season 2 commercial trip limit of 50 fish in the Atlantic southern zone has prevented them from fully utilizing the available resource, and that this lower trip limit during Season 2 also has prevented fishermen from being able to carry crew or make profitable trips. The quota for Season 2 has not been met for several years. In March 2019, the Council voted to begin developing Framework Amendment 8 to the FMP to address stakeholder concerns about the 50-fish Season 2 trip limit. Stakeholders and members of the Council's Mackerel Cobia Advisory Panel (AP) indicated that the current 50-fish Season 2 trip limit is a factor in preventing commercial king mackerel fishermen from catching the Season 2 quota or achieving optimum yield (OY). The AP discussed these problems at its April 2019 meeting, reviewed new information showing how much of the quota is not being harvested since the implementation of the 50-fish Season 2 trip limit in May 2017, and voted to recommend that the Council consider emergency action for the 2019–2020 fishing year to raise the trip limit south of the Flagler/Volusia County, Florida, boundary from 50 to 75 fish beginning in October 2019. The Council discussed the AP's recommendation at their June 2019 meeting, reviewed new information showing how much of the Season 2 quota has not been harvested the last several years by the commercial sector, heard public testimony supporting the emergency action, and voted to request that the Secretary of Commerce issue an emergency rule under the Magnuson-Stevens Act to increase the trip limit for Season 2 to 75 fish. The emergency rule was published in the **Federal Register** on September 30, 2019 (84 FR 51435) and it increased the trip limit to 75-fish from October 1, 2019, through February 29, 2020.

In Framework Amendment 8, the Council considered several different commercial trip limits during Season 2 in the Atlantic southern zone from the Flagler/Volusia County, Florida, boundary to the Miami-Dade/Monroe County, Florida, boundary. The Council determined that increasing the trip limit to 100 fish during Season 2 would be expected to reduce inefficiencies associated with a fishing trip, increase economic opportunities, and enhance social benefits, but would not increase the overall Season 2 commercial quota or the commercial ACL for king mackerel. Since commercial king mackerel landings have not reached the Season 2 quota in recent years, the Council and NMFS determined that it was unlikely the commercial trip limit increase would result in an early seasonal closure. The commercial ACL and accountability measures would continue to be in place to constrain commercial harvest and reduce the risk of overfishing.

Management Measure Contained in This Final Rule

This final rule revises the Atlantic king mackerel commercial trip limit in the southern zone from the Flagler/Volusia County, Florida, boundary to the Miami-Dade/Monroe County, Florida, boundary during Season 2. The current 50-fish commercial trip limit is increased to 100 fish from October 1 through the month of January, between the Flagler/Volusia County, Florida, boundary, and the Miami-Dade/Monroe County, Florida, boundary. Also, for the month of February, in the southern zone from the Flagler/Volusia County, Florida, boundary to the Miami-Dade/Monroe County, Florida, boundary, this final rule removes the current trip limit increase of 50 to 75 fish when less than 70 percent of the quota is landed and allows a trip limit of 100 fish for the entire month of February, or until the total quota is reached. Therefore, for the period of October through February, in the southern zone from the Flagler/Volusia County, Florida, boundary to the Miami-Dade/Monroe County, Florida, boundary, the commercial trip limit will be 100 fish.

The revision to the commercial trip limit in the Atlantic southern zone during Season 2 is expected to provide additional fishing and economic opportunities to king mackerel fishers and is not expected to negatively impact the Atlantic king mackerel stock.

Comments and Responses

NMFS received eight comments during the public comment period on the proposed rule for Framework Amendment 8. Seven of these comments were in support of the management measure in the framework amendment. NMFS acknowledges the comments in favor of all or part of the actions in Framework Amendment 8 and the proposed rule, and agrees with them; they are not further addressed below. NMFS summarizes and responds to one comment opposed to the action and to one of the comments in support of the action but that also recommended

a change to how trip limits are described.

Comment 1: Increasing the commercial trip limit from 50 to 100 fish from October through January and from 50 and/or 75 to 100 fish in February during Season 2 of the southern zone would cause increased fishing effort such that the market would be flooded and the market price would be substantially reduced. The current trip limits for Season 2 in the southern zone should be maintained.

Response: NMFS disagrees and does not expect that the higher commercial trip limit from October through February will result in market flooding and reduced dockside prices from increased effort. NMFS has reviewed the data from the years before and after the 2017 change in the trip limits and found no evidence to support market flooding or reduced prices with a higher trip limit. The commercial trip limit during October through February was reduced through Amendment 26 (82 FR 17387, April 11, 2017), and this reduction did not result in a substantial decrease in king mackerel landings during those months during the 2017–2018 and 2018–2019 seasons. Average annual landings from the 2017–2018 and 2018–2019 seasons when a lower trip limit was in place are greater than average annual landings from the 2014–2015 and 2015–2016 seasons when a higher trip limit was in place. Moreover, average annual landings per trip during the 2014–2015 through 2015–2016 seasons are less than average annual landings per trip from the 2017–2018 and 2018–2019 seasons. In addition, the average annual dockside price of king mackerel in both 2018 and 2019 (2018 dollars) also falls within the range of the average annual dockside price of king mackerel from 2014 through 2016 (2018 dollars).

Comment 2: Some king mackerel commercial trip limits are described in pounds of allowable fish and others are described in numbers of allowable fish. For consistency, the king mackerel trip limits should be all described by weight instead of numbers of fish.

Response: The Council and NMFS do not have a specific policy with respect to how commercial trip limits are set, either in numbers of fish or pounds. However, for the king mackerel trip limits in the Atlantic southern zone, greater trip limits tend to be expressed in pounds (*i.e.,* 3,500 lb (1,588 kg)) and lesser trip limits are expressed in numbers of fish (*i.e.,* 50 fish). Most commercial trip limits are expressed in pounds of fish, but the Council's Cobia Mackerel Advisory Panel recommended that the trip limit in this portion of the Atlantic southern zone be described in numbers of fish. The Council preferred to have this trip limit set in numbers of fish for this area, rather than pounds of fish, because it believed that numbers of fish would help with compliance and enforcement. Numbers of fish will be converted to landings in pounds of fish by multiplying by the average weight of the fish to track landings against the Atlantic southern zone commercial ACL, which is expressed in pounds of fish. In determining this conversion factor, NMFS uses data from commercial trip intercepts where the length and weight of the fish harvested on a trip are recorded. As described in Framework Amendment 8, and using data from the NMFS Southeast Fisheries Science Center Trip Intercept Program, the average annual weight of Atlantic king mackerel from the southern zone is 7.38 lb (3.35 kg), round weight, 7.10 lb (3.22 kg), gutted weight.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Framework Amendment 8, the CMP FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is considered an Executive Order 13771 deregulatory action.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or SBA's Chief Counsel for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

This final rule responds to the best scientific information available. Pursuant to 5 U.S.C. 553(d)(3), the AA finds good cause to waive the 30-day delay in the date of effectiveness of this final rule because such a delay would be contrary to the public interest. If this final rule were delayed by 30 days, king mackerel fishermen may not be able to fish under the increased commercial trip limit and realize the full level of economic opportunity this rule provides. In addition, because this measure increases the current Season 2 trip limits, it relieves a restriction, and therefore it also falls within the 5 U.S.C. 553(d)(1) exception to the 30-day delay in the date of effectiveness requirement. The current commercial trip limits are increased as a result of this final rule, and NMFS wants to allow king mackerel fishermen the earliest opportunity to harvest at the new trip limit, as intended by the Council in Framework Amendment 8, by ensuring the trip limit is effective by the start of Season 2 on October 1, 2020. Waiving the 30-day delay in the date of effectiveness will allow this final rule to more fully benefit the fishery through increased fishing opportunities as described in Framework Amendment 8 and as intended by the Council. Any delay past October 1 would reduce the benefits of this action, and the full economic opportunities that are anticipated would not be realized. A reduction of these expected benefits would also be contrary to the intent of the Council.

Accordingly, the 30-day delay in effectiveness of the measures contained in this final rule is waived.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, King mackerel, South Atlantic, Trip limits.

Dated: August 11, 2020.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.385, revise paragraphs (a)(1)(ii)(C) and (a)(1)(iii)(C) and remove paragraphs (a)(1)(ii)(D) and (a)(1)(iii)(D) to read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(a) * * *

(1) * * *

(ii) * * *

(C) From October 1 through the end of February—100 fish.

(iii) * * *

(C) From October 1 through the end of February—100 fish.

* * * * *

[FR Doc. 2020–17863 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.200623–0167; RTID 0648–XA421]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer From NJ to RI

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

ACTION: Notification; quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring a portion of its 2020 commercial bluefish quota to the State of Rhode Island. This quota adjustment is necessary to comply with the Atlantic Bluefish Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial bluefish quotas for New Jersey and Rhode Island.

DATES: Effective September 8, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found in 50 CFR 648.160 through 648.167. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.162, and the final 2020 allocations were published on June 29, 2020 (85 FR 38794).

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan (FMP) published in the **Federal Register** on July 26, 2000 (65 FR 45844), and provided a mechanism for transferring bluefish quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can request approval to transfer or combine bluefish commercial quota under § 648.162(e)(1)(i) through (iii). The Regional Administrator must approve any such transfer based on the criteria in § 648.162(e). In evaluating requests to transfer a quota or combine quotas, the Regional Administrator shall consider whether: The transfer or combinations would preclude the overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Act.

New Jersey is transferring 45,000 lb (20,412 kg) of bluefish commercial quota to Rhode Island through mutual agreement of the states. This transfer was requested to ensure that Rhode Island would not exceed its 2020 state quota. The revised bluefish quotas for 2020 are: New Jersey, 314, 934 lb (142,852 kg) and Rhode Island, 283,366 lb (128,533 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: September 3, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–19923 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200221–0062; RTID 0648–XA311]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the 2020 total allowable catch of pollock for Statistical Area 610 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 3, 2020, through 1200 hours, A.l.t., October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The C season allowance of the 2020 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 9,357 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the GOA (85 FR 13802, March 10, 2020) and inseason adjustment (85 FR 49606, August 14, 2020).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the C season allowance of the 2020 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 9,257 mt and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion

and would delay the closure of directed fishing for pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 2, 2020.

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

Dated: September 3, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–19888 Filed 9–3–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 175
Wednesday, September 9, 2020

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103 and 235

[Docket No. USCBP–2020–0035]

RIN 1651–AB94

Harmonization of the Fees and Application Procedures for the Global Entry and SENTRI Programs and Other Changes

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) operates several trusted traveler programs at land, sea and air ports of entry into the United States that allow certain pre-approved travelers dedicated processing into the United States, including the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, the Global Entry program, and the NEXUS program. CBP seeks to harmonize the fees and application procedures for these three programs. In this document, CBP proposes to change the Global Entry and SENTRI application fees to a uniform amount, provide a uniform standard regarding the payment of the Global Entry and SENTRI application fees for minors, change the fee payment schedule and certain aspects of the application process for the SENTRI program, and incorporate the SENTRI program into the Department of Homeland Security (DHS) regulations. CBP also proposes to make changes to the Global Entry regulations that are consistent with the program's expansion to certain U.S. territories and preclearance facilities. Finally, CBP proposes to eliminate the separate dedicated commuter lane systems costs fee (DCL fee) currently applicable only to approved SENTRI participants. CBP will be issuing a separate notice in the **Federal Register** regarding changes to the NEXUS fee.

DATES: Comments must be received on or before November 9, 2020.

ADDRESSES: Comments may be submitted, identified by docket number USCBP–2020–0035, by the following method:

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

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2020–0035. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov.* Due to relevant COVID–19-related restrictions, CBP has temporarily suspended its on-site public inspection of submitted comments.

FOR FURTHER INFORMATION CONTACT: Rafael E. Henry, Branch Chief, Office of Field Operations, (202) 344–3251, *Rafael.E.Henry@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects on the proposed rule. CBP also invites comments that relate to the economic or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing the procedures related to the subject matter of this rulemaking will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Executive Summary

CBP operates several voluntary trusted traveler programs that provide dedicated processing travel privileges for pre-approved travelers. Three of CBP's trusted traveler programs are the Global Entry, NEXUS, and Secure Electronic Network for Travelers Rapid Inspection (SENTRI) programs. The Global Entry program allows pre-approved travelers dedicated CBP processing at designated airports, currently through the use of automated

kiosks. The NEXUS program is a joint trusted traveler program between the United States and Canada that allows pre-approved travelers dedicated processing by U.S. and Canadian officials, respectively, at designated lanes at certain northern border ports of entry, currently at automated kiosks at Canadian preclearance airports and at NEXUS marine reporting locations. The SENTRI program allows pre-approved travelers dedicated CBP processing at specified land border ports along the U.S.-Mexico border. Despite the fact that these three CBP trusted traveler programs have developed many commonalities over recent years, the Global Entry, SENTRI, and NEXUS programs have retained their own fees, fee payment schedules, application processes, and rules regarding the payment of the application fee by minors. CBP is of the view that the different fees and application processes are no longer warranted.

Moreover, the current fees are no longer sufficient to recover CBP's costs to administer the programs. CBP has performed a fee study entitled ''CBP Trusted Traveler Programs Fee Study'' and determined that a uniform $120 fee is appropriate and necessary to recover a reasonable portion of costs associated with application processing for these three CBP trusted traveler programs.[1] In this document, CBP is proposing a $120 application fee for the Global Entry and SENTRI programs. CBP intends to publish a separate **Federal Register** notice that addresses the NEXUS application fee (which will be consistent with the fees proposed here for Global Entry and SENTRI). With respect to the application fee paid by minors, CBP is proposing in this document that, for the Global Entry and SENTRI programs, minors under age 18 would be exempt from the application fee if they applied concurrently with a parent or legal guardian or if their parent or legal guardian is already a member of the same program to which the minor is applying. Otherwise, the minor would be required to pay the $120 fee.

In addition to the changes discussed above, this document also proposes to add a section in Part 235 of title 8 of the Code of Federal Regulations (CFR) (8 CFR part 235) that specifically covers the SENTRI program. The SENTRI program was developed by the legacy Immigration and Naturalization Service (INS) as part of a series of programs referred to as Port Passenger Accelerated Service System (PORTPASS). The INS established PORTPASS to preserve border security while allowing low-risk travelers to move quickly and safely through the inspection process. With the transfer of functions from the legacy INS to DHS, and advances in technology, there have been significant changes to the SENTRI application procedures that are not reflected in the PORTPASS regulation. CBP has also modernized other aspects of the SENTRI program and established new procedures and requirements to align the SENTRI program with the Global Entry and NEXUS programs. As a result, CBP is proposing to add a new section 235.14 to title 8 of the CFR (8 CFR 235.14) for the SENTRI program modeled after the Global Entry regulations, 8 CFR 235.12, that would incorporate the current parameters, requirements and application procedures of the SENTRI program.

Additionally, this document proposes regulatory changes to the Global Entry program that are consistent with CBP's expansion of the program to persons traveling to U.S. territories and being processed at preclearance facilities located outside the United States. The current regulation sets forth the arrival procedures for persons being processed upon arrival in the United States. Due to the success of the Global Entry program, CBP is continually expanding Global Entry at preclearance facilities and certain U.S. territories.

Finally, this document proposes to eliminate the regulation specifying the amount for the dedicated commuter lane systems cost fee (DCL fee). SENTRI is the only program for which CBP charges the DCL fee. If the changes proposed in this document are implemented, all the relevant fees pertaining to SENTRI would be included in the SENTRI regulations.

III. Background

Members of CBP trusted traveler programs are vetted travelers who have voluntarily applied for membership, paid a fee, and provided personal data to CBP. Travelers who are active members in a CBP trusted traveler program are considered lower risk than other travelers because CBP conducts vetting both when the participant applies to the program and on an on-going basis after the participant becomes a member. By segregating the processing of previously screened travelers, CBP can focus its attention and resources on higher-risk travelers. Three of these CBP trusted traveler programs are the Global Entry, NEXUS, and SENTRI programs.[2] The Global Entry program allows pre-approved travelers dedicated CBP processing at designated airports, currently through the use of automated kiosks. The SENTRI program allows dedicated processing at specified land border ports along the U.S.-Mexico border for pre-approved travelers. The NEXUS program is a joint trusted traveler program between the United States and Canada, the details of which can be found at *http://www.cbp.gov/travel/trusted-traveler-programs/nexus.*

When the Global Entry, NEXUS, and SENTRI programs were established, each had a separate application process and the information pertaining to participants of each program were contained in separate databases. Over time, due to advances in technology, security concerns, and the expansion of the programs, CBP created a more unified application process and a centralized database. Currently, the Global Entry, SENTRI, and NEXUS programs use the same application. The application is typically submitted electronically through the Trusted Traveler Program Systems (TTP Systems) website, *https://ttp.cbp.dhs.gov,* formerly the Global Online Enrollment System (GOES) website, *https://goes-app.cbp.dhs.gov.*[3] CBP uses the same pre-screening process to vet an applicant regardless of whether he or she is applying to the Global Entry, SENTRI, or NEXUS program. CBP officers review the applicant's information during the application processing to ensure that the applicant is in compliance with U.S. customs, immigration and agriculture laws and regulations, and compare the information against various government criminal, antiterrorism, and other databases. If the applicant meets the eligibility criteria of the relevant program then the applicant will be notified via TTP Systems that he or she is conditionally approved and can schedule a personal interview with a CBP officer at a CBP enrollment center

[1] It should be noted that the NEXUS fee is split between the United States and Canada. As a result, the United States will only receive part of the revenue necessary to recover its costs for the NEXUS program. Please see the fee study entitled ''CBP Trusted Traveler Programs Fee Study'' included in the docket for this rulemaking (docket number USCBP–2020–0035), for additional details.

[2] The Free and Secure Trade (FAST) program is another CBP trusted traveler program that allows pre-approved commercial truck drivers dedicated processing at select commercial ports of entry at the northern and southern land borders. This program has different vetting standards, is offered to a different type of traveler, and does not have the same benefits as the Global Entry, SENTRI, and NEXUS programs. TSA Precheck is a DHS trusted traveler program administered by the Transportation Security Administration (TSA).

[3] Alternatively, SENTRI applicants may currently submit a paper application, Form 823S, via mail or in person at the enrollment center, and NEXUS applicants may submit a paper application to the Canada Border Services Agency.

or (for Global Entry only) at a specified ''Enrollment on Arrival'' airport.

An applicant is notified via TTP Systems if the application is denied. An applicant can contest his or her denial or removal from a CBP trusted traveler program by initiating the redress process through the DHS Traveler Redress Inquiry Program (DHS TRIP), *https://www.dhs.gov/dhs-trip,* or by contacting the Trusted Traveler Ombudsman via a reconsideration request filed through TTP Systems, *https://ttp.cbp.dhs.gov.* If the applicant is accepted into the Global Entry, SENTRI, or NEXUS program, CBP mails the applicant his or her Western Hemisphere Travel Initiative (WHTI)-approved Radio Frequency Identification (RFID) trusted traveler card.[4]

The Global Entry, SENTRI, and NEXUS programs have a five-year membership period. During this five-year membership period, CBP continually vets participants to ensure that the individuals comply with the program requirements.

Currently, the fees, the fee charged to certain minors, the fee payment schedule, and the application process for the Global Entry, SENTRI, and NEXUS programs vary. CBP would like to harmonize the fee and application procedures for these programs. This proposed rule describes in detail the SENTRI and Global Entry programs and the proposed regulatory changes to both programs to achieve such harmonization. Pursuant to 8 U.S.C. 1753(c), fee setting for services and other administrative requirements relating to joint U.S.-Canadian projects such as the NEXUS program are exempt from the requirements of the Administrative Procedure Act and the Paperwork Reduction Act, but fees and forms established for such projects shall be published as a notice in the **Federal Register**. As a result, CBP will be issuing a separate **Federal Register** notice regarding the changes to the NEXUS fee.

[4] WHTI implements a statutory mandate to require all travelers to present a passport or other document that denotes identity and citizenship when entering the United States. See Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 7209, 118. Stat. 3638, 3823, as amended. The goal of WHTI is to facilitate entry for U.S. citizens and legitimate foreign visitors while strengthening U.S. border security by providing standardized documentation that enables CBP to quickly and reliably identify a traveler. WHTI-compliant documents include valid U.S. passports, passport cards, trusted traveler program cards, and others.

A. Global Entry Program—Current Requirements

Section 7208(k) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), 118 Stat. 3638, as amended by section 565 of the Consolidated Appropriations Act, 2008, 121 Stat. 1844, codified at 8 U.S.C. 1365b, authorized the Secretary of Homeland Security to promulgate regulations creating a program to expedite the processing of pre-approved travelers across the borders of the United States. CBP first established the Global Entry program as a pilot program in 2008.[5] On February 6, 2012, CBP published a final rule in the **Federal Register** (77 FR 5681) to establish the Global Entry program as an ongoing voluntary trusted traveler program. A new section 235.12 of title 8 of the CFR (8 CFR 235.12) was added that includes a detailed description of the program, the eligibility criteria, the application process, arrival procedures, the reasons an applicant or participant may be denied, removed or suspended from the program, and the redress procedures.[6]

The Global Entry program allows pre-approved travelers dedicated CBP processing at designated airports, currently through the use of automated kiosks. Eligibility for participation in Global Entry is limited to U.S. citizens, U.S. lawful permanent residents, U.S. nationals,[7] and certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs. When citizens or nationals of a foreign country become eligible to apply for Global Entry, CBP publishes a notice in the **Federal Register** announcing the expansion of Global Entry to that foreign country. To participate in the Global Entry program, individuals must apply and pay a non-refundable $100 fee via the TTP Systems website, *https://ttp.cbp.dhs.gov*.[8] Global Entry membership is for five years and participants may apply for renewal. Renewal of the Global Entry program requires the submission of a new application, and payment of the non-refundable $100 fee. An individual is ineligible to participate in the Global Entry program if CBP, in its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or CBP is unable to establish that the applicant can be considered low-risk. Reasons why an applicant may not qualify for participation include, but are not limited to:

- The applicant provides false or incomplete information on the application;
- The applicant has been arrested for, or convicted of, any criminal offense or has pending criminal charges or outstanding warrants in any country;
- The applicant has been found in violation of any customs, immigration, or agriculture regulations, procedures, or laws in any country;
- The applicant is the subject of an investigation by any federal, state, or local law enforcement agency in any country;
- The applicant is inadmissible to the United States under applicable immigration laws or has, at any time, been granted a waiver of inadmissibility or parole;
- The applicant is known or suspected of being or having been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism; or
- The applicant cannot satisfy CBP of his or her low-risk status or meet other program requirements.

After completion of the application and submission of the fee, an applicant will be notified if he or she is conditionally approved or denied acceptance into the Global Entry program. If the applicant is denied acceptance into the program, he or she may choose one of the methods of redress described in 8 CFR 235.12(k). If the applicant is conditionally accepted into the Global Entry program, then he or she will be notified via TTP Systems that he or she needs to appear for a personal interview. The applicant may either schedule an interview at a CBP trusted traveler enrollment center or present himself or herself for an interview upon arrival in the United States at a participating ''Enrollment on Arrival'' airport. The second option is available to an applicant who arrives in the United States on an international flight. A list of CBP enrollment centers is available at *http://www.cbp.gov/global-entry/enrollment-centers.* A list of ''Enrollment on Arrival'' airports is available at *https://www.cbp.gov/travel/trusted-traveler-programs/global-entry/enrollment-arrival.*

[5] See 73 FR 19861 (April 11, 2008).

[6] CBP no longer uses a suspension procedure. Therefore, this notice of proposed rulemaking proposes to revise section 235.12 to reflect the current procedures.

[7] U.S. nationals include certain individuals who are not U.S. citizens. See Sections 101 and 308 of the Immigration and Nationality Act.

[8] TTP Systems is the replacement system for GOES, which was previously available at the following website: *https://goes-app.cbp.dhs.gov.* TTP Systems online payments are secured through the Federal Government's online payment system *Pay.gov*. *Pay.gov* is a system by which parties can make secure electronic payments to many Federal Government agencies.

Minors under the age of 18 who meet the general eligibility criteria and have the consent of a parent or legal guardian are eligible to participate in Global Entry. Minors under the age of 18 must complete the application and pay the non-refundable $100 fee. As is the case for all applicants, CBP must be able to conduct the requisite vetting of the applicant, including collection of the required fingerprints needed to conduct the biometric-based background checks. For minors under the age of 18, a parent or legal guardian must be present at the time of the interview.

NEXUS participants, and SENTRI participants who are U.S. citizens and U.S. lawful permanent residents may utilize the Global Entry kiosks as a benefit of their NEXUS or SENTRI membership. Mexican nationals who are SENTRI participants may only utilize the Global Entry kiosks upon successful completion of a thorough risk assessment by the Mexican Government.[9] A list of the select airports that currently offer Global Entry arrival processing is available at *https://www.cbp.gov/travel/trusted-traveler-programs/global-entry/locations.*

As a benefit of Global Entry membership, a Global Entry participant may utilize the SENTRI lanes at the U.S.-Mexico border [10] and may enter the United States at the northern border using the NEXUS lanes [11] and the NEXUS marine reporting locations. To access the SENTRI lanes, the NEXUS lanes and the NEXUS marine reporting locations, an RFID card is needed.[12] New and renewing Global Entry participants are automatically issued a Global Entry RFID card at no additional cost. A $25 fee is charged for a replacement RFID card. When a replacement card is requested, the original RFID card is deactivated and is no longer functional. A Global Entry RFID card does not allow a participant dedicated processing into Canada at the automated air kiosks, NEXUS lanes or NEXUS marine reporting locations.[13] In order to obtain dedicated processing into Canada, an individual must separately apply to the NEXUS program, undergo Canadian vetting, be interviewed by the CBSA and pay the $50 NEXUS application fee.

B. SENTRI Program—Current Requirements

The SENTRI program allows dedicated processing at specified land border ports along the U.S.-Mexico border for pre-approved travelers. As described in the Executive Summary, the SENTRI program was developed by the legacy INS as part of a series of programs collectively referred to as PORTPASS. PORTPASS was a series of programs designed to identify pre-registered, low-risk travelers and permit them to enter the United States within predictable wait times by reducing the interaction between the traveler and the inspector. One of the main purposes of the PORTPASS programs was to ease commuter traffic at land ports of entry by providing dedicated commuter lanes (DCLs) to facilitate the rapid passage of low-risk, frequent travelers. When the PORTPASS programs were transferred from the legacy INS to DHS,[14] several of the programs that collectively operated as PORTPASS ceased operations (though some, including the Free and Secure Trade (FAST) program for commercial vehicles, are still operating under PORTPASS [15]). With the transfer of functions from the INS to DHS and advances in technology, most of the procedures set forth in the PORTPASS regulation, 8 CFR 235.7, are no longer applicable to SENTRI applicants and participants. The current SENTRI eligibility requirements, application procedures, and redress methods have been developed by CBP over time to reflect the establishment of the GOES website (now TTP Systems), the creation of the CBP trusted traveler enrollment centers, the modernizing of the DCL lanes, and the creation of the Global Entry and NEXUS programs. The current SENTRI program's application process, requirements and benefits closely align with those for the Global Entry and NEXUS trusted traveler programs. The details of the current SENTRI program are set forth below and are also available at *http://www.cbp.gov/travel/trusted-traveler-programs/sentri.*

1. General Requirements

SENTRI participants have access to specific, dedicated primary lanes into the United States from Mexico. An RFID card is required for a participant to access the dedicated SENTRI lanes. Upon acceptance into the SENTRI program, a participant is issued a SENTRI RFID card at no additional cost. A $25 fee is charged to replace the RFID card if lost. When a replacement card is requested, the original RFID card is deactivated and is no longer functional.

SENTRI membership is for five years. SENTRI participants may apply for renewal. Renewal of the SENTRI program requires the submission of a new application, and payment of the SENTRI fee. Just as with the Global Entry program, an individual is ineligible to participate in the SENTRI program if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or CBP is unable to establish that the applicant can be considered low-risk. The specific reasons why an applicant may not qualify for participation in the SENTRI program are the same as for the Global Entry program.

Although most of the PORTPASS procedures no longer apply to the SENTRI program, SENTRI applicants still pay fees based on the PORTPASS fee provisions. The current SENTRI fee is $122.25 and is comprised of three separate payments that the applicant pays at various stages in the application process. The fee is comprised of a $25 application fee, an $82.75 DCL fee and a $14.50 Federal Bureau of Investigation (FBI) fingerprinting fee. Pursuant to 8 CFR 103.7(b)(1)(ii)(G), the application fee is payable before the application is processed. Section 103.7(b)(1)(ii)(G) also authorizes the collection of an FBI fingerprinting fee, if required. Section 103.7(b)(1)(ii)(A) requires the DCL systems costs fee. Applicants may apply for the SENTRI program online via the TTP Systems website, *https://ttp.cbp.dhs.gov,* or via the paper application, Form 823S. The paper application and fee can be mailed to CBP or submitted in person at the enrollment center.

If the applicant wishes to drive his or her vehicle into the United States using the SENTRI lanes, the applicant must register the vehicle by providing

[9] See Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202), for further information.

[10] A Global Entry participant with an RFID card may travel as a passenger in a vehicle utilizing the SENTRI lanes. However, a Global Entry participant may not drive a vehicle into the United States using the SENTRI lanes unless that vehicle has been approved by CBP for use in the SENTRI lanes. More information about this process is in Section III.B. SENTRI Program.

[11] It is not necessary to register a vehicle to utilize the NEXUS lanes. If an individual is a NEXUS, SENTRI or Global Entry participant with an RFID card then that individual may utilize the NEXUS lanes into the United States either as a passenger or driving a vehicle.

[12] For more details about the benefits provided to Global Entry, NEXUS and SENTRI participants, please see *http://www.cbp.gov/global-entry/faqs.*

[13] Note that Global Entry RFID cards are only used for entry into the United States at NEXUS and SENTRI dedicated lanes at land borders. Global Entry kiosks at airports accept only passports and permanent resident cards for entry into the United States.

[14] The Homeland Security Act of 2002, Public Law 107–296, transferred the functions of the INS to DHS.

[15] PORTPASS is still used as the basis for a portion of the FAST program. FAST is primarily a commercial cargo clearance program, but the drivers must be separately screened for security risk. This security screening takes place pursuant to PORTPASS.

information about the vehicle on the application and CBP will determine whether to approve the vehicle. The approved vehicle will be subject to an inspection when the vehicle enters the United States at the U.S.-Mexico border crossing. This inspection will occur at secondary inspection during one of the vehicle's crossings into the United States at CBP's discretion.[16] It is within CBP's sole discretion whether to approve a vehicle for the SENTRI program. CBP reserves the right to revoke the approval at the time of inspection if, in its discretion, it finds any reason the vehicle should not be approved. CBP no longer issues vehicle decals or transponders for vehicles using the SENTRI lanes since this technology is obsolete. When a SENTRI, NEXUS or Global Entry participant with an RFID card approaches the border in the SENTRI lane, the system automatically identifies the vehicle and the identity of the occupants of the vehicle. An individual may have a maximum of four approved vehicles for use in the SENTRI lanes. One vehicle may be registered for approval during the application or renewal process at no additional charge. The fee to register additional vehicles or to register the first vehicle after the initial application or renewal process is $42 per vehicle. This fee is charged per vehicle registered, regardless of whether that vehicle is ultimately approved for use in the SENTRI lanes. The additional vehicle fee may be paid online via the TTP Systems or in person at the enrollment center.

After completion of the application and submission of the application and FBI fingerprinting fees, an applicant will be notified if he or she is conditionally approved or denied acceptance into the SENTRI program. An applicant who is denied may seek redress.[17] If the applicant is conditionally accepted, he or she will be notified to schedule an interview at a SENTRI enrollment center. Before the start of the interview, the SENTRI applicant must pay the DCL fee either via the TTP Systems or in person at the enrollment center. The list of CBP enrollment centers is available at *https://www.cbp.gov/travel/trusted-traveler-programs/sentri/enrollment-centers.*

As a benefit of SENTRI membership, a SENTRI participant who is a U.S. citizen or a U.S. lawful permanent resident may also utilize the Global Entry kiosk. Mexican nationals who are SENTRI participants may only utilize the Global Entry kiosks upon successful completion of a thorough risk assessment by the Mexican Government.[18] Additionally, SENTRI participants may utilize the NEXUS lanes and NEXUS marine reporting locations to enter the United States. However, in order to obtain dedicated processing into Canada using the NEXUS lanes, automated air kiosks and NEXUS marine reporting locations, a SENTRI participant must separately apply to the NEXUS program, undergo Canadian vetting, be interviewed by the CBSA, and pay the $50 NEXUS application fee.

2. SENTRI Family Option Plans

The SENTRI program includes family option plans that cap the amount that a family is required to pay to apply to the SENTRI program. The SENTRI program uses the fee caps specified in the PORTPASS fee regulations. The PORTPASS regulations define ''family'' narrowly and traditionally as ''husband, wife, and minor children under 18 years of age.'' For purposes of the SENTRI program, CBP considers a ''family'' to be a mother, father and minors under the age of 18. This includes single parents.

The maximum DCL fee a family must pay is $165.50.[19] When a family applies to the SENTRI program each individual family member is charged the $82.75 DCL fee until the $165.50 family cap is reached. For example, a mother currently applying to the SENTRI program with her three minor children will be charged a $165.50 DCL fee for the entire family. The DCL fee is $82.75 per individual if not applying as a family unit. There is also a family cap set for the application fee. While the application fee for an individual is $25 per applicant, the maximum amount payable by a family is $50. This $50 family cap is set forth in the PORTPASS fee regulation, 8 CFR 103.7(b)(1)(ii)(G). When a family applies to the SENTRI program, each individual family member is charged the $25 application fee until the $50 family cap is reached. There are no family caps with respect to the FBI fingerprinting fee. The FBI fingerprinting fee is currently dependent on the age of the applicant. All applicants 14 years of age and older are required to pay the FBI fingerprinting fee. Applicants under 14 years of age are exempt from the FBI fingerprinting fee.

Whether or not minors pay a fee to apply for the SENTRI program, all minors need to have the consent of a parent or legal guardian to be eligible to participate, must complete the application, and are subject to the requisite vetting, including the collection of fingerprints. For minors under the age of 18, a parent or legal guardian must be present at the time of the interview.

C. NEXUS Program—Current Requirements

The NEXUS program is a joint trusted traveler program between the United States and Canada that allows pre-approved travelers dedicated processing by both U.S. and Canadian officials at specified locations. Currently, the non-refundable application fee is $50. Minors under the age of 18 are exempt from payment of the application fee.

As a benefit of NEXUS membership, NEXUS participants may utilize the Global Entry kiosks.[20] Additionally, NEXUS participants may utilize the SENTRI lanes.[21] Information about the NEXUS procedures, fees, and other information about the NEXUS program are available at *http://www.cbp.gov/travel/trusted-traveler-programs/nexus.*

[16] In accordance with the United States Government Accountability Office (GAO)'s recommendation regarding its recent review conducted of the CBP trusted traveler programs and CBP's goal of harmonizing the three CBP trusted traveler programs, CBP has eliminated the requirement for vehicle inspections at the enrollment center. See GAO Report 14–483, Trusted Travelers: Programs Provide Benefits, but Enrollment Processes Could be Strengthened (May 2014), available at: *http://www.gao.gov/products/GAO-14-483.*

[17] As stated earlier in the background section, currently, an applicant who is denied may seek redress through DHS TRIP or by contacting the Trusted Traveler Ombudsman via a reconsideration request filed through TTP Systems.

[18] See Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202) for further information.

[19] Prior to October 2012, the FBI fingerprinting fee was $17.25. At that time, the total SENTRI fee of $122.25 was broken down as follows: $25 application fee, $17.25 FBI fingerprinting fee, and $80 DCL systems cost fee (as per 8 CFR 103.7(b)(1)(ii)(A)). Pursuant to a **Federal Register** Notice published by the FBI on December 20, 2011 (76 FR 78950), the FBI fingerprinting fee decreased to $14.50. In October 2012, CBP changed its internal accounting regarding the allocation of the total $122.25 SENTRI fee. Specifically, CBP reallocated the $2.75 from the decreased FBI fingerprinting fee to the DCL systems cost fee, bringing the DCL systems cost fee to $82.75. Due to this change in the individual DCL fee, the family maximum also increased to $165.50 (from $160).

[20] CBP must collect the individual's fingerprints and have the most recent passport information submitted on TTP Systems in order for these participants to utilize the Global Entry kiosks. See Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202), for further information.

[21] A NEXUS participant may travel as a passenger in a vehicle using the SENTRI lanes. However, a NEXUS participant may not drive a vehicle into the United States using the SENTRI lanes unless that vehicle has been approved by CBP for use in the SENTRI lanes. More information about this process is in Section III. B. SENTRI Program.

D. Summary of Benefits for the NEXUS, SENTRI and Global Entry Programs

As summarized in the chart below, a Global Entry, SENTRI, or NEXUS participant can take advantage of certain benefits of the other two CBP trusted traveler programs. Please refer to Sections III. A., III. B., and III. C. for more details about these benefits.

TABLE 1—TRUSTED TRAVELER PROGRAMS SHARED BENEFITS

Dedicated processing through:	Trusted traveler program		
	SENTRI	Global Entry	NEXUS
SENTRI Lanes	X	X	X
Global Entry Kiosks	X*	X	X
NEXUS Lanes (into U.S.)	X	X	X
NEXUS Marine Reporting Locations (into U.S.)	X	X	X
NEXUS Lanes (into Canada)			X
NEXUS Marine Reporting Locations (into Canada)			X
Automated Air Kiosks (into Canada)			X

* SENTRI participants who are U.S. citizens and lawful permanent residents may use the Global Entry kiosks. SENTRI participants who are Mexican nationals may only use this benefit upon successful completion of a thorough risk assessment by the Mexican government.

IV. Proposed Changes to the Global Entry and SENTRI Programs

A. Harmonizing the CBP Trusted Traveler Programs

CBP would like to harmonize the application fee, the application fee paid by minors, the fee payment schedule and the application processes for the NEXUS, SENTRI and Global Entry programs.[22] Also, the current fees are no longer sufficient to recover CBP's costs to administer the programs. The proposed changes to the Global Entry and SENTRI programs are described below.

1. Proposal To Harmonize the Global Entry and SENTRI Fees

CBP has performed a fee study entitled ''CBP Trusted Traveler Programs Fee Study'' to determine the amount of the fee that is necessary to recover the costs associated with application processing for the Global Entry, SENTRI, and NEXUS programs. CBP determined that, in making the fee uniform across the programs, a fee of $120 is appropriate and necessary to recover a reasonable portion of these costs.[23] The SENTRI fee would be decreased from its current fee of $122.25 to $120. The Global Entry fee would be increased from its current fee of $100 to $120. The proposed $120 application fee would apply to new applicants and to participants renewing their memberships in both the SENTRI and Global Entry programs. As described below, these non-refundable fees would be paid to CBP at the time of the application through the TTP Systems. These fees would be reflected in the Global Entry fee provision in 8 CFR 103.7, a proposed SENTRI fee provision in 8 CFR 103.7, in the Global Entry program regulation, 8 CFR 235.12, and the SENTRI program proposed regulation, 8 CFR 235.14.

2. Proposal To Exempt Certain Minors From Payment of the Application Fee

The Global Entry, SENTRI, and NEXUS programs are not aligned with respect to whether minors are charged an application fee. The SENTRI program has a complex family option plan, the Global Entry program charges minors the full application fee and the NEXUS program exempts all minors from payment of the application fee. This disparity results in families choosing a program based on financial considerations instead of choosing a program based on the features and benefits of the program. To eliminate this disparity and to reflect the costs to CBP to operate these programs, CBP seeks to create a uniform fee and a uniform fee charged to minors.

In this document, CBP is proposing to exempt a minor under the age of 18 who applies to the Global Entry or SENTRI program from payment of the application fee if the minor's parent or legal guardian applies concurrently with the minor or if the parent or legal guardian is an existing member of the same program to which the minor is applying. If the minor's parent or legal guardian is already an existing member, the minor would be required to enter the parent or legal guardian's name and trusted traveler number to allow CBP to verify this information. If a minor applies to the Global Entry or SENTRI program without a concurrent parent or legal guardian application and if his or her parent or legal guardian is not already a participant in the same program to which the minor is applying, the minor would be charged the full application fee of $120. This exemption for minors would minimize the costs for families enrolling in the Global Entry, SENTRI, and NEXUS programs.

All minors applying to the Global Entry, SENTRI, or NEXUS programs, including those who are exempt from payment of the application fee, must have the consent of a parent or legal guardian to be eligible to participate, must complete the application, and would be subject to the requisite vetting, including the collection of fingerprints. For minors under the age of 18, a parent or legal guardian must be present at the time of the interview with a CBP officer.

In order to incorporate this fee exemption for certain minors, CBP is proposing several regulatory amendments. With respect to the Global Entry program, CBP is proposing to amend the fee provision, 8 CFR 103.7(b)(1)(ii)(M), and the Global Entry program regulation, 8 CFR 235.12(d)(2). To align SENTRI with the other programs, CBP is proposing to eliminate the SENTRI family option plans described above. The family option plans offer minor children discounted rates or even free enrollment based on their parent(s)' application to the SENTRI program. Family option plans are overly complex, do not provide options for minors with legal guardians and make arbitrary age distinctions that are no longer used by CBP. The SENTRI family option plans would be replaced by new provisions regarding the SENTRI fee in 8 CFR 103.7(b)(1)(ii)(P) and proposed 8 CFR 235.14(c)(3). These provisions would incorporate the proposed SENTRI application fee and

[22] Any changes to the NEXUS fee will be announced in a separate **Federal Register** notice.

[23] The NEXUS fee is split between the United States and Canada. As a result, the United States will only receive part of the revenue necessary to recover its costs for the NEXUS program. Please see the fee study entitled ''CBP Trusted Traveler Programs Fee Study'', included in the docket of this rulemaking (docket number USCBP–2020–0035) for additional details.

the fee exemption for certain minors under 18.

B. Proposal To Establish a New Regulation for the SENTRI Program

As discussed previously, when the legacy INS developed the SENTRI program as part of a series of programs referred to as PORTPASS, the requirements and procedures that govern the PORTPASS program set forth in 8 CFR 235.7 were applicable to the SENTRI program. With the transfer of functions from the INS to DHS, advancing technology and the expansion of the CBP trusted traveler programs, the SENTRI program has evolved, and its requirements and procedures have changed. The vast majority of SENTRI applicants apply via the TTP Systems website using an application that is common to all the CBP trusted traveler programs. These application procedures are not reflected in the PORTPASS regulation, 8 CFR 235.7. Additionally, CBP has established CBP trusted traveler enrollment centers, modernized the DCLs utilized by SENTRI participants, and established common methods of redress for all three CBP trusted traveler programs. The requirement for a personal interview at the enrollment center, the updates to the DCLs, and the redress methods are also not reflected in the PORTPASS regulations, 8 CFR 235.7.

This document proposes to add a new section 8 CFR 235.14, modeled after the Global Entry regulation, 8 CFR 235.12, that would incorporate the current parameters, requirements and application procedures of the SENTRI program and supersede 8 CFR 235.7 for purposes of the SENTRI program. Proposed 8 CFR 235.14 includes a general description of the SENTRI program, the eligibility requirements, application procedures, redress procedures, and the requirement to pay an application fee as specified in a new fee section, 8 CFR 103.7(b)(1)(ii)(P). Except for the provisions concerning the eligibility requirements, the registration of vehicles and the use of special lanes for approved vehicles, the other provisions (*i.e.,* the disqualifying criteria, application procedures, and the available redress procedures) are essentially the same as in the Global Entry regulation.[24] The provisions that apply only to the SENTRI program are described in the next paragraph.

The current eligibility criteria for the SENTRI program are set forth in proposed section 235.14(b)(1). Any individual of any nationality is eligible to apply for the SENTRI program. Proposed section 235.14(c) sets forth the application procedures including that a vehicle must be approved by CBP to utilize the SENTRI lanes. Proposed section 235.14(e) states that a SENTRI participant will be issued an RFID or other CBP approved document that grants the participant access to specific, dedicated primary lanes into the United States. The proposed regulation provides the website where the SENTRI lanes are identified and informs the SENTRI participant that a vehicle must be approved by CBP to utilize the dedicated SENTRI lanes.

The proposed regulation also sets forth the new fee payment schedule, and the new fee exemption for certain minors. This document also proposes to add a new provision, 8 CFR 103.7(b)(1)(ii)(P), which sets forth the new fee, the new fee charged to minors, and all relevant fee details for the SENTRI program.

C. Additional Proposed Changes to the SENTRI Program

1. Proposal To Change the Fee Payment Schedule for the SENTRI Program

CBP is proposing to change the current SENTRI fee payment schedule. As discussed above, currently, the SENTRI fee is comprised of three separate amounts (an application fee, a DCL fee, and an FBI fingerprinting fee) that the applicant pays at various stages in the application process. CBP is proposing to require instead that the SENTRI applicant pay a non-refundable application fee of $120 at the time the applicant submits the application via TTP Systems.

As discussed earlier, CBP performed a new fee study of the Global Entry, SENTRI, and NEXUS programs and has determined that a uniform fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these programs. This fee study was necessary to reevaluate the fees due to the expansion of the programs, advances in technology, and the shared benefits across the programs. For example, as technology has advanced, the technology deployed and costs associated with the creation of dedicated commuter only lanes is no longer necessary. CBP is capable of converting any crossing lane into a lane that may be used for trusted travelers. Due to this advancement, CBP has determined that the fee for the Global Entry, SENTRI, and NEXUS programs should only incorporate those costs associated with the application process. The costs of processing the application include the cost of TTP Systems, the FBI fingerprinting fee, the enrollment centers, the vetting and other relevant costs. The new fee does not include any costs related to DCLs. See the CBP Trusted Traveler Programs Fee Study for the entire breakdown of the proposed fee. Therefore, CBP has determined that it is no longer appropriate to charge SENTRI applicants the three separate payments under the current fee payment schedule.

CBP is also proposing to change the fee payment schedule for the SENTRI program in order to align the SENTRI application process with the application process for the Global Entry and NEXUS programs. The Global Entry and NEXUS programs have a single application fee that is payable in full at the time the applicant submits the application via TTP Systems whereas SENTRI applicants pay only a portion of the SENTRI fee when the application is submitted and other portions later in the process. CBP is proposing to change the fee payment schedule for the SENTRI program to similarly require a single application fee be paid in full at the time the applicant submits the application.

Thus, CBP is proposing to add section 8 CFR 103.7(b)(1)(ii)(P) to reflect that the $120 fee encapsulates the entire SENTRI fee and is payable at application submission. Proposed section 8 CFR 235.14(c)(3) would state that the $120 non-refundable SENTRI fee must be paid to CBP at the time of the application submission through TTP Systems or other CBP-approved process.

2. Proposal To Mandate Electronic Submission of the SENTRI Program Application and Payment of Fees

Currently, an applicant to the SENTRI program may apply online via the TTP Systems website or by submitting a paper application, Form 823S. If the

[24] There are minor differences regarding the two provisions. First, proposed 8 CFR 235.14 has a provision about denial and removal from the program whereas the current Global Entry regulation covers denial, removal and suspension from the program (emphasis added). Second, the redress provision in proposed 8 CFR 235.14 specifies two possible methods of redress for individuals whose application is denied or whose participation is terminated whereas the current Global Entry regulation specifies the same two possible methods of redress for individuals whose applications are denied, or whose participation is suspended or terminated (emphasis added). This notice of proposed rulemaking proposes to revise the Global Entry regulations to remove all references to suspensions because CBP no longer uses the suspension procedure. Additionally, the current Global Entry regulation allows an applicant to seek redress by writing to the enrollment center where his or her interview was conducted. This redress process is no longer used. This notice of proposed rulemaking proposes to revise the Global Entry regulations to reflect the current process.

applicant chooses to submit a paper application, the application fee can either be mailed to CBP or submitted in person at an enrollment center. CBP is proposing to eliminate the paper application as an option for SENTRI applicants. SENTRI applicants would be required to apply to the SENTRI program online via the TTP Systems website, *https://ttp.cbp.dhs.gov.* Eliminating the paper SENTRI application would complete the harmonization of the application submission process for the three programs,[25] streamline the application process, reduce the burden on CBP officers, and expedite the application process.

Additionally, CBP is proposing to require applicants to pay the SENTRI application fee through the TTP Systems website at the time of online application and not at the enrollment center. The proposed elimination of the paper SENTRI application makes this change possible.

CBP is also proposing changes to the procedures for paying the additional vehicle fee. Although there is no fee for a SENTRI applicant to register one vehicle for use in the SENTRI lanes during the initial application or renewal process, there is a $42 fee to register each additional vehicle and to register the first vehicle after the initial application or renewal process. This proposed rule does not change the amount of the additional vehicle fee. However, this proposed rule would change the way the fee is paid. Currently, a SENTRI applicant or participant may pay this fee electronically via TTP Systems or in person at the enrollment center. CBP is proposing to require payment of the additional vehicle fee electronically via TTP Systems. This is because the vehicle inspection is no longer performed at the enrollment center. As discussed above, if CBP approves the vehicle for use in the SENTRI lanes, the vehicle is subject to a vehicle inspection at secondary inspection during one of the vehicle's crossings into the United States. Requiring an applicant or participant to pay the additional vehicle fee online via TTP Systems ensures that there is an electronic record of the payment when the vehicle arrives at secondary inspection. It also further harmonizes the Global Entry, SENTRI, and NEXUS programs. Global Entry and NEXUS participants who wish to register their vehicle for use in the SENTRI lanes after the initial application or renewal process would continue to pay the additional vehicle fee online via TTP Systems. These SENTRI application procedures are included in proposed 8 CFR 235.14(c).

D. Additional Proposed Changes to the Global Entry Program

1. 8 CFR 235.12(g)

Under the current regulation, a Global Entry participant must follow certain procedures upon arrival in the United States. These arrival procedures are set forth in 8 CFR 235.12(g). They include proceeding to the Global Entry kiosk, following the on-screen instructions, and declaring all articles brought into the United States. For the reasons discussed below, CBP is proposing to revise this paragraph to eliminate the reference to ''arrival in the United States''. CBP is also proposing to remove the reference, throughout the regulation, to Global Entry ''kiosks'' and replace it with the phrase ''Global Entry Processing'' to allow for the applicable facilities and technology to evolve without need to revise the regulations. For this same reason, CBP is also proposing to remove the phrase ''on-screen'' from the phrase concerning following instructions and instead state that the participant must ''follow all CBP instructions.''

When the regulation was first issued, CBP did not offer Global Entry at airports located in the U.S. territories or at preclearance facilities in foreign countries. Due to the success of the Global Entry program and to facilitate the travel of additional Global Entry, NEXUS and qualified SENTRI participants, CBP now offers Global Entry in certain U.S. territories as well as at preclearance facilities in foreign countries.

The expansion of Global Entry to U.S. territories allows dedicated CBP processing of Global Entry, NEXUS and qualified SENTRI participants into these territories. However, pursuant to 19 CFR 7.2(b), CBP does not perform a customs function in certain U.S. territories. Accordingly, CBP does not collect customs declarations in those territories. As the customs declaration does not apply in all Global Entry locations, CBP is proposing to amend 8 CFR 235.12(g) as set forth in section VII of this Notice of Proposed Rulemaking (NPRM), to eliminate the reference to customs declarations.

The expansion of Global Entry to preclearance facilities in foreign countries also allows select foreign airports with preclearance facilities to provide dedicated CBP processing for Global Entry, NEXUS and qualified SENTRI participants on direct outbound flights to the United States.[26] Preclearance facilities are staffed with CBP officers responsible for conducting customs, immigration, and agricultural inspections of passengers, crew, and their goods bound for the United States. Generally, travelers who are inspected at a preclearance facility are permitted to arrive at a U.S. domestic facility and either exit the U.S. domestic terminal upon landing or connect directly to a U.S. domestic flight without further CBP processing. Because the Global Entry processing occurs at a point prior to the traveler's arrival in the United States, CBP is proposing to amend 8 CFR 235.12(g), as set forth below and in section VII of this NPRM, to eliminate the phrase ''upon arrival in the United States''.

2. 8 CFR 235.12(h)

Section 235.12(h) addresses certain examination and inspection issues related to the use of Global Entry. Among other things, it specifies that pursuant to the enforcement provisions of 19 CFR part 162, Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process. As noted above, CBP does not have customs responsibilities at all Global Entry locations. For this reason, CBP is proposing to amend 8 CFR 235.12(h) to eliminate the reference to 19 CFR part 162. Part 162 concerns, in relevant part, inspections within the customs territory of the United States. Reference to 19 CFR part 162 is not needed in 8 CFR 235.12(h) because the purpose of the paragraph regarding successful use of Global Entry at any location can be more clearly and accurately stated without specific reference to 19 CFR part 162.

3. Other Amendments to 8 CFR 235.12

CBP is also proposing several additional minor changes to 8 CFR 235.12. First, CBP is proposing some language changes to reflect the expansion of Global Entry to preclearance facilities at foreign locations. Because Global Entry now operates in some U.S. territories and preclearance facilities outside the United States, CBP is proposing to remove references to ''expedited entry

[25] A NEXUS applicant may submit a paper application to apply to the NEXUS program. This is a CBSA form, not a CBP form. As such, the paper NEXUS application is sent to CBSA, processed and inputted by CBSA. CBP's NEXUS application and application submission are completely electronic.

[26] Section 101.5 of title 19 of the CFR (19 CFR 101.5) sets forth a list of CBP preclearance offices in foreign locations. Section 162.8 of title 19 of the CFR (19 CFR 162.8) permits CBP officers stationed in a foreign country at a preclearance facility to exercise such functions and perform such duties as may be permitted by treaty, agreement or law of the country in which the officer is stationed.

into the United States'' and replace them with ''dedicated CBP processing.'' In addition, CBP no longer refers to members of trusted traveler programs as ''low-risk travelers'' preferring, instead, the term ''pre-approved travelers.'' Accordingly, CBP is proposing to update the language in sections 235.12(a), 235.12(b)(2) and 235.12(c) to reflect the above changes.

Additionally, the interview procedures for the Global Entry program have changed slightly. Although section 235.12(e)(1) states that the Global Entry applicant must schedule his or her interview at a Global Entry enrollment center, Global Entry applicants now have another personal interview option. They can also have their personal interview at certain participating airports referred to as ''Enrollment on Arrival'' airports. The locations of the participating airports can be found at *https://www.cbp.gov/travel/trusted-traveler-programs/global-entry/enrollment-arrival.* The applicant does not need to schedule the interview in advance, but may only use this option if arriving in the United States on an international flight at one of the ''Enrollment on Arrival'' airports. CBP is proposing to update the language in 8 CFR 235.12(e)(1) to eliminate the specific reference to Global Entry enrollment centers.

Finally, CBP no longer suspends Global Entry membership. CBP either denies an applicant participation under the disqualifying factors in 8 CFR 235.12(b)(2) or a Global Entry participant is removed from the program if CBP determines under 8 CFR 235.12(j)(2) that such action is necessary. To reflect this change, CBP is proposing to remove all references to ''suspend'', ''suspension'' and ''suspended'' from sections 235.12(d)(3), 235.12(j) and (k).

E. Proposed Conforming Amendment to 8 CFR 103.7

The current regulations include a provision, 8 CFR 103.7(b)(1)(ii)(A), that specifies the amount of the DCL system costs fee. This fee is for use of DCLs located at specific ports of entry for approved PORTPASS participants in designated vehicles. As discussed above, this fee is one element of the current SENTRI program fee. SENTRI is the only PORTPASS program where CBP charges the DCL fee. If the fee changes proposed in this NPRM are implemented, the entire SENTRI fee will be specified in 8 CFR 103.7(b)(1)(ii)(P). Since CBP would no longer have any other programs which charge the DCL fee, this paragraph (b)(1)(ii)(A) would be unnecessary. Therefore, CBP is proposing to remove and reserve 8 CFR 103.7(b)(1)(ii)(A).

V. Statutory and Regulatory Requirements

A. Executive Orders 13563, 12866, and 13771

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 directs agencies to reduce regulation and control regulatory costs, and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017). CBP has prepared the following analysis to help inform stakeholders of the impacts of this proposed rule.

1. Purpose of the Rule

CBP operates several voluntary trusted traveler programs that afford pre-approved travelers with dedicated processing travel privileges into the United States. These programs are the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, Global Entry program, and NEXUS program. When originally developed, each program had its own application process and participants in one program could not take advantage of the benefits of other programs. As the programs expanded, CBP determined that it was necessary to unify certain aspects of the three trusted traveler programs. Currently, the programs have a nearly identical application process and participants in any one of the programs can enjoy nearly all the benefits of the other two trusted traveler programs. However, regulatory changes are needed to unify certain aspects of the programs.

Although the trusted traveler programs all offer nearly reciprocal benefits with each other, the current SENTRI, Global Entry, and NEXUS fees are $122.25, $100, and $50, respectively. In addition to leading to potential confusion and charging different prices for nearly the same product for prospective and renewing trusted traveler program members, these fees are no longer sufficient to recover CBP's costs to administer the programs. Instead, all unreimbursed costs are currently covered by appropriated funds. As discussed below, CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these trusted traveler programs.

In addition to ensuring that the trusted traveler programs are better funded, CBP is proposing to revise the SENTRI fee payment schedule; exempt certain minors from payment of the harmonized fee for membership in the SENTRI or Global Entry programs; change certain aspects of the SENTRI program application process; and eliminate the dedicated commuter lane systems cost fee (''DCL fee'') currently applicable only to approved SENTRI members.

2. Background

When originally developed, the SENTRI, Global Entry, and NEXUS programs each had its own application process and participants in one program could not take advantage of the benefits of other programs. As the programs expanded, CBP determined that it was necessary to unify certain aspects of the three trusted traveler programs. Currently, the programs have a nearly identical application process and participants in any one of the programs can enjoy nearly all the benefits of the other two trusted traveler programs. As shown in Table 1 below, NEXUS and certain SENTRI participants are eligible to use Global Entry kiosks and Global Entry participants are eligible to use NEXUS lanes and marine reporting locations when entering the United States and SENTRI lanes. Additionally, SENTRI participants are permitted to use NEXUS lanes and marine reporting locations when entering the United States and NEXUS participants are permitted to use SENTRI lanes.

TABLE 1—TRUSTED TRAVELER PROGRAMS' SHARED BENEFITS

Dedicated processing through:	Trusted traveler program		
	SENTRI	Global Entry	NEXUS
SENTRI Lanes	X	X	X
Global Entry Kiosks	X*	X	X
NEXUS Lanes (into U.S.)	X	X	X
NEXUS Marine Reporting Stations (into U.S.)	X	X	X
NEXUS Lanes (into CAN)			X
NEXUS Marine Reporting Stations (into CAN)			X
Automated Air Kiosks (into CAN)			X

*U.S. citizens and lawful permanent residents may use this benefit. Mexican nationals may only use this benefit upon successful completion of a thorough risk assessment by the Mexican government.

Despite the nearly identical application process and the nearly reciprocal benefits each program has with one another, each of these trusted traveler programs still has its own fee. As such, CBP is proposing to harmonize the application fee for these trusted traveler programs. CBP has determined that a fee of $120 is necessary in order to recover a reasonable portion of the costs associated with application processing for the SENTRI, Global Entry, and NEXUS trusted traveler programs.[27] A fee study documenting the proposed fee change, entitled *CBP Trusted Traveler Programs Fee Study,* has been included in the docket of this rulemaking (docket number USCBP–2020–0035). Table 2 presents the components of the proposed fee. In addition to the proposed fee changes, CBP is proposing to revise the SENTRI fee payment schedule; exempt all minors under 18 years of age from the fee when a parent or legal guardian is already a member of or concurrently applying for SENTRI or Global Entry; require all SENTRI program applicants to apply and pay electronically; require that additional SENTRI program vehicle registrations are paid for electronically; and eliminate the DCL fee currently applicable only to approved SENTRI members.

TABLE 2—PROPOSED TRUSTED TRAVELER PROGRAMS FEE

(1) TTP Systems/GES	$17.17
(2) FBI Fingerprinting	14.50
(3) Enrollment Center	52.54
(4) Vetting Center	14.47
(5) RFID Card	15.87
(6) HQ Staff, Call Center, and Miscellaneous	2.54
Sum	117.09
Calculated Fee, rounded up to the nearest $5.00	120.00

Although CBP intends to harmonize the fee for the NEXUS, SENTRI, and Global Entry trusted traveler programs, this proposed rule only concerns changes to the fee for the SENTRI and Global Entry trusted traveler programs. Pursuant to 8 U.S.C. 1753(c), the fee setting of a joint U.S.-Canada project, such as the NEXUS program, is exempt from the Administrative Procedure Act. Accordingly, any changes to the NEXUS fee will be announced in a **Federal Register** notice.

Below are brief descriptions of the Global Entry and SENTRI trusted traveler programs and an explanation of their current fee structures (for details regarding the NEXUS trusted traveler program, please refer to the NEXUS website at *http://www.cbp.gov/travel/trusted-traveler-programs/nexus*):

a. SENTRI

The SENTRI program allows pre-approved travelers dedicated CBP processing at specified land border ports along the U.S.-Mexico border. The SENTRI program currently has a fee of $122.25. This fee is comprised of three parts: A $25 application fee, an $82.75 DCL fee, and a $14.50 FBI fingerprinting fee for applicants 14 years of age or older.[28] Unlike NEXUS and Global Entry, SENTRI applicants do not pay the entire fee when submitting their application. Initially, a SENTRI applicant is only required to pay the $25 application fee and the $14.50 FBI fingerprinting fee. Payment of the $82.75 DCL fee is only required if a SENTRI applicant is conditionally approved for membership in the program.

In order to lessen the financial burden for families applying to the SENTRI trusted traveler program, CBP places a cap on the maximum amount that a family is required to pay for the application and DCL components of the SENTRI program fee. As shown in Table 3, these caps are $50 and $165.50, respectively, or the rough equivalent to the cost of two applicants. For the purposes of the SENTRI program, CBP considers a family to be a father, mother, and minors under 18 years of age.

TABLE 3—SENTRI FEE FAMILY OPTION PLAN

Fee component	Family member	Cost
Application	Father Mother Minors 14–17 years of age Minors under 14 years of age	$25 per person until the maximum family cap of $50 is reached.

[27] CBP notes that 2/3 of the revenue from NEXUS applicants goes to the United States government and the remaining 1/3 of revenue from NEXUS applicants goes to the Canadian government. Therefore, even though the fee calculated below is set to recover the costs of the program, the United States will only receive 2/3 of the revenue necessary to cover its costs of the NEXUS program. CBP considers the revenue to be sufficient to cover a reasonable portion of the costs. CBP has not adjusted the fee higher to account for this because doing so would cause applicants to SENTRI and Global Entry to subsidize the costs of the NEXUS program.

[28] Source: Email correspondence with CBP's Office of Field Operations on May 23, 2018. Also, on March 19, 2012, the FBI fingerprinting fee decreased from $17.25 to $14.50 (76 FR 78950).

TABLE 3—SENTRI FEE FAMILY OPTION PLAN—Continued

Fee component	Family member	Cost
DCL	Father Mother Minors 14–17 years of age Minors under 14 years of age	$82.75 per person until the maximum family cap of $165.50 is reached.
FBI Fingerprinting	Father	$14.50.
	Mother	$14.50.
	Minors 14–17 years of age	$14.50.
	Minors under 14 years of age	$0.

In addition to requiring individuals to apply to the SENTRI program, CBP requires that vehicles be approved by CBP for use in SENTRI lanes. The SENTRI program fee includes the registration of one vehicle during the initial application or renewal process. A fee of $42 is required for any additional vehicle to be registered for use in SENTRI lanes (maximum of four vehicles) or for the participant to register his or her first vehicle after the initial application or renewal process. In fiscal year (FY) 2018, CBP received $1.8 million in SENTRI fee revenue.[29]

b. Global Entry

The Global Entry program allows pre-approved travelers dedicated CBP processing at designated airports, currently through the use of automated kiosks at designated airports. The Global Entry program currently has a fee of $100. In FY 2018, CBP received $142.7 million in Global Entry fee revenue.[30]

3. Costs

This proposed rule would harmonize the fee that is required to be paid when applying for membership in the SENTRI and Global Entry trusted traveler programs. The SENTRI and Global Entry programs currently have fees of $122.25 and $100, respectively. As discussed above, CBP has determined that a fee of $120 is necessary in order to recover a reasonable portion of the costs associated with application processing for CBP's trusted traveler programs. In addition to the proposed fee changes, CBP is proposing to revise the SENTRI fee payment schedule; to exempt all minors under the age of 18 years of age from paying the fee when a parent or legal guardian is already a member of or concurrently applying for SENTRI or Global Entry; require all SENTRI applicants to apply and pay electronically; require that additional SENTRI program vehicle registrations be paid for electronically; and eliminate the DCL fee currently applicable to only approved SENTRI members.

When assessing costs of proposed rules, agencies must take care to not include transfer payments in their cost analysis. As described in OMB Circular A–4, transfer payments occur when ''. . . monetary payments from one group [are made] to another [group] that do not affect total resources available to society.'' [31] Examples of transfer payments include payments for insurance and fees paid to a government agency for services that an agency already provides.[32] The SENTRI and Global Entry trusted traveler programs are established programs that already require a fee in order to participate. Current fees do not cover the entire costs to CBP for administering these programs and unreimbursed costs are covered by appropriated funds. Accordingly, the proposed fee changes, including changes in who is exempt, to the trusted traveler programs do not increase overall costs to society as these unreimbursed costs are already being paid by appropriated funds. As such, a change to the fee associated with each program is considered a transfer payment. CBP does recognize, however, that the proposed fee changes may have a distributional impact on individuals and families applying or renewing their membership in either the SENTRI or Global Entry trusted traveler program. In order to inform stakeholders of all potential effects of the proposed rule, CBP has analyzed the distributional effects of the proposed rule below in section ''V. A. 4. Distributional Impacts.''

In addition to adjusting the fees required for membership in the SENTRI and Global Entry trusted traveler programs, CBP is proposing to require that all SENTRI applicants apply and pay the requisite application fee electronically and pay the vehicle registration fee electronically.[33] CBP estimates that it takes the same amount of time to complete the electronic SENTRI application and make an electronic payment for the application and registration fee as it does to complete a paper SENTRI application and vehicle registration and make a payment by cash or check at an enrollment center. CBP believes that requiring an electronic application and payment is necessary to increase efficiency of the SENTRI program application and SENTRI vehicle registration process. Additionally, this would further harmonize the three trusted traveler programs because electronic applications and payments are a current CBP requirement for the Global Entry and NEXUS programs.[34] CBP recognizes that applying and paying for the SENTRI program and vehicle registrations electronically requires internet access and those without readily available internet access would have to visit a facility that provides internet access to the public (*e.g.,* a library). However, in 2017, CBP received 138,515 SENTRI applications and 56,285 SENTRI vehicle enrollment applications, all of which were submitted electronically.[35] Applicants would not likely opt to file electronically if it were more burdensome to do so. For this reason, CBP assumes that no applicants would need to travel to access the internet for the purpose of paying the required fees. To the extent that someone does need to travel, he or she would incur small opportunity and transportation costs.

[29] Source: Email correspondence with CBP's Office of Field Operations on August 2, 2019.

[30] Source: Email correspondence with CBP's Office of Field Operations on August 2, 2019.

[31] OMB Circular A–4: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[32] Regulatory Impact Analysis: Frequently Asked Questions (FAQ): *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf* and OMB Circular A–4: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[33] CBP notes, however, that this proposal does not propose changes to the vehicle fee and each SENTRI participant will continue to receive one vehicle registration for no additional cost when either renewing or applying to the SENTRI program.

[34] A NEXUS applicant may submit a paper application to apply to the NEXUS program. This is a CBSA form, not a CBP form. As such, the paper NEXUS application is sent to CBSA, processed and inputted by CBSA. CBP's NEXUS application and application submission are completely electronic.

[35] Source: Email correspondence with CBP's Office of Field Operations on May 31, 2018.

CBP notes that the SENTRI program is a voluntary program and that all individuals must determine if the benefits of receiving dedicated CBP processing either meet or exceed the costs of joining the SENTRI program.

In addition to proposing that the applications and vehicle registrations be electronic, CBP is proposing to codify SENTRI vehicle inspection changes that have previously been implemented. Formerly, the SENTRI vehicle inspection took place at the enrollment center. On November 17, 2015, CBP changed this inspection process and notified impacted applicants and SENTRI members of the new process by email. Under the new vehicle inspection process, which is still in effect, a vehicle must be approved by CBP for use in the SENTRI lanes and subsequently inspected at secondary inspection during one of the vehicle's crossings into the United States. Despite not having an inspection at the time of enrollment, vehicles remain subject to inspections at the time of crossing through random inspection. This rule's proposed SENTRI vehicle inspection changes would not result in additional benefits or costs to CBP trusted traveler program participants because they are already operational, because the inspection takes the same amount of time, and because no additional trip is needed for the inspection.

Along with the proposed regulatory changes discussed above, CBP is proposing changes to the information collection associated with the trusted traveler programs (OMB control number 1651–0121). The proposed change would require a minor under 18 years of age applying for membership in either the SENTRI or Global Entry trusted traveler program whose parent or legal guardian is already a member of the same program to submit his or her parent's or legal guardian's name and trusted traveler number. As discussed below, in section ''V. E. Paperwork Reduction Act,'' CBP estimates that this proposed information collection would take approximately two minutes (0.0333 hours). CBP's trusted traveler databases do not track which minors concurrently apply to a trusted traveler program with a parent or legal guardian and which minors apply after a parent or legal guardian joined a trusted traveler program. CBP subject matter experts, however, estimate that two percent of minors (or parents/legal guardians acting on their behalf) apply for membership in a trusted traveler program after a parent or legal guardian has already joined a trusted traveler program and, as such, would be subject to the proposed information collection.

Table 4 shows historical data on the number of minor applicants that enrolled in SENTRI and Global Entry from 2013 to 2018, while Table 5 shows the estimated number of minor SENTRI and Global Entry applications over the period of analysis spanning from 2019 to 2023.[36] CBP notes that the data presented in Table 4 for 2018 is a projection and not actual data. CBP based the 2018 through 2023 minor SENTRI enrollment application figures shown in Table 4 and Table 5 on the compound annual growth rate (CAGR) of minor SENTRI enrollment applications between 2013 and 2017, which is equal to six percent, applied to the number of minor SENTRI applications in each prior year. To estimate the 2018 through 2023 minor Global Entry enrollment applications, CBP applied the 2013 to 2017 CAGR of minor Global Entry enrollment applications of 31 percent to the number of minor Global Entry enrollment applications in each prior year.

TABLE 4—HISTORICAL MINOR ENROLLMENT APPLICATIONS FOR SENTRI AND GLOBAL ENTRY, 2013–2018

Year	Total minor SENTRI enrollment applications	Total minor Global Entry enrollment applications
2013	27,665	33,712
2014	25,013	48,287
2015	25,003	59,670
2016	37,102	94,631
2017	34,924	99,232
2018*	37,019	129,994
Total	186,726	465,526

* Projection.
Note: Totals may not sum due to rounding.

TABLE 5—ESTIMATED MINOR SENTRI AND GLOBAL ENTRY ENROLLMENT APPLICATIONS, 2019–2023

Year	Total minor SENTRI enrollment applications	Total minor Global Entry enrollment applications
2019	39,241	170,292
2020	41,595	223,083
2021	44,091	292,238
2022	46,736	382,832
2023	49,540	501,510
Total	221,203	1,569,955

Note: Totals may not sum due to rounding.

[36] Source: Email correspondence with CBP's Office of Field Operation on May 23, 2018.

As previously stated, CBP subject matter experts estimate that two percent of minors (or parents/legal guardians acting on their behalf) apply for membership in a trusted traveler program after a parent or legal guardian has already joined a trusted traveler program. As such, CBP estimates that only two percent of the projected minor SENTRI and Global Entry applicants shown in Table 5 would be subject to the rule's proposed application information collection requiring the submission of the name and trusted traveler number of an applicant's parent or legal guardian. These applicants would incur a two-minute (0.0333-hour) time burden to submit this information, at a time cost of $0.68 for SENTRI applicants and $1.57 for Global Entry applicants based on their respective hourly time values of $20.40 and $47.10.[37] [38] Using the projected number of minor SENTRI and Global Entry applicants subject to the new information collection and the estimated time costs to complete the new information collection, CBP estimates that it would cost minors (or parents/legal guardians acting on their behalf) $52,307 in opportunity (or time) costs to complete the proposed information collection over the five-year period of analysis. In the first year (2019), CBP estimates that this rule's new information collection would cost minors (or parents/legal guardians acting on their behalf) $5,881. Table 6 shows the number of minor SENTRI and Global Entry applicants required to submit the name and trusted traveler number of their parents or legal guardians and their annual cost to complete this proposed information collection.

TABLE 6—TOTAL COST TO COMPLETE THE PROPOSED INFORMATION COLLECTION FOR MINORS, 2019–2023

[Undiscounted 2019 U.S. Dollars]

Year	2% of minor SENTRI applicants	2% of minor Global Entry applicants	Cost to minor SENTRI applicants	Cost to minor Global Entry applicants	Total cost to minor SENTRI and Global Entry applicants
2019	785	3,406	$534	$5,347	$5,881
2020	832	4,462	566	7,005	7,571
2021	882	5,845	600	9,177	9,776
2022	935	7,657	636	12,021	12,657
2023	991	10,030	674	15,747	16,421
Total	4,425	31,400	3,009	49,298	52,307

Note: Totals may not sum due to rounding.

Total Costs

Table 7 summarizes the costs of this rule for minors to apply to the SENTRI and Global Entry programs after their parent or legal guardian has already done so. Altogether, this rule would impose a total discounted cost on minors from 2019 to 2023 of $44,356 in present value and $10,110 on an annualized basis (using a 7 percent discount rate and 2019 U.S. dollars).

TABLE 7—TOTAL MONETIZED PRESENT VALUE AND ANNUALIZED COSTS OF RULE, 2019–2023

[2019 U.S. dollars]

	3% Discount rate	7% Discount rate
Present Value Cost	$48,620	$44,356
Annualized Cost	10,307	10,110

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

4. Distributional Impacts

a. SENTRI

Under the proposed rule, the SENTRI fee would decrease from $122.25 to $120, the entire SENTRI fee would be required to be paid when submitting a SENTRI program application, and all minors under the age of 18 would be exempt from the SENTRI program fee when a parent or legal guardian is either a member of or concurrently applying for SENTRI. Table 8 shows the historical approved adult SENTRI applicants from 2013 to 2018.[39] CBP notes that the data presented in Table 8 for 2018 is a projection and not actual data. CBP based the 2018 approved adult SENTRI applications figure on the CAGR of approved adult SENTRI applications between 2013 and 2017, which is equal to nine percent, applied to the actual number of approved adult SENTRI applications in 2017.

[37] $20.40 hourly time value for SENTRI applicants x 0.0333-hour time burden to complete new information collection = $0.68 (rounded); $47.10 hourly time value for Global Entry applicants x 0.0333-hour time burden to complete new information collection = $1.57 (rounded).

[38] CBP bases the $20.40 hourly time value for SENTRI applicants on the U.S. Department of Transportation's (DOT) hourly time value of $20.40 for all-purpose, intercity travel by surface modes (except high-speed rail). CBP used this hourly time value for all-purpose, intercity travel by surface modes for SENTRI applicants because SENTRI members use the program to travel to the United States by land. CBP bases the $47.10 hourly time value for Global Entry applicants on the DOT's hourly time value of $47.10 for all-purpose, intercity travel by air and high-speed rail. CBP used this hourly time value for all-purpose, intercity travel by air and high-speed rail for Global Entry applicants because Global Entry members primarily use the program to travel to the United States by air. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2016 Update).* ''Table 4 (Revision 2—2016 Update): Recommended Hourly Values of Travel Time Savings.'' September 27, 2016. Available at *https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf.* Accessed August 14, 2019.

[39] Source: Email correspondence with CBP's Office of Field Operation on May 23, 2018. CBP notes that the data presented in Table 8 for 2018 is a projection and not actual data.

TABLE 8—HISTORICAL APPROVED ADULT SENTRI APPLICANTS, 2013–2018

Year	Total SENTRI enrollment applications approved applicants age 18 or older
2013	65,489
2014	61,982
2015	55,209
2016	88,163
2017	91,468
2018*	99,700
Total	462,011

* Projection.

The proposed SENTRI program fee decrease would save individuals 18 years of age or older $2.25 over a five-year period (an average of $0.45 per year) when they either apply for SENTRI for the first time or renew their SENTRI membership. Using the above historical data in Table 8 and the nine percent CAGR of approved adult SENTRI applications between 2013 and 2017, CBP estimates that over the five-year period of analysis from 2019 to 2023, 650,378 adults (130,076 adults per year on average) would either join the SENTRI program or renew their memberships. Based on these projected memberships, CBP estimates that the proposed fee decrease would result in decreased transfer payments from SENTRI applicants to the U.S. Government of approximately $1,463,351 ($292,670 per year on average) over the five-year period of analysis (650,378 estimated SENTRI applications * $2.25 proposed fee decrease = $1,463,351). This is shown in Table 9 below. CBP notes that the SENTRI program is a voluntary program and each renewing or prospective participant must determine if the benefits of dedicated CBP processing into the United States would equal or exceed the costs of the program. CBP compares these benefits and costs below in section ''V. A. 8. Benefits and Breakeven Analysis.''

TABLE 9—DECREASE IN TRANSFER PAYMENTS FROM ADULT SENTRI APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019–2023

[Undiscounted 2019 U.S. dollars]

Year	Approved adult SENTRI enrollment applications	Transfers based on current fee of $122.25	Transfers based on proposed fee of $120	Decrease in transfers from applicants
2019	108,673	$13,285,274	$13,040,760	$244,514
2020	118,454	14,481,002	14,214,480	266,522
2021	129,115	15,784,309	15,493,800	290,509
2022	140,735	17,204,854	16,888,200	316,654
2023	153,401	18,753,272	18,408,120	345,152
Total	650,378	79,508,711	78,045,360	1,463,351

Note: Totals may not sum due to rounding.

In addition to decreasing the fee for the SENTRI program, CBP is proposing to require that the entire fee be paid when submitting an application. Currently, renewing and prospective SENTRI participants are only required to pay a $25 application fee and a $14.50 FBI fingerprinting fee, for a total of $39.50, when submitting a SENTRI program application and an applicant is not responsible for the remaining fee component ($82.75 DCL fee) if he or she does not receive a conditional approval. Under the proposed rule, a SENTRI applicant who does not receive a conditional approval would see an $80.50 increase in price ([$120 proposed SENTRI fee—$39.50 current SENTRI application fee] = $80.50). As previously mentioned, this new fee does not include any costs related to DCLs because the technology deployed and costs associated with the creation of DCLs is no longer necessary and CBP plans to eliminate the fee with this rule. CBP estimates that over the last 10 years, an average of approximately 4,700 individuals per year did not receive a conditional approval when applying for the SENTRI program.[40] Using this annual average over the last 10 years as a projection of SENTRI applicants who would not receive a conditional approval over the period of analysis, and assuming that these applicants are adults, CBP estimates that SENTRI applicants who do not receive a conditional approval would transfer up to an additional $1,891,750 to the U.S. Government with this rule between 2019 and 2023, or $378,350 per year (4,700 SENTRI applicants not receiving a conditional approval * $80.50 = $378,350 * 5 years = $1,891,750). This is shown in Table 10 below.

[40] Source: Email correspondence with CBP's Office of Field Operations on May 23, 2018.

TABLE 10—POTENTIAL INCREASE IN TRANSFER PAYMENTS FROM ADULT SENTRI APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019–2023

[Undiscounted 2019 U.S. dollars] *

Year	SENTRIapplications without conditional approval	Transfer based on current fee of $39.50	Transfer based on proposed fee of $120	Increase in transfers from applicants
2019	4,700	$185,650	$564,000	$378,350
2020	4,700	185,650	564,000	378,350
2021	4,700	185,650	564,000	378,350
2022	4,700	185,650	564,000	378,350
2023	4,700	185,650	564,000	378,350
Total	23,500	928,250	2,820,000	1,891,750

* CBP assumes, for the purposes of this analysis, that the applicants included in this table who do not receive conditional approval for their SENTRI applications are adults.

Note: Totals may not sum due to rounding.

This rule also proposes to exempt all minors under 18 years of age from paying the SENTRI fee when a parent or legal guardian is a member of or concurrently applies for SENTRI. As shown in Table 3, CBP currently places a cap on the maximum amount a family is required to pay for the application and DCL components of the SENTRI program fee. For the purposes of the SENTRI program, a family is considered to be a father, mother, and minors under 18 years of age. This proposed rule would exempt all minors under 18 years of age from the SENTRI fee as long as one parent or legal guardian is a member of or concurrently applying for SENTRI. CBP's SENTRI database does not track which participants have family members that also participate in the program. As such, CBP is unable to determine how many families would benefit, or the extent to which they would benefit, from the proposed change. However, assuming that in the absence of this rulemaking, future SENTRI applicants under 18 years of age would largely be exempt from the SENTRI fee because of the existing SENTRI fee exemptions for minors, this rule's fee exemption for minors would have no impact on transfer payments between minor SENTRI applicants and CBP during the period of analysis. CBP presents two examples below in Table 11 to illustrate the possible savings that a family may receive under the proposed rule.

TABLE 11—ILLUSTRATIVE EXAMPLES OF THE PROPOSED SENTRI PROGRAM SAVINGS

Example	Fee structure	Cost	Change from current fee structure
A mother and one 14-year-old minor child apply for the SENTRI program.	Current	$244.50 ([2 individuals * $25 application fee = $50] + [2 individuals * $82.75 DCL fee = $165.50] + [2 individuals * $14.50 FBI fingerprinting fee = $29] = $244.50).	No change.
	Proposed	$120 ([1 adult * $120 proposed SENTRI program fee] + [1 minor under 18 years of age * $0 proposed SENTRI program fee] = $120).	Savings of $124.50 ($244.50 − $120 = $124.50).
A family of four comprising a mother, father, and two 14-year-old minor children apply for the SENTRI program.	Current	$273.50 ([4 individuals * $25 application fee = $50 family cap] + [4 individuals * $82.75 DCL fee = $165.50 family cap] + [4 individuals * $14.50 FBI fingerprinting fee = $58] = $273.50).	No change.
	Proposed	$240 ([2 adult * $120 proposed SENTRI program fee] + [2 minors under 18 years of age * $0 proposed SENTRI program fee] = $240).	Savings of $28 ($268 − $240 = $28).

b. Global Entry

Under the proposed rule, the Global Entry program fee would increase from $100 to $120 and all minors under 18 years of age would be exempt from the Global Entry program fee when a parent or legal guardian is either a member of or is concurrently applying for Global Entry. Table 12 below details the

historical approved adult Global Entry applications from 2013 to 2018.[41]

TABLE 12—HISTORICAL APPROVED ADULT GLOBAL ENTRY APPLICATIONS, 2013–2018

Year	Total approved adult GE enrollment applications
2013	566,180
2014	732,145
2015	769,785
2016	1,153,818
2017	1,306,617
2018*	1,607,139
Total	6,135,684

* Projection.

The proposed Global Entry program fee increase would cost individuals 18 years of age or older an additional $20 over a five-year period (an additional $4 per year) when they either apply for the Global Entry trusted traveler program for the first time or renew their Global Entry membership. Considering the above historical data in Table 12 and the 23 percent CAGR of approved adult Global Entry applications between 2013 and 2017, CBP estimates that 15,602,006 adults (3,120,401 adults per year) would either renew or apply to join the Global Entry program over the period of analysis. Using this figure, CBP estimates that the proposed fee increase would result in an increased transfer payment from Global Entry applicants to the U.S. Government (namely, CBP) of $312,040,120 from 2019 to 2023 (15,602,006 estimated Global Entry applicants * $20 proposed fee increase = $312,040,120). In 2019, the proposed fee increase would result in an increased transfer payment of $39,535,620. This is shown in Table 13 below. CBP notes that the Global Entry program is a voluntary program and each renewing or prospective participant must determine if the benefits of dedicated CBP processing into the United States would equal or exceed the costs of the program. CBP compares these benefits and costs below in section ''V. A. 8. Benefits and Breakeven Analysis.''

TABLE 13—INCREASE IN TRANSFER PAYMENTS FROM ADULT GLOBAL ENTRY APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019–2023

[Undiscounted 2019 U.S. dollars]

Year	Approved adult Global Entry applications	Transfer based on current fee of $100	Transfer based on proposed fee of $120	Increase in transfers from applicants
2019	1,976,781	$197,678,100	$237,213,720	$39,535,620
2020	2,431,440	243,144,000	291,772,800	48,628,800
2021	2,990,672	299,067,200	358,880,640	59,813,440
2022	3,678,526	367,852,600	441,423,120	73,570,520
2023	4,524,587	452,458,700	542,950,440	90,491,740
Total	15,602,006	1,560,200,600	1,872,240,720	312,040,120

Note: Totals may not sum due to rounding.

This rule also proposes to exempt all minors under 18 years of age from the Global Entry fee when a parent or legal guardian is a participant in or concurrently applies for Global Entry. Currently, all Global Entry applicants are required to pay the full $100 fee. CBP's Global Entry database does not track which participants have family members that also participate in the program. As such, CBP is unable to determine how many families would benefit, or the extent to which they would benefit, from the proposed change. However, assuming that all minor Global Entry applicants would be exempt from the applicant fee based on their parent or legal guardian's concurrent application or membership, this fee change would affect up to 1,569,955 minor Global Entry applicants (see Table 5) and result in a maximum of $156,995,500 in fee savings to these applicants (and their respective families). CBP presents the example below in Table 14 to illustrate the possible savings that a family may receive under the proposed rule. Table 15 shows the potential decrease in transfer payments from minor Global Entry applicants to CBP as a result of this rule under the assumption that all minor Global Entry applicants would be exempt from the applicant fee with this rule based on their parent or legal guardian's concurrent Global Entry application or membership.

TABLE 14—ILLUSTRATIVE EXAMPLE OF THE PROPOSED GLOBAL ENTRY PROGRAM SAVINGS

Example	Fee structure	Cost	Change from current fee structure
A mother and one 14-year-old minor child apply for the Global Entry program.	Current	$200 ([1 adult * $100 current Global Entry program fee] + [1 minor under 18 years of age * $100 current Global Entry program fee] = $200).	No change.
	Proposed	$120 ([1 adult * $120 proposed Global Entry program fee] + [1 minor under 18 years of age * $0 proposed Global Entry program fee] = $120).	Savings of $80 ($200 − $120 = $80).

[41] Source: Email correspondence with CBP's Office of Field Operation on May 23, 2018. CBP notes that the data presented in Table 12 for 2018 is a projection and not actual data. CBP based the 2018 approved adult Global Entry applications figure on the CAGR of approved adult Global Entry applications between 2013 and 2017, which is equal to 23 percent, applied to the actual number of approved adult Global Entry applications in 2017.

TABLE 14—ILLUSTRATIVE EXAMPLE OF THE PROPOSED GLOBAL ENTRY PROGRAM SAVINGS—Continued

Example	Fee structure	Cost	Change from current fee structure
A family of four comprising two adults and two minor children under 18 years of age apply for the Global Entry program.	Current	$400 ..... ([2 adults * $100 current Global Entry program fee] + [2 minors under 18 years of age * $100 current Global Entry program fee] = $400).	No change.
	Proposed	$240 ..... ([2 adults * $120 proposed Global Entry program fee] + [2 minors under 18 years of age * $0 proposed Global Entry program fee] = $240).	Savings of $160 ($400 − $240 = $160).

TABLE 15—POTENTIAL DECREASE IN TRANSFER PAYMENTS FROM MINOR GLOBAL ENTRY APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019–2023

[Undiscounted 2019 U.S. dollars]

Year	Minor Global Entry applicants	Transfer based on current fee of $100	Transfer based on proposed fee of $0	Potential decrease in transfers from applicants
2019	170,292	$17,029,200	$0	$17,029,200
2020	223,083	22,308,300	0	22,308,300
2021	292,238	29,223,800	0	29,223,800
2022	382,832	38,283,200	0	38,283,200
2023	501,510	50,151,000	0	50,151,000
Total	1,569,955	156,995,500	0	156,995,500

Note: Totals may not sum due to rounding.

5. Total Monetized Decrease in Transfer Payments to U.S. Government

Table 16 summarizes the total monetized decrease in transfer payments from the SENTRI and Global Entry applicants to CBP as a result of this proposed rule (see Table 9 and Table 15). Altogether, this rule could result in a total discounted decrease in monetized transfer payments from SENTRI and Global Entry applicants to the U.S. Government from 2019 to 2023 ranging from $134.2 million to $147.2 million in present value and $30.6 million to $31.2 million on an annualized basis, depending on the discount rate used.

TABLE 16—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED DECREASE IN TRANSFER PAYMENT FROM APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019–2023

[2019 U.S. dollars]

	3% Discount rate	7% Discount rate
Present Value Decrease in Transfer Payment	$147,200,595	$134,182,870
Annualized Decrease in Transfer Payment	31,205,750	30,585,003

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

6. Total Monetized Increase in Transfer Payments to U.S. Government

Alternatively, Table 17 summarizes the total monetized increase in transfer payments from the SENTRI and Global Entry applicants to CBP as a result of this proposed rule. Altogether, this rule could result in a total discounted increase in monetized transfer payments from SENTRI and Global Entry applicants to the U.S. Government from 2019 to 2023 (see Table 10 and Table 13) ranging from $268.0 million to $292.6 million in present value and $61.1 million to $62.0 million on an annualized basis, depending on the discount rate used.

TABLE 17—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED INCREASE IN TRANSFER PAYMENTS FROM APPLICANTS TO CBP AS A RESULT OF THE RULE, 2019—2023

[2019 U.S. dollars]

	3% Discount rate	7% Discount rate
Present Value Increase in Transfer Payments	$292,640,852	267,977,547
Annualized Increase in Transfer Payments	$62,038,318	61,081,523

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

7. Net Transfer Payments to U.S. Government

Table 18 illustrates the potential monetized net transfer payments of this rule from SENTRI and Global Entry applicants to the U.S. Government (namely, CBP). As shown, the total monetized present value net transfer payment of this rule from applicants to the U.S. Government over the five-year period of analysis from 2019 to 2023 could range from approximately $133.8 million to $145.4 million. The annualized net transfer payment could measure between $30.5 million and $30.8 million over the period of analysis.

TABLE 18—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED NET TRANSFER PAYMENTS OF RULE, 2019–2023

[2019 U.S. dollars]

	3% Discount rate		7% Discount rate	
	Present value	Annualized	Present value	Annualized
Total Decrease in Transfer Payments from Applicants to CBP	$147,200,595	$31,205,750	$134,182,870	$30,585,003
Total Increase in Transfer Payments from Applicants to CBP	292,640,852	62,038,318	267,977,547	61,081,523
Total Net Transfer Payments from Applicants to CBP	145,440,257	30,832,568	133,794,677	30,496,520

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

8. Benefits and Breakeven Analysis

CBP is proposing to exempt all minors under 18 years of age from paying the trusted traveler program fee when a parent or legal guardian is a member of or concurrently applying for membership in the same program to which the minor is applying. Currently, minors applying for the Global Entry program are required to pay the full $100 program fee. Minors applying for the SENTRI program, however, may be exempt from certain SENTRI fee components (see Table 3). In addition, to lessen the financial burden for families applying to the SENTRI trusted traveler program, CBP currently places a cap on the maximum amount that a family is required to pay for the application and DCL components of the SENTRI program fee. The maximum caps are $50 and $165.50, respectively. For the purposes of the SENTRI program, CBP considers a family to be a father, mother, and minors under 18 years of age.

This proposed fee exemption for minors is a reduction in a transfer payment. As such, this proposal is not considered a benefit of this rule to society. CBP does recognize, however, that the proposed fee changes may have a positive distributional impact on individuals and families applying or renewing their membership in either the SENTRI or Global Entry trusted traveler program. In order to inform stakeholders of all potential effects of the proposed rule, CBP has analyzed the distributional effects of the proposed rule in section ''V. A. 4. Distributional Impacts.''

With this rule, CBP is also proposing to codify Global Entry benefits that have previously been implemented. These benefits allow the use of Global Entry in U.S. territories and preclearance facilities. These proposed changes, however, would not confer additional benefits to trusted traveler program participants because they are currently operational. As such, these proposed changes are not analyzed in this analysis.

Lastly, CBP is proposing a harmonized membership fee of $120 for the SENTRI, Global Entry, and NEXUS trusted traveler programs.[42] Although the trusted traveler programs all offer nearly reciprocal benefits with each other, the current SENTRI, Global Entry, and NEXUS fees are $122.25, $100, and $50, respectively. In addition to leading to potential confusion and charging of different prices for nearly the same product for prospective and renewing trusted traveler program members, these different fees are no longer sufficient to recover CBP's costs to administer the programs. While not easily quantifiable, if finalized, the proposed fee harmonization would allow individuals to choose the trusted traveler program that meets their travel needs best rather than choosing a program based on the cost. Additionally, the harmonized fee would ensure that a reasonable portion of the CBP costs are recovered and that costs are more equitably distributed between all the trusted traveler program participants now that each program has nearly reciprocal benefits with the other programs.

The U.S. Government Accountability Office (GAO) conducted a review of the SENTRI, NEXUS, and Global Entry trusted traveler programs.[43] During this review, GAO observed 14 border crossings with SENTRI lanes. Of these 14 crossings, GAO observed 11 crossings where vehicles experienced a time savings of at least 15 minutes (0.25 hours) when crossing the U.S.–Mexico border compared to vehicles in traditional lanes. Considering these observed time savings and the assumed $20.40 hourly time value for SENTRI applicants, CBP estimates that a SENTRI participant saves approximately $5.10 per crossing ($20.40 estimated hourly time value * 0.25 hours of time savings = $5.10). Based on these time cost savings per crossing, CBP estimates that a SENTRI participant 18 years of age or older must make five crossings per year for the benefits of the SENTRI program to equal the cost of membership over the five-year period of analysis ($120 SENTRI fee ÷ 5 years of membership = $24 membership cost per year; $24 membership cost per year ÷ $5.10 estimated savings per crossing = 5 crossings per year (rounded up)).[44] This compares to the five crossings currently required under the baseline ($122.25 current SENTRI fee ÷ 5 years of membership = $24.45 membership cost per year; $24.45 membership cost per year ÷ $5.10 estimated savings per arrival = 5 crossings per year (rounded up)).

GAO found that the average time savings for travelers using Global Entry kiosks is 10 minutes (0.1667 hours) to 27 minutes (0.45 hours). As referenced above, using DOT's guidance, CBP estimates a Global Entry applicant's hourly time value to be $47.10 per hour. Using this estimate and the minimum Global Entry time savings identified by GAO, CBP estimates that Global Entry

[42] As discussed above, CBP will be issuing a separate **Federal Register** notice to change the NEXUS fee to $120.

[43] Trusted Travelers: Programs Provide Benefits, but Enrollment Processes Could Be Strengthened; available at: *http://www.gao.gov/products/GAO-14-483*.

[44] This document does not propose changes to the current application and the interview process. Accordingly, these estimates do not account for the opportunity cost associated with applying and interviewing for the SENTRI trusted traveler program.

participants save at least $7.85 per arrival ($47.10 estimated hourly time value * 0.1667 hours of minimum time savings = $7.85). Based on these minimum time cost savings per arrival, CBP estimates that a Global Entry participant 18 years of age or older must make four arrivals per year for the benefits of the Global Entry program to equal the cost of membership ($120 Global Entry fee ÷ 5 years of membership = $24 membership cost per year; $24 membership cost per year ÷ $7.85 estimated savings per arrival = 4 arrivals per year (rounded up)).[45] This compares to the three arrivals currently required under the baseline ($100 current Global Entry fee ÷ 5 years of membership = $20 membership cost per year; $20 membership cost per year ÷ $7.85 estimated savings per arrival = 3 arrivals per year (rounded up)).

B. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA). A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

If finalized, the rule will directly regulate individuals who are primarily not considered small entities under the Regulatory Flexibility Act, as amended by SBREFA. However, a small number of individuals may obtain the rule's trusted traveler benefit as a sole proprietor. When choosing to re-enroll in the SENTRI or Global Entry programs once this rule is in effect, these sole proprietors must determine if the benefit of receiving dedicated CBP processing still meets or exceeds the cost of joining one of these programs. If an individual voluntarily chooses to join the SENTRI or Global Entry programs as a sole proprietor under this rule and he/she is approved for membership, he/she would incur a maximum cost of $20 per year (based on the new Global Entry enrollment fee change from $100 to $120 for adult applicants).[46] CBP does not believe that this cost would result in a significant economic impact. For these reasons, CBP certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

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

D. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The collections of information for the SENTRI and Global Entry applications are approved by OMB in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0121.[47] The proposals contained in these regulations under 8 CFR part 235 revise the collection of information by requiring electronic submission of the SENTRI application and propose eliminating paper Form 823S. Additionally, this proposed regulation would require a minor under 18 years of age applying for membership in either the SENTRI or Global Entry trusted traveler program whose parent or legal guardian is already a member of the same program to submit his or her parent's or legal guardian's name and trusted traveler number.

OMB approved collection 1651–0121 will be amended to reflect the additional SENTRI and Global Entry information collections for minor applicants under 18 years of age. CBP estimates that this rule would result in an additional 2-minute time burden on minors under 18 years of age applying for membership in either the SENTRI or Global Entry trusted traveler program whose parent or legal guardian is already a member of the same program to submit his or her parent's or legal guardian's name and trusted traveler number. CBP estimates that this would affect 785 minor SENTRI applicants and 3,406 minor Global Entry applicants annually and result in an additional 138 burden hours.

This new, proposed information collection requirement will result in the following revision of additional burden hours to the SENTRI information collection:

Estimated number of respondents annually: 785.

Estimated average annual burden per respondent: 0.033 hours.

Estimated total annual reporting burden: 26.

The addition of these burden hours will revise the total burden associated with the SENTRI application to 84,878.

These new, proposed requirements will result in the following revision of additional burden hours for the Global Entry information collection:

Estimated number of respondents annually: 3,406.

Estimated average annual burden per respondent: 0.033 hours.

Estimated total annual reporting burden: 112.

The addition of these burden hours will revise the total burden associated with the Global Entry application to 947,782.

These proposed regulations change the SENTRI fee from $122.25 to $120 for adults and certain minors and reduce the fee for minors from the fee currently applicable under the family option plan to zero when a parent or legal guardian is a participant in or concurrently applying for SENTRI. CBP is also proposing to require that the entire fee be paid when submitting an application. Currently, renewing and prospective SENTRI participants are only required to pay a $25 application fee and a $14.50 FBI fingerprinting fee, for a total of $39.50, when submitting a SENTRI program application and an applicant is not responsible for the remaining fee component ($82.75 DCL fee) if he or she does not receive a conditional approval. Under the proposed rule, a SENTRI applicant who does not receive a conditional approval would see an $80.50 increase in price ([$120 proposed SENTRI fee—$39.50 current SENTRI application fee] = $80.50). The total annual estimated costs associated with

[45] This document does not propose changes to the current application and interview process. Accordingly, these estimates do not account for the opportunity cost associated with applying and interviewing for the Global Entry trusted traveler program.

[46] Under the proposed rule, a SENTRI applicant who does not receive a conditional approval would see an $80.50 increase in price compared to the baseline.

[47] The changes to the NEXUS program are exempt from the PRA requirements pursuant to 8 U.S.C. 1753(c).

the SENTRI fee that is currently approved by OMB under control number 1651–0121 is $15,482,351. Under these proposed regulations, the total annual estimated costs associated with the SENTRI fee could be $15,616,187, which reflects an increase of $133,836.[48]

These proposed regulations also change the Global Entry fee from $100 to $120 for adults and certain minors (8 CFR 235.12 and 8 CFR 103.7) and reduce the fee for certain minors from $100 to zero when a parent or legal guardian is a participant in or concurrently applying for Global Entry (8 CFR 235.12 and 8 CFR 103.7). The total annual estimated costs associated with Global Entry that is currently approved by OMB under control number 1651–0121 is $141,443,400. Under these proposed regulations, the total annual estimated costs associated with the Global Entry fee could be $163,949,820, which reflects an increase of $22,506,420.[49]

Comments concerning the collections of information should be directed to the Border Security Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 90 K Street, NE (10th Floor), Washington, DC 20229.

F. Privacy

CBP generally requires travelers to apply for membership in a CBP trusted traveler program, such as Global Entry and NEXUS, through the TTP Systems website (*https://ttp.cbp.dhs.gov/*). For the SENTRI program, CBP accepts electronic applications through the TTP Systems website and paper applications (SENTRI Application, CBP Form 823S). CBP uses the cloud-based Trusted Traveler Program (TTP) System for online application to CBP programs; and the use of the General Services Administration (GSA) Login.gov portal for identity authentication. CBP maintains trusted traveler information in the Global Enrollment System (GES), Trusted Traveler Program (TTP) System, and DHS Automated Biometric Identification System (IDENT). The personally identifiable information provided by the applicants, including the fingerprint biometrics taken at the time of the personal interview, may be shared with other government and law enforcement agencies in accordance with applicable laws and regulations, including as described in the Privacy Act system of records notice for GES (Department of Homeland/U.S. Customs and Border Protection—002 Global Enrollment System (GES) System of Records, 78 FR 3441 (Jan. 16, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-01-16/html/2013-00804.htm* and *http://www.dhs.gov/system-records-notices-sorns*. CBP provides additional information about GES and its CBP trusted traveler programs in its Privacy Impact Assessment (PIA) for GES, DHS/CBP/PIA—002 Global Enrollment System, and subsequent updates, available at *https://www.dhs.gov/publication/global-enrollment-system-ges*. Applicants' biometric information (fingerprints, photographs) submitted as part of a GES application are stored in the DHS biometric repository, DHS Automated Biometric Identification System (IDENT). DHS has provided information about IDENT in the Privacy Impact Assessment for the Automated Biometric Identification System (IDENT), DHS/NPPD/PIA—002 (Dec. 7, 2012), and Appendices, available at *https://www.dhs.gov/publication/dhsnppdpia-002-automated-biometric-identification-system*.

G. Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

VI. List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

VII. Proposed Amendments to the Regulations

For the reasons set forth in the preamble, CBP proposes to amend 8 CFR parts 103 and 235 as set forth below.

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b; 1372; 31 U.S.C. 9701; 48 U.S.C. 1806; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*), E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2, Pub. L. 112–54, 125 Stat 550; 31 CFR part 223.

■ 2. Amend § 103.7 as follows:
■ a. Removing and reserving paragraph (b)(1)(ii)(A)
■ b. Adding a new sentence at the end of paragraph (b)(1)(ii)(G);
■ c. Revising paragraph (b)(1)(ii)(M);
■ d. Adding a new paragraph (b)(1)(ii)(P).

The additions and revision read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) [Reserved].

* * * * *

(G) * * * For the SENTRI program, see paragraph (b)(1)(ii)(P) of this section.

* * * * *

(M) *Global Entry.* For filing an application for Global Entry—$120. Minors under the age of 18 who apply to the Global Entry program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a member of Global Entry, are exempt from payment of the application fee.

* * * * *

(P) *SENTRI program.* For filing an application for the SENTRI program—$120. Minors under the age of 18 who apply to the SENTRI program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a member of SENTRI, are exempt from payment of the application fee. One vehicle may be registered for use in the SENTRI lanes during the initial application or renewal process at no additional charge. If an applicant or participant wishes to register more than one vehicle for use in the SENTRI lanes, or the participant registers his or her first vehicle after the initial application or renewal process, he or she will be assessed an additional fee of $42 for each vehicle.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 3. The authority citation for part 235 is revised to read as follows:

[48] CBP's trusted traveler databases do not track which participants have family members that also participate in the program and would be exempt from the fee due to family membership fee caps. As such, this may not reflect the actual costs of the SENTRI fee to respondents.

[49] CBP's trusted traveler databases do not track which participants have family members that also participate in the program and would be exempt from the fee due to family membership fee exemptions. As such, this may not reflect the actual costs of the Global Entry fee to respondents.

Authority: 6 U.S.C. 218 and note; 8 U.S.C. 1101 and note, 1103, 1158, 1182, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1185 note, 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; 48 U.S.C 1806 and note.4. In § 235.7, revise the heading and redesignate paragraphs (a)(1)(ii) through (iv) as paragraphs (a)(1)(iii) through (v) and add paragraph (a)(1)(ii) to read as follows:

§ 235.7 Automated inspection services (PORTPASS)

(a) * * *

(1) * * *

(i) * * *

(ii) *SENTRI program.* Although the SENTRI program is a PORTPASS program, all the parameters of the SENTRI program, including the eligibility requirements, application procedures, redress procedures, registration of vehicles, use of dedicated commuter lanes, and fee requirements are specified in 8 CFR 235.14. For purposes of the SENTRI program, 8 CFR 235.14 supersedes the provisions of section 235.7.

* * * * *

■ 5. Amend § 235.12 by revising paragraphs (a), (b)(2) introductory text, (c), (d)(2), (3), (e)(1), (g), (h), (j) and (k) to read as follows:

§ 235.12 Global Entry program.

(a) *Program description.* The Global Entry program is a voluntary international trusted traveler program consisting of an integrated passenger processing system that facilitates the movement of pre-approved air travelers into the United States by providing an alternate inspection process. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo pre-screening by CBP, and be accepted into the program. The Global Entry program allows participants dedicated CBP processing at selected airports identified by CBP at *www.cbp.gov*. Participants in the Global Entry program may also be able to take advantage of certain benefits of the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) and NEXUS programs. Please see *http://www.cbp.gov* for additional information. Participants will be processed through the use of CBP-approved technology that will include the use of biometrics to validate identity and to perform enforcement queries.

(b) * * *

(2) *Disqualifying factors.* An individual is ineligible to participate in Global Entry if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism or criminality (such as smuggling), or if CBP is unable to establish that the applicant can be considered low-risk. This risk determination will be based in part upon an applicant's ability to demonstrate past compliance with laws, regulations, and policies. Reasons why an applicant may not qualify for participation include:

* * * * *

(c) *Participating airports.* The Global Entry program allows participants dedicated CBP processing at the locations identified at *www.cbp.gov*. Expansions of the Global Entry program to new airports will be announced by publication in the **Federal Register** and at *www.cbp.gov*.

(d) * * *

(2) Except for certain minors, all applicants must pay the non-refundable fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(M) for ''Global Entry''. Minors under the age of 18 who apply to the Global Entry program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a member of Global Entry, are exempt from payment of the applicable fee. The fee is to be paid to CBP at the time of application through TTP Systems, *https://ttp.cbp.dhs.gov,* or other CBP-approved process.

(3) Every applicant accepted into Global Entry is accepted for a period of 5 years provided participation is not terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

* * * * *

(e) * * *

(1) After submitting the application, the applicant will be notified by CBP that he or she needs to appear for a personal interview.

* * * * *

(g) *Arrival Procedures.* In order to utilize the Global Entry program, each participant must:

(1) Proceed to Global Entry Processing and follow all CBP instructions; and

(2) Proceed to the nearest open primary inspection station if CBP determines it is appropriate.

(h) *Application for Entry, Examination and Inspection.* Each successful use of Global Entry constitutes a separate and completed inspection and application for entry by the participant on the date that Global Entry is used. Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process.

* * * * *

(j) *Denial and removal.*

(1) If an applicant is denied participation in Global Entry, CBP will notify the applicant of the denial and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A Global Entry participant may be removed from the program for any of the following reasons:

(i) CBP, at its sole discretion, determines that the participant has engaged in any disqualifying activities under the Global Entry program as outlined in § 235.12(b)(2);

(ii) CBP, at its sole discretion, determines that the participant provided false information in the application and/or during the application process;

(iii) CBP, at its sole discretion, determines that the participant failed to follow the terms, conditions, and requirements of the program;

(iv) CBP determines that the participant has been arrested or convicted of a crime or otherwise determines, at its sole discretion, that the participant no longer meets the program eligibility criteria; or

(v) CBP, at its sole discretion, determines that such action is otherwise necessary.

(3) CBP will notify the participant of his or her removal in writing. Such removal is effective immediately.

(4) An applicant or participant denied or removed will not receive a refund, in whole or in part, of his or her application processing fee.

(k) *Redress.* An individual whose application is denied or whose participation is terminated has two possible methods of redress. These processes do not create or confer any legal right, privilege or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *DHS Traveler Redress Inquiry Program (DHS TRIP).* The applicant/participant may choose to initiate the redress process through DHS Traveler Redress Program (DHS TRIP). An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP website at *www.dhs.gov/trip,* or by contacting DHS TRIP by mail at the address on this website.

(2) *Ombudsman.* Applicants (including applicants who were not scheduled for an interview at an enrollment center) and participants may contest a denial or removal by submitting a reconsideration request to the CBP Trusted Traveler Ombudsman through TTP Systems, *https://*

ttp.cbp.dhs.gov, or other CBP approved process.

■ 6. Add new § 235.14 to read as follows:

§ 235.14 SENTRI program.

(a) *Program description.* The Secure Electronic Network for Travelers Rapid Inspection (SENTRI) trusted traveler program is a voluntary program that allows certain pre-approved travelers dedicated processing at specified land border ports along the U.S.–Mexico border. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo pre-screening by CBP, and be accepted into the program. A SENTRI participant will be issued a Radio Frequency Identification (RFID) card or other CBP-approved document that grants the individual access to specific, dedicated primary lanes (SENTRI lanes). These lanes are identified at *http://www.cbp.gov.* A SENTRI participant may utilize a vehicle in the dedicated SENTRI lanes into the United States from Mexico only if the vehicle is approved by CBP for such purpose. Participants in the SENTRI program may also be able to take advantage of certain benefits of the Global Entry and NEXUS programs. Please see *http://www.cbp.gov* and *www.cbp.gov* for additional information.

(b) *Program eligibility criteria.*

(1) *Eligible individuals.* Any individual may apply to participate in the SENTRI program absent any of the disqualifying factors described in paragraph (b)(2) of this section. Persons under the age of 18 must have the consent of a parent or legal guardian to participate in the SENTRI program and provide proof of such consent in accordance with CBP instructions.

(2) *Disqualifying factors.* An individual is ineligible to participate in the SENTRI program if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or CBP is unable to establish that the applicant can be considered low-risk. This risk determination will be based in part upon an applicant's ability to demonstrate past compliance with laws, regulations, and policies. Reasons why an applicant may not qualify for participation include:

(i) The applicant provides false or incomplete information on his or her application;

(ii) The applicant has been arrested for, or convicted of, any criminal offense or has pending criminal charges or outstanding warrants in any country;

(iii) The applicant has been found in violation of any customs, immigration, or agriculture regulations, procedures, or laws in any country;

(iv) The applicant is the subject of an investigation by any federal, state or local law enforcement agency in any country;

(v) The applicant is inadmissible to the United States under applicable immigration laws or has, at any time, been granted a waiver of inadmissibility or parole;

(vi) The applicant is known or suspected of being or having been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism; or

(vii) The applicant cannot satisfy CBP of his or her low-risk status or meet other program requirements.

(c) *Program application.*

(1) Each applicant must complete and submit the program application electronically through an approved application process as determined by CBP. The application and application instructions for the SENTRI program are available at *www.cbp.gov.*

(2) During the application process, an applicant must provide information on any vehicle that will utilize the SENTRI lanes. The vehicle must be approved by CBP to utilize the dedicated SENTRI lanes. There is no fee to register one vehicle for use in the SENTRI lanes, provided the vehicle is registered at the time of initial application or at renewal. If the vehicle is registered after the initial application or renewal is filed, or if an applicant or participant wishes to register more than one vehicle for use in the SENTRI lanes, he or she will be assessed an additional fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(P). The fee is to be paid to CBP at the time the vehicle is registered through TTP Systems, *https://ttp.cbp.dhs.gov,* or other CBP-approved process.

(3) Except for certain minors, all other applicants must pay the non-refundable fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(P) for the ''SENTRI program''. Minors under the age of 18 who apply concurrently with a parent or legal guardian, or whose parent or legal guardian is already a member of SENTRI, are exempt from payment of the applicable fee. The fee is to be paid to CBP at the time of application through TTP Systems, *https://ttp.cbp.dhs.gov,* or other CBP-approved process.

(4) Every applicant accepted into the SENTRI program is accepted for a period of 5 years provided participation is not terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

(5) Each applicant may check the status of his or her application through his or her account with the application system in use for the SENTRI program.

(d) *Interview and enrollment.*

(1) After submitting the application, the applicant will be notified by CBP to schedule a personal interview at an enrollment center.

(2) Each applicant must bring to the interview with CBP the original of the identification document specified in his or her application. During the interview, CBP will collect biometric information from the applicant (*e.g.,* a set of fingerprints and/or digital photograph) to conduct background checks or as otherwise required for participation in the program.

(3) CBP may provide for alternative enrollment procedures, as necessary, to facilitate enrollment and ensure an applicant's eligibility for the program.

(e) *SENTRI lanes.* A SENTRI participant is issued a Radio Frequency Identification (RFID) card or other CBP-approved document. This RFID card or other CBP-approved document will grant the participant access to specific, dedicated primary lanes into the United States from Mexico (SENTRI lanes). These lanes are identified at *http://www.cbp.gov.* A SENTRI participant may utilize a vehicle in the dedicated SENTRI lanes into the United States from Mexico only if the vehicle is approved by CBP for such purpose.

(f) *Denial and removal.*

(1) If an applicant is denied participation in the SENTRI program, or an applicant's or participant's vehicle is not approved for use in the SENTRI lanes, CBP will notify the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A SENTRI participant may be removed from the program for any of the following reasons:

(i) CBP, at its sole discretion, determines that the participant has engaged in any disqualifying activities as outlined in § 235.14(b)(2);

(ii) CBP, at its sole discretion, determines that the participant provided false information in the application and/or during the application process;

(iii) CBP, at its sole discretion, determines that the participant failed to follow the terms, conditions and requirements of the program;

(iv) CBP determines that the participant has been arrested or convicted of a crime or otherwise

determines, at its sole discretion, that the participant no longer meets the program eligibility criteria; or

(v) CBP, at its sole discretion, determines that such action is otherwise necessary.

(3) CBP will notify the participant of his or her removal in writing. Such removal is effective immediately.

(4) An applicant or participant denied or removed will not receive a refund, in whole or in part, of his or her application fee.

(g) *Redress.* An individual whose application is denied or whose participation is terminated has two possible methods for redress. These processes do not create or confer any legal right, privilege, or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *DHS Traveler Redress Inquiry Program (DHS TRIP).* The applicant/participant may choose to initiate the redress process through DHS TRIP. An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP website at *www.dhs.gov/trip,* or by contacting DHS TRIP by mail at the address on this website.

(2) *Ombudsman.* Applicants and participants may contest a denial or removal from the program or the denial or removal of their vehicle(s) for use in the SENTRI lanes by submitting a reconsideration request to the CBP Trusted Traveler Ombudsman through TTP Systems, *https://ttp.cbp.dhs.gov,* or other CBP approved process.

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–16369 Filed 9–8–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0790; Product Identifier 2020–NM–077–AD]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional 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 ATR—GIE Avions de Transport Régional Model ATR42–300, –320, and –500 airplanes; and all Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes. This proposed AD was prompted by reports of defective seat tracks. This proposed AD would require a detailed visual inspection of each affected part for deficiencies (sealant blockage and out of tolerance ligaments), and depending on findings, accomplishment of applicable corrective actions, 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 October 26, 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 material that will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety 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–2020–0790.

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–2020–0790; 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, 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: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one copy of the comments. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0790; Product Identifier 2020–NM–077–AD'' at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments the FAA receives, 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 the FAA receives about this NPRM.

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 NPRM 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 NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be

placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0097R1, dated May 28, 2020 (''EASA AD 2020–0097R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR42–300, –320, –400, and –500 airplanes; and all Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes. Model ATR42–400 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by reports of defective seat tracks, either on the ATR final assembly line or during maintenance activities on ATR airplanes. Investigation results identified a potential structural deficiency of the affected seat tracks under an emergency landing condition. The FAA is proposing this AD to address a structural failure of the seat track attachment during an emergency landing, possibly resulting in injury to occupants, and affecting emergency evacuation. See the MCAI for additional background information.

Related Material Under 1 CFR Part 51

EASA AD 2020–0097R1, dated May 28, 2020, describes procedures for a detailed visual inspection of each affected seat track for deficiencies (sealant blockage and out of tolerance ligaments), and corrective actions if necessary. Corrective actions include replacement of seat track sections, and replacement of the entire seat track.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA 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 2020–0097R1 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 2020–0097R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0097R1 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 2020–0097R1 that is required for compliance with EASA AD 2020–0097R1 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0790 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 59 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 28 work-hours × $85 per hour = $2,380	$0	$2,380	$140,420

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
172 work-hours × $85 per hour = $14,620	*	$14,620

*The FAA has received no definitive data that would enable us to provide parts cost estimates for the on-condition replacements specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA 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):

ATR—GIE Avions de Transport Régional: Docket No. FAA–2020–0790; Product Identifier 2020–NM–077–AD.

(a) Comments Due Date

The FAA must receive comments by October 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the ATR—GIE Avions de Transport Régional airplanes identified in paragraphs (c)(1) and (2), certificated in any category.

(1) Model ATR42–300, –320, and –500 airplanes, all manufacturer serial numbers, except manufacturer serial numbers 001 through 362 inclusive.

(2) ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of defective seat tracks. The FAA is issuing this AD to address a structural failure of the seat track attachment during an emergency landing, possibly resulting in injury to occupants, and affecting emergency evacuation.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0097R1, dated May 28, 2020 (''EASA AD 2020–0097R1'').

(h) Exceptions to EASA AD 2020–0097R1

(1) Where EASA AD 2020–0097R1 refers to May 18, 2020 (the effective date of its original issue), this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0097R1 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0097R1 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, Large Aircraft Section, International Validation 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 Large Aircraft Section, International Validation Branch, 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, Large Aircraft Section, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional'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 2020–0097R1 that contains RC procedures and tests: Except as required by paragraph (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) For information about EASA AD 2020–0097R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St. Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0790.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

Issued on August 31, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–19580 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0785; Product Identifier 2020–NM–063–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 747 airplanes and Model 767 airplanes. This proposed AD was prompted by a report of an un-commanded fuel transfer between the main and center fuel tanks. This proposed AD would prohibit operation of an airplane with any inoperative refuel valve (fueling shut-off valve) secured in the open position. 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 October 26, 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.

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–2020–0785; 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, 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: Jeffrey Rothman, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98190; phone and fax: 206–231–3558; *jeffrey.rothman@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one copy of the comments. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0785; Product Identifier 2020–NM–063–AD'' at the beginning of your comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

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 NPRM 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 NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA has received a report of a flight diversion due to an un-commanded fuel transfer between the main and center fuel tanks. Following the flight, the operator discovered that a significant amount of fuel had migrated from the left main tank to the center tank. This condition was determined to be created by applying the Master Minimum Equipment List (MMEL)/Dispatch Deviation Guide (DDG) relief for inoperative refuel valves (fueling shut-off valves) secured in the ''open'' position in the main and center fuel tanks.

During investigation of the event, the operator's maintenance personnel restored all fueling shut-off valves to their normal configuration (closed). The system was tested, and it was confirmed that the fuel migration stopped.

Multiple refuel valves secured in the ''open'' position can result in un-commanded fuel transfer between tanks, which adversely affects the airplane's center of gravity, aerodynamic drag, and fuel economy. Fuel exhaustion may occur due to a combination of increased trim drag (due to unmitigated fuel imbalance) and the unavailability of trapped fuel due to a fully depleted main tank defeating the center tank fuel scavenge system.

The FAA is proposing this AD to address multiple refuel valves secured in the ''open'' position via MMEL dispatch allowance, which allows un-commanded fuel transfer between fuel tanks. This condition, if not addressed, could result in a fuel exhaustion event.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would prohibit operation of an airplane with multiple refuel valves secured in the ''open'' position.

MMEL Revisions

This proposed AD refers to items in Sections 28–20 and 28–21 of the MMEL [1]; those items may also be included in an operator's FAA-approved minimum equipment list (MEL). This proposed AD would prohibit operation of the airplane under conditions currently allowed by those items in the MMEL. The FAA plans to revise the MMEL to remove those items in a future revision; operators would then be required to also remove those items from their existing FAA-approved MEL.

Costs of Compliance

The FAA estimates that this proposed AD would affect 750 airplanes of U.S. registry.

The FAA has determined that revising the operator's existing FAA-approved MEL takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators typically incorporate MEL changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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):

The Boeing Company: Docket No. FAA–2020–0785; Product Identifier 2020–NM–063–AD.

(a) Comments Due Date

The FAA must receive comments by October 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, 747SP, –8F, and –8 series airplanes.

(2) Model 767–200, –300, –300F, –400ER, and –2C series airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of an un-commanded fuel transfer between the main and center fuel tanks. The FAA is issuing this AD to address multiple refuel valves secured in the ''open'' position via Master Minimum Equipment List (MMEL) dispatch allowance, which allows un-commanded fuel transfer between fuel tanks. This condition could result in a fuel exhaustion event.

(f) Compliance

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

(g) Conditions for Prohibited Operation

No later than 60 days after the effective date of this AD: Operation of an airplane with any inoperative refuel valve (fueling shut-off valve) secured in the open position is prohibited.

(h) MMEL Items

The MMEL items specified in paragraphs (h)(1) through (6) of this AD are affected by this prohibition.

(1) For Model 747–100, –200, and –300 series airplanes: The following ''Pressure Fueling System'' items.

(i) MMEL Item 28–20 2), ''Main Tank 1 and 4 Refueling Valves.''

(ii) MMEL Item 28–20 3), ''Main Tank 2 and 3 Refueling Valves.''

(iii) MMEL Item 28–20 4), ''Center Tank Refueling Valves.

(iv) MMEL Item 28–20 5), ''Reserve Tank 1 and 4 Refueling Valves.''

(v) MMEL Item 28–20 6), ''Reserve Tank 2 and 3 Refueling Valves.''

(2) For Model 747–400LCF series airplanes: MMEL Item 28–21–1 1), ''Refuel Valves,'' second dispatch case with refueling valves inoperative open.

(3) For Model 747–400 series airplanes: MMEL Item 28–21–1 1), ''Refuel Valves,'' first dispatch case with refueling valves inoperative open.

(4) For Model 747–8 series airplanes: MMEL Item 28–21–01–01–01A, ''Refuel Valves,''

(5) For Model 767 series airplanes: MMEL Item 28–21–01–01B, ''Fuel Shutoff Valves.''

(6) For Model 767–2C/KC–46 airplanes: The following ''Pressure Fueling System'' items.

(i) MMEL Item 28–21–01–01E, ''Main Tank Shutoff Valve Inoperative Open.''

(ii) MMEL Item 28–21–01–01F, ''Center Tank Shutoff Valve Inoperative Open.''

Note 1 to paragraph (h): The MMEL items specified in paragraph (h) of this AD can be found in the applicable FAA-approved MMEL: Boeing 747 B–747–100/200/300/SP SERIES MMEL, Revision 35, dated April 25, 2014; Boeing 747 B–747–400 LCF MMEL, Revision 3, November 7, 2014; Boeing 747 B–747–400, B–747–400D, B–747–400F MMEL, Revision 32, dated December 27, 2018; Boeing 747–8 MMEL, Revision 7, dated August 25, 2017; and Boeing 767 MMEL,

[1] The MMEL items can be found in the applicable FAA-approved MMEL: Boeing 747 B–747–100/200/300/SP SERIES MMEL, Revision 35, dated April 25, 2014; Boeing 747 B–747–400 LCF MMEL, Revision 3, November 7, 2014; Boeing 747 B–747–400, B–747–400D, B–747–400F MMEL, Revision 32, dated December 27, 2018; Boeing 747–8 MMEL, Revision 7, dated August 25, 2017; and Boeing 767 MMEL, Revision 39, dated October 26, 2018; which can be found on the Flight Standards Information Management System (FSIMS) website, *https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel.*

Revision 39, dated October 26, 2018; which can be found on the Flight Standards Information Management System (FSIMS) website, *https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel.*

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

For more information about this AD, contact Jeffrey Rothman, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98190; phone and fax: 206–231–3558; *jeffrey.rothman@faa.gov.*

Issued on August 21, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–19583 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0700; Project Identifier AD–2020–00238–E]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019–06–06, which applies to all International Aero Engines AG (IAE) V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2533–A5 model turbofan engines. AD 2019–06–06 requires initial and repetitive borescope inspections (BSIs) of the diffuser case M-flange and, if it fails the inspection, replacement of the diffuser case with a part eligible for installation. Since the FAA issued AD 2019–06–06, the manufacturer performed an updated safety risk analysis, which reduced the diffuser case M-flange inspection intervals and added the performance of a replacement of the diffuser case M-flange. This proposed AD would require an initial BSI of the diffuser case M-flange and, if it fails the inspection, repetitive BSIs of the diffuser case M-flange until replacement of the diffuser case M-flange is performed. 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 October 26, 2020.

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

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

For service information identified in this NPRM, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* website: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety 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–2020–0700; 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, 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: Nicholas Paine, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7742; fax: 781–238–7199; email: *nicholas.j.paine@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0700; Project Identifier AD–2020–00238–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

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 NPRM 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 NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Nicholas Paine,

Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2019–06–06, Amendment 39–19604 (84 FR 11642, March 28, 2019) (''AD 2019–06–06''), for all IAE V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2533–A5 model turbofan engines. AD 2019–06–06 requires initial and repetitive BSIs of the diffuser case M-flange and, if it fails the inspection, replacement of the diffuser case with a part eligible for installation. AD 2019–06–06 resulted from a crack found at the diffuser case M-flange during overhaul inspection. The FAA issued AD 2019–06–06 to prevent failure of the diffuser case.

Actions Since AD 2019–06–06 Was Issued

Since the FAA issued AD 2019–06–06, the manufacturer performed an updated safety risk analysis, which resulted in reducing the diffuser case M-flange inspection intervals and adding the performance of a replacement of the diffuser case M-flange, which terminates the need for repetitive BSIs of the diffuser case M-flange.

FAA's Determination

The FAA is issuing this NPRM because the agency has determined that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Service Information Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed IAE Non-Modification Alert Service Bulletin (NMASB) V2500–ENG–72–A0706, Revision 2, dated November 7, 2019. IAE NMASB V2500–ENG–72–A0706, Revision 2, describes procedures for inspecting the diffuser case M-flange. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed IAE Service Bulletin (SB) V2500–ENG–72–0709, dated December 13, 2019. IAE SB V2500–ENG–72–0709 describes procedures for replacing the diffuser case M-flange.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2019–06–06. This proposed AD would require an initial BSI of the diffuser case M-flange and, if it fails the inspection, repetitive BSIs of the diffuser case M-flange until replacement of the diffuser case M-flange is performed.

Costs of Compliance

The FAA estimates that this AD, as proposed, would affect 1,654 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSI of diffuser case M-flange	2 work-hours × $85 per hour = $170	$0	$170	$281,180
Replace the diffuser case M-flange	40 work-hours × $85 per hour = $3,400	20,000	23,400	38,703,600

According to the manufacturer, some 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 costs in its 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 has determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

(3) Would 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:

■ a. Removing Airworthiness Directive (AD) 2019–06–06, Amendment 39–19604 (84 FR 11642, March 28, 2019); and

■ b. Adding the following new AD:

International Aero Engines AG: Docket No. FAA–2020–0700; Project Identifier AD–2020–00238–E.

(a) Comments Due Date

The FAA must receive comments on this AD action by October 26, 2020.

(b) Affected ADs

This AD replaces AD 2019–06–06, Amendment 39–19604 (84 FR 11642, March 28, 2019).

(c) Applicability

This AD applies to all International Aero Engines AG (IAE) V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a crack found at the diffuser case M-flange during overhaul inspection. The FAA is issuing this AD to prevent failure of the diffuser case. The unsafe condition, if not addressed, could result in uncontained diffuser case rupture, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Borescope Inspection of Diffuser Case M-Flange

For engines with a diffuser case assembly, part number 2A0051, 2A2081–01, 2A2581–01, 2A2883–01, 2A2885–01, 2A2889–01, 2A2891–01, 2A2896–01, 2A2897–01, or 2A3132 installed, perform an initial borescope inspection (BSI) of zones 1, 2, and 3 of the diffuser case M-flange as follows:

(i) For engines with a diffuser case M-flange that has 19,000 or more cycles since new (CSN) on the effective date of this AD, perform the BSI of the diffuser case M-flange before accumulating the ''Inspect within (Cycles)'' in Table 1 to paragraph (g)(1) of this AD. If the CSLFPI is unknown, use the CSN of the diffuser case M-flange.

Table 1 to paragraph (g)(1) – *M-flange cycle inspection limits*

Cycles Since Last Flourescent Penetrant Inspection (CSLFPI)	Inspect within (Cycles)
30,000 and greater	250
20,000 to 29,999	500
15,000 to 19,999	1,000
1 to 14,999	1,300
0	2,100

(ii) For engines with a diffuser case M-flange that has fewer than 19,000 CSN on the effective date of this AD, perform the BSI of the diffuser case M-flange before accumulating 20,300 CSN.

(iii) For engines with a diffuser case M-flange in which the CSN is unknown, perform the BSI of the diffuser case M-flange within 250 cycles after the effective date of this AD.

(iv) Use the Accomplishment Instructions, paragraphs 2.A. through 2.G. of IAE Non-Modification Alert Service Bulletin (NMASB) V2500–ENG–72–A0706, Revision 2, dated November 7, 2019 (''the NMASB''), to perform the initial BSI.

(v) If no crack is found as a result of the inspections required by paragraphs (g)(1)(i) through (iii) of this AD, repeat the BSI of zones 1, 2, and 3 of the diffuser case M-flange at intervals not to exceed 2,100 cycles since the previous BSI.

(vi) If a crack is found as a result of the inspections required by paragraphs (g)(1)(i) through (iii) of this AD, replace the diffuser case M-flange or repeat the BSI of zones 1, 2, and 3 of the diffuser case M-flange as specified by either ''Table 2: Fly on Limits'' or ''Table 4: Fly on Limits,'' in paragraph 2, Accomplishment Instructions, of the NMASB as appropriate for the affected the engine model.

(2) Replacement of the Diffuser Case M-Flange

(i) At the next engine shop visit after the effective date of this AD or before the diffuser case M-flange accumulates 20,000 CSN, whichever occurs later, replace the diffuser case M-flange.

Note 1 to paragraph (g)(2)(i): Guidance on performing the replacement of the diffuser case M-flange can be found in the Accomplishment Instructions, paragraphs 1.A. and B., of IAE SB V2500–ENG–72–0709, dated December 13, 2019.

(ii) Thereafter, repeat the replacement of the diffuser case M-flange before accumulating 20,000 cycles since the previous replacement.

(iii) Replacement of the diffuser case M-flange is the terminating action for the repetitive BSIs required by paragraph (g)(1) of this AD.

(h) Installation Prohibition

After the effective date of this AD, do not install a diffuser case onto any engine if the diffuser case M-flange has more than 20,000 CSN.

(i) Credit for Previous Actions

You may take credit for the initial BSIs that are required by paragraphs (g)(1)(i) through (iii) of this AD, or the replacement of the diffuser case M-flange required by paragraph (g)(2) of this AD, if you performed those actions before the effective date of this AD using IAE NMASB V2500–ENG–72–A0706, Revision 1, dated June 28, 2019, or Original Issue, dated February 14, 2019; IAE V2500 Special Instruction (SI) No. 341F–18, dated November 19, 2018; IAE V2500 SI No. 350F–18, Rev. 1, dated December 17, 2018; IAE V2500 SI No. 356F–18, Rev. 1, dated January 9, 2019; IAE V2500 SI No. 372F–18, dated January 8, 2019; or IAE V2500 Special SI No. 04F–19, dated January 14, 2019.

(j) Definition

For the purpose of this AD, an ''engine shop visit'' is the induction of the engine into the shop for maintenance involving the separation of pairs of major mating engine flanges.

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Nicholas Paine, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7742; fax: 781–238–7199; email: *nicholas.j.paine@faa.gov.*

(2) For service information identified in this AD, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* website: *http://fleetcare.pw.utc.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued on September 1, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–19749 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0701; Airspace Docket No. 20–ASO–19]

RIN 2120–AA66

Proposed Establishment of Class D and Class E Airspace and Proposed Amendment of Class E Airspace; Nashville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D and Class E airspace designated as an extension to Class D or E surface area, and amend Class E airspace extending upward from 700 feet above the surface for John C. Tune Airport, Nashville, TN, as a new air traffic control tower shall service the airport. This action would also update the geographic coordinates of the airport, as well as Sumner County Regional Airport, and Lebanon Municipal Airport, and Murfreesboro Municipal Airport. In addition, this action would establish Class E airspace extending upward from 700 feet above the surface for Vanderbilt University Hospital Heliport, as instrument approaches have been designed for the heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before October 26, 2020.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0701; Airspace Docket No. 20–ASO–19, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

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 D and Class E airspace, and amend Class E airspace for John C. Tune Airport, and establish Class E airspace for Vanderbilt University Hospital Heliport, Nashville, TN, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2020–0701 and Airspace Docket No. 20–ASO–19) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0701; Airspace Docket No. 20–ASO–19''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays

at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend 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 Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish Class D and Class E airspace designated as an extension to Class D airspace for John C. Tune Airport, Nashville, TN, as a new air traffic control tower shall service the airport. Also, the FAA proposes to increase the existing Class E airspace extending upward from 700 feet above the surface, from 8-miles to 8.6-miles, due to a reevaluation of the airspace. In addition, the FAA proposes to update the geographic coordinates of the airport, as well as Sumner County Regional Airport, and Lebanon Municipal Airport, and Murfreesboro Municipal Airport, to coincide with the FAA's aeronautical database. Also, the FAA proposes to establish Class E airspace extending upward from 700 feet above the surface for Vanderbilt University Hospital Heliport, as instrument approaches have been designed for the heliport.

Class D and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005, respectively, of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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 proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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 proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO TN D Nashville, TN [New]

John C. Tune Airport, TN
(Lat. 36°10′59″W″ N, long. 86°53′11″ W)

That airspace extending upward from the surface to and including 2,300 feet MSL, within a 4.1-mile radius of John C. Tune Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to Class D or E Surface Area.

* * * * *

ASO TN E4 Nashville, TN [New]

John C. Tune Airport, TN
(Lat. 36°10′59′W″ N, long. 86°53′11″ W)

That airspace extending upward from the surface within 1.2-miles each side of the 198° bearing from the airport, extending from the 4.1-mile radius to 6.1-miles south of the airport, and within 1.2-miles each side of the 018° bearing from the airport, extending from the 4.1-mile radius to 6.1-miles north of the airport.

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

* * * * *

ASO TN E5 Nashville, TN [Amended]

Nashville International Airport, TN
(Lat. 36°07′28″ N, long. 86°40′41″ W)
Smyrna Airport
(Lat. 36°00′32″ N, long. 86°31′12″ W)
Sumner County Regional Airport
(Lat. 36°22′30″ N, long. 86°24′30″ W)
Lebanon Municipal Airport
(Lat. 36°11′25″ N, long. 86°18′56″ W)
Murfreesboro Municipal Airport
(Lat. 35°52′43″ N, long. 86°22′39″ W)
John C. Tune Airport
(Lat. 36°10′59″ N, long. 86°53′11″ W)
Vanderbilt University Medical Center Hospital, Point In Space Coordinates
(Lat. 36°08′30″ N, long. 86°48′6″ W)

That airspace extending upward from 700 feet above the surface within a 15 mile radius of Nashville International Airport, and within a 9-mile radius of Smyrna Airport, and within a 7-mile radius of Sumner County Regional Airport, and within a 10-mile radius of Lebanon Municipal Airport, and within a 9-mile radius of Murfreesboro Municipal Airport, and within an 8.6-mile radius of John C. Tune Airport, and that airspace within a 6-mile radius of the Point In Space serving Vanderbilt University Medical Center Hospital.

Issued in College Park, Georgia, on September 2, 2020.

Matthew N. Cathcart,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020–19856 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R01–OAR–2020–0374; FRL–10014–00–Region 1]

Approval and Promulgation of Air Quality Implementation Plan; Mashantucket Pequot Tribal Nation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the Mashantucket Pequot Tribal Nation's (MPTN or the Tribe) Tribal Implementation Plan (TIP) under the Clean Air Act (CAA) to regulate air pollution within the exterior boundaries of the Tribe's reservation. The proposed TIP is one of two CAA regulatory programs that comprise the Tribe's Clean Air Program (CAP). EPA approved the Tribe for treatment in the same manner as a State (Treatment as State or TAS) for purposes of administering New Source Review (NSR) and Title V operating permits under the CAA on July 10, 2008. In this action we propose to act only on those portions of MPTN's CAP that constitute a TIP containing severable elements of an implementation plan under CAA section 110(a). The proposed TIP includes permitting requirements for major and minor sources of air pollution. The purpose of the proposed TIP is to enable the Tribe to attain and maintain the National Ambient Air Quality Standards (NAAQS) within the exterior boundaries of its reservation by establishing a federally enforceable preconstruction permitting program.

DATES: Written comments must be received on or before October 9, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0374 at *https://www.regulations.gov,* or via email to *Bird.Patrick@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact 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 *https://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxics and Indoor Programs Branch, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05–2, Boston, MA 02109–0287. Telephone: 617–918–1287. Fax: 617–918–0287. Email: *Bird.Patrick@epa.gov.*

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

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I. Background

EPA is proposing to approve a TIP submitted by the MPTN for approval under section 110 of the CAA. The proposed TIP addresses attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) by establishing a federally enforceable preconstruction permitting program within the exterior boundaries of the Tribe's reservation. It also allows for sources that otherwise would have the potential to emit hazardous air pollutants or regulated NSR pollutants in amounts at or above those for major sources to request federally enforceable permit limitations that restrict emissions to below those of a major source.

The MPTN is an Indian Tribe federally recognized in 1983 by Congressional legislation (Pub. L. 98–134, 9, Oct. 1St, 1983 97 Stat 855, Title 25 U.S.C.A. § 1751–1760). The Secretary of the Interior recognizes the ''Mashantucket Pequot Tribe of Connecticut'' (73 FR 18553, 18554, April 4, 2008). MPTN's CAP was established by Tribal Council Resolution in 2005 (TCR102600–01 of 02). Beginning in 2005, the MPTN, with assistance from EPA, began developing a draft permitting program with the goal of submitting it to EPA for approval under the CAA. On May 4, 2005, the MPTN submitted a request that we find the Tribe eligible for TAS pursuant to § 301(d) of the CAA and Title 40, part 49 of the Code of Federal Regulations (CFR), for the purpose of implementing its CAA permitting program.

Specifically, the MPTN requested a TAS eligibility determination for purposes of implementing two CAA programs that together comprise the CAP: (1) A Tribal Implementation Plan (TIP) that includes source-specific rules [1] and major and minor source permit programs under CAA section 110; and (2) an operating permit program under title V of the Act. In addition, the Tribe requested TAS for receiving notifications under title V of the CAA and submitting recommendations to EPA on air quality designations under CAA section 107(d). On July 10, 2008, EPA determined that the Tribe is eligible for TAS for these purposes.

The MPTN formally submitted the applicable elements of its TIP to EPA Region 1 on December 7, 2018. Having found that the MPTN is eligible for TAS to implement these regulatory programs, EPA is now proposing to approve the Tribe's TIP. We intend to act on the Tribe's title V operating permit program in separate notice and comment processes, as appropriate.

Approval and implementation of the MPTN TIP will be an important step in ensuring that basic air quality protection is in place to protect public health and welfare in the MPTN reservation, consistent with the CAA's overarching goals of protecting air resources throughout the nation, including air resources in Indian Country.

II. CAA Requirements and the Role of Indian Tribes

A. How did the 1990 CAA Amendments include Indian Tribes?

Under the 1990 amendments to the CAA, the EPA may approve eligible Tribes to administer certain provisions of the CAA. Pursuant to Section 301(d)(2) of the CAA, EPA promulgated the Tribal Authority Rule (TAR) on February 12, 1998 (63 FR 7254). The TAR specifies the CAA provisions for which it is appropriate to treat Tribes in

[1] The Tribe's actual TIP submittal did not include source-specific rules, so that is not part of our action.

the same manner as states, the eligibility criteria the Tribes must meet if they choose to seek such treatment, and the procedure by which EPA reviews a Tribe's request for an eligibility determination.

As a general matter, EPA determined in the TAR that it is not appropriate to treat Tribes in the same manner as states for purposes of specific plan submittal and implementation deadlines for NAAQS-related requirements. *See* 40 CFR 49.4. Thus, Tribes are generally not subject to CAA provisions which specify a deadline by which something must be accomplished. So, for example, provisions mandating the submission of state implementation plans do not apply to the Tribes. Furthermore, under the TAR (40 CFR 49.7(c)), a Tribe may choose to implement reasonably severable portions of the various CAA programs, as long as it can demonstrate that its proposed air program is not integrally related to program elements that are not included in the plan submittal and is consistent with applicable statutory and regulatory requirements. This modular approach is intended to give Tribes the flexibility to address their most pressing air resource issues and acknowledges that Tribes often have limited resources with which to address their environmental concerns. Consistent with the exceptions listed in 40 CFR 49.4, once submitted, a Tribe's proposed air program will be evaluated in accordance with applicable statutory and regulatory criteria in a manner similar to the way EPA would review a state submittal. *See* 40 CFR 49.9(h). EPA expects Tribes to fully implement and enforce their approved programs and, as with states, EPA retains its discretionary authority to impose sanctions for failure to implement an air program.

Where the provisions of the act or implementing regulations governing the program for which the Tribe seeks approval require criminal enforcement authority, the Tribe may enter into a memorandum of agreement with the appropriate EPA Region to provide for criminal enforcement by EPA. *See* 40 CFR 49.7(a)(6) and 49.8.

B. What criteria must a Tribe demonstrate to be treated in the same manner as a state under the CAA?

Under Section 301(d) of the Clean Air Act, 42 U.S.C. 7601, and the TAR (at 40 CFR 49.6), EPA may treat a Tribe in the same manner as a state for purposes of administering certain CAA programs or grants if the Tribe demonstrates that (1) it is federally recognized; (2) it has a governing body carrying out substantial governmental duties and powers; (3) the functions to be exercised by the Tribe pertain to the management and protection of air resources within the Tribe's reservation or within non-reservation areas under the Tribe's jurisdiction; and (4) it can reasonably be expected to be capable of carrying out the functions for which it seeks approval.

C. What is an implementation plan for criteria air pollutants, and what must it contain?

Implementation plans are a set of programs and regulations submitted by states and, if they so choose, by Tribes, that outline a definite plan by which the state or Tribe intends to help attain or maintain NAAQS. NAAQS have been established for the following six pollutants: Ozone; carbon monoxide; particulate matter; sulfur dioxide; lead; and nitrogen dioxide. The EPA calls these pollutants ''criteria pollutants'' because the original standards were based on information in air quality criteria documents developed for pollutants that ''endanger the public health or welfare.'' Once approved by EPA, implementation plans become enforceable as a matter of federal law.

Implementation plans are governed by Section 110 of the CAA, 42 U.S.C. 7410. Under Sections 110(o) and 301(d) of the CAA and the TAR (40 CFR 49.9(h)), any TIP submitted to EPA shall be reviewed in accordance with the provisions for review of state implementation plans (SIPs) set forth in CAA Section 110. Thus, the TIP must include not only the substantive rules by which the Tribe proposes to help achieve NAAQS, but must also provide assurances that the Tribe will have adequate personnel, funding, and authority to administer the plan, as required by CAA Section 110(a)(2)(E), and requirements governing conflicts of interest, as required by CAA Section 128. Under Section 128, implementation plans must contain requirements that (1) any ''board or body'' that approves permits or enforcement orders have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to the permits or orders and (2) conflicts of interest are disclosed. EPA does not intend to read Section 128 to limit a Tribe's flexibility in creating a regulatory infrastructure that ensures an adequate separation between the regulator and the regulated entity (59 FR 43956, 43964 (Aug. 25, 1994)).

EPA will evaluate the elements submitted in each TIP on a case-by-case basis to ensure the selected program is reasonably severable under the CAA, and that the TIP has control measures that adequately address the specific types of pollution of concern on the reservation. Once EPA approves the TIP, its provisions are enforceable by the Tribe, by EPA, and by citizens. As with SIPs, EPA maintains an ongoing oversight role to ensure the approved TIP is adequately implemented and enforced and to provide technical and policy assistance. An important aspect of EPA's oversight role is that EPA retains legal authority to bring an enforcement action against a source violating the approved TIP.

III. Evaluation of the MPTN's Implementation Authorities

A. How did the MPTN demonstrate eligibility to be treated in the same manner as a State under the CAA?

By letter dated May 4, 2005 and submitted to EPA, the MPTN requested an EPA determination that the Tribe is eligible for TAS for the purposes of implementing two CAA programs: (1) A TIP that includes source-specific [2] rules and major and minor source permit programs under CAA section 110; and (2) an operating permit program under title V of the Act. In addition, the Tribe requested TAS for receiving notifications under title V of the CAA and for submitting recommendations to EPA on air quality designations under CAA section 107(d). EPA notified appropriate governmental entities and the public of the Tribe's application and addressed all comments received as part of that process.

On July 10, 2008, based on the information submitted by the Tribe, and after consideration of all comments received in response to notice of the Tribe's request, EPA determined that the MPTN met the eligibility requirements of CAA section 301(d) and 40 CFR 49.6 for these purposes under the CAA. This determination nullified TCR011195–01 of 03 authorizing interim measures until the Tribe could establish TAS. TCR102500–01 of 02 enacted the MPTN's Clean Air Act creating a Tribal Air Quality Program to administer the CAA, and TCR 102600–02 of 02 approved a TIP that addressed a single pollutant of concern, nitrogen oxides (NO_X). TCR091605–01 repealed TCR102600–02 of 02 and approved a TIP to address all criteria pollutants through a minor source preconstruction permitting program. TCR060806–06 of 14 adopted a ''Global Policy for Air Permitting'' that specified the use of best available control technology

[2] As noted earlier, the Tribe's actual TIP submittal did not include source-specific rules.

(BACT) for sources of air pollution. TCR100809–02 of 02 approved EPA grant funding for the purpose of further developing the TIP to include both minor and major sources of air pollution.

The EPA drafted a decision document entitled ''Mashantucket Pequot Tribal Nation of Connecticut: Eligibility Determination under 40 CFR part 49 for Clean Air Act Minor and Major New Source Review and Title V Operating Permit Programs'' (TAS Decision Document, included in the docket of this rulemaking), which was dated June 30, 2008, and signed by Robert W. Varney, Regional Administrator, EPA Region 1 on July 10, 2008. The EPA determined that the MPTN had demonstrated: (1) That it is an Indian Tribe recognized in 1983 by Congressional legislation (Pub. L. 98–134, 9, Oct. 1st, 1983 97 Stat 855, Title 25 U.S.C.A. § 1751–1760) and by the Secretary of the Interior (73 FR 18553, 18554 (Apr. 4, 2008)); (2) that it has a governing body carrying out substantial governmental duties and functions; (3) that the functions to be exercised by the Tribe pertain to the management and protection of air resources within the exterior boundaries of the Tribe's reservation; and (4) that the Tribe is reasonably expected to be capable of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

B. How would the MPTN administer and enforce the TIP?

The proposed TIP would be implemented primarily by the MPTN Air Quality Program (AQP) staff and the Tribe's legal counsel. According to the MPTN TIP submittal, AQP staff has received extensive training in TIP development, permit writing and regulatory enforcement and has also demonstrated considerable capabilities in the programmatic, administrative, and legal functions of implementing an air quality program. The MPTN is currently one of only two Tribal Governments that EPA Region 1 has recognized as capable of issuing permits with enforceable limitations on a source's potential to emit.

As discussed above in section III.A, EPA evaluated the Tribe's implementation and enforcement capabilities as part of our determination that the MPTN is eligible for TAS to implement this TIP and other CAA programs. As part of that determination, EPA found that the MPTN is reasonably expected to be capable of implementing and enforcing the TIP and other CAA programs in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

The MTPN staff is responsible for inspecting facilities within the exterior boundary of the reservation and responding to any complaints received. AQP staff, and if needed, the MPTN tribal law enforcement authorities, will assume enforcement activities for the purposes of compliance with air regulations. Other MPTN agencies will also provide compliance and enforcement assistance, as appropriate, in accordance with applicable Tribal and Federal law.

The MPTN's AQP oversees the enforcement of the TIP and establishes requirements and procedures for civil and criminal enforcement. The MPTN AQP has the authority to issue administrative compliance orders, assess civil penalties, and take other enforcement actions against persons who violate requirements of the TIP or other requirements of the CAA within the exterior boundaries of the reservation. A violation by the owner or operator of any emission limitation, emission standard or any other condition contained in a permit shall subject the owner or operator to any or all enforcement penalties, including permit revocation, available under the CAA. No subsequent permit will be issued until violations have been resolved to the satisfaction of the AQP.

Furthermore, EPA Region 1 and the MPTN have a memorandum of agreement between the two agencies outlining general terms for the cooperation of criminal enforcement matters as provided by section 113(c) of the CAA, 42 U.S. C. 7413(c). The agreement, entitled ''Memorandum of Agreement Between the Mashantucket Pequot Tribe of Connecticut and the U.S. Environmental Protection Agency Region I (a copy of which is provided in the docket of this action) provides procedures of communication as they relate to investigative leads of potential criminal enforcement matters concerning non-Native Americans and Native Americans.

IV. Evaluation of the MPTN's Tribal Implementation Plan

The MPTN TIP establishes a preconstruction permitting program for new and modified stationary sources within the Tribe's jurisdiction by: (1) Providing a mechanism to issue preconstruction air permits to major and minor sources of criteria air pollutants; (2) providing a mechanism for an otherwise major source to voluntarily accept emission limitations to restrict its potential to emit (PTE) and become a synthetic minor source; (3) providing the option for major stationary sources, seeking to minimize permitting complexities associated with major new source review, to establish a plantwide applicability limitation (PAL) within an actual emissions PAL permit; and (4) setting forth the criteria and procedures that the AQP will use to administer the program. Requirements of this TIP are applicable to any person who owns, operates, seeks to construct or plans to modify a stationary source of air pollutants located within the exterior boundaries of MPTN.

A. Does the MPTN TIP meet all CAA requirements?

The MPTN's CAP is comprised of two regulatory programs: (1) A Tribal implementation plan (TIP) for the implementation, maintenance, and enforcement of the NAAQS under CAA 110; and (2) a Tribal operating permits program under title V of the Act. As stated earlier, in this action we propose to act only on the TIP.

Pursuant to section 110 of the Clean Air Act (42 U.S.C. Section 7410), the TIP portion of the program addresses attainment and maintenance of the NAAQS by establishing a federally enforceable preconstruction permitting program for major and minor source of air pollution. Consistent with authorities approved by EPA in the MPTN TAS for CAA section 110 permitting programs and EPA's Federal Minor New Source Review Program in Indian Country (*See* 40 CFR 49.151), it also allows for sources that otherwise would have the potential to emit hazardous air pollutants in amounts at or above those for major sources (40 CFR 63.2) to request federal enforceable permit limitations that restrict emissions to below those of a major source. Subtitle 12.2 of the Tribe's regulations contains those elements specific to the TIP. This Subtitle, with definitions contained in Subtitle 12.1, Section 4, meets the minimum program requirements for implementation plans for review of new sources and modifications specified at 40 CFR 51.160 through 51.166.

1. EPA's Evaluation of the MPTN Minor NSR Program

The purpose of the MPTN's minor new source review permitting requirements is to establish a preconstruction permitting program, for new minor sources and minor modifications at stationary sources. The requirements that minor source programs must meet to be approved are outlined in 40 CFR 51.160 through 51.164. These regulations require states to develop ''legally enforceable

procedures'' to enable a state ''to determine whether the construction or modification of a [source] will result in (1) a violation of applicable portions of the control strategy; or (2) interference with attainment or maintenance of a national standard.'' *See* 40 CFR 51.160(a). The program must identify the types and sizes of sources subject to review, and the state's plan must discuss the basis for determining which facilities will be subject to review. *See* 40 CFR 51.160(e).

Although the Act does not require Tribes to develop and seek EPA approval of NSR permit programs, where a Tribe decides to do so, EPA evaluates the program in accordance with applicable statutory and regulatory criteria in a manner similar to the way in which EPA would review a similar state submittal. *See* 40 CFR 49.9(h); 59 FR 43956 at 43965 (Aug. 25, 1994) (proposed TAR preamble); 63 FR 7254 (Feb. 12, 1998) (final TAR preamble).

For the reasons discussed below, we propose to approve the MPTN minor NSR program in accordance with the TAR and the criteria for approval of minor NSR programs at 40 CFR 51.160 through 51.164. It is important to note, however, that we are proposing to approve this program as a base program suitable to the MPTN's reservation.

Section 110(a)(2)(C) of the Act (42 U.S.C. Section 7410(a)(2)(C)) requires that each implementation plan include a program to regulate the construction and modification of stationary sources, including a permit program as required by parts C and D of title I of the Act, as necessary to assure that the NAAQS are achieved. In this application, MPTN is establishing a preconstruction permitting program for new minor sources and minor modifications at stationary sources. In addition, MPTN is establishing a mechanism for an otherwise major source to voluntarily accept restrictions on its potential to emit to become a synthetic minor source. This mechanism may also be used by an otherwise major hazardous air pollutant (HAP) source to voluntarily accept restrictions on its potential to emit to become a synthetic minor HAP source. Parts C and D, which pertain to prevention of significant deterioration (PSD) and nonattainment, respectively, address the major NSR programs for major stationary sources, and the permitting program for ''nonmajor'' (or ''minor'') stationary sources is addressed by section 110(a)(2)(C) of the Act. We commonly refer to the latter program as the ''minor NSR'' program. A minor stationary source is a source whose ''potential to emit'' is lower than the major source applicability threshold for a particular pollutant as defined in the applicable major NSR program.

(a) *Applicability:* Owners and operators of stationary sources must apply for and be granted a permit prior to the beginning of actual construction. This applies to new minor NSR sources, existing sources seeking to undertake a minor modification, and any existing source proposing a physical or operational change at a permitted source that would increase allowable emissions of a regulated NSR pollutant above its existing annual allowable emissions limit.

(b) *Minor NSR Source Permits:* No person shall begin actual construction of any new minor NSR source without first obtaining a permit to construct. Applications for permits must include facility information, a listing of each emissions unit, detailed unit specific information for all affected emissions units, a description and characterization of the total facility emissions, and if required by the AQP an air quality impact analysis in accordance with 40 CFR part 51, Appendix W.

(c) *General Permits:* A general permit must include the following elements: (1) Identification of the specific category of emissions units or sources to which the general permit applies, (2) information required by applicants requesting coverage under a general permit, (3) the effective date(s) of the general permit and rules concerning renewing coverage under the general permit, (4) monitoring, reporting and recordkeeping as applicable, (5) additional permit provisions as applicable, and (6) the fee required for processing the request for general permit coverage.

(d) *Synthetic Minor Source Permits:* This provision is applicable to any owner or operator of a stationary source requesting a synthetic minor source permit to establish emissions limitations that limit the source's potential to emit to below major source thresholds. A source that is issued a permit and becomes a synthetic minor source under this section but remains a major source for title V purposes continues to be subject to the applicable title V program provisions. In addition, a synthetic minor source is subject to all applicable tribal rules, regulations, emissions standards and other requirements.

As noted earlier, although the Act does not require Tribes to develop and seek EPA approval of NSR permit programs, where a Tribe decides to do so, EPA evaluates the program in accordance with applicable statutory and regulatory criteria in a manner similar to the way EPA would review a similar state submittal. 40 CFR 49.9(h); 59 FR 43956 at 43965 (Aug. 25, 1994) (proposed TAR preamble); 63 FR 7254 (Feb. 12, 1998) (final TAR preamble). For the reasons discussed below, we propose to approve the MPTN's minor NSR program in accordance with the TAR and the criteria for approval of minor NSR programs at 40 CFR 51.160 through 51.164. It is important to note, however, that we are proposing to approve this as a base program suitable to the MPTN's reservation. Other Tribal NSR programs may differ significantly and should each be evaluated on a case-by-case basis in light of air quality needs in the relevant area.

The MPTN's minor new source review permitting requirements apply to stationary sources that are not major NSR sources and have the potential to emit the following Regulated NSR pollutants at or above the following annual ton per year thresholds:

(a) Nitrogen oxides (NO_X), 10
(b) Volatile Organic Compounds, 5
(c) Carbon monoxide (CO), 10
(d) Sulfur dioxide (SO_2), 10
(e) Particulate Matter, 10
(f) PM_{10}, 5
(g) $PM_{2.5}$, 3
(h) Lead, 0.1
(i) Fluorides, 1
(j) Sulfuric acid mist, 2
(k) Hydrogen sulfide (H2S), 2
(l) Reduced sulfur compounds (incl. H2S), 2
(m) Municipal waste combustor emissions, 2
(n) Municipal solid waste landfill emissions, 10 (as nonmethane organic compounds)
(o) Any other limit that may become applicable in the event that an attainment designation for Mashantucket is changed by the Administrator.

We note that the MPTN's minor NSR thresholds for NO_X and VOC are slightly higher than the thresholds in Part 49, *i.e.,* 10 tpy as opposed to 5 tpy for NO_X and 5 tpy as opposed to 2 tpy for VOC. EPA is proposing to approve these differences as they are consistent with EPA's intent to allow Tribes to fashion programs based on their particular circumstances. In EPA's preamble to 40 CFR part 49, EPA stated the following about Tribes' minor NSR programs and the requirements of 40 CFR part 49.

[W]e seek to establish a flexible preconstruction permitting program for minor sources in Indian country that is comparable to similar programs in neighboring states in order to create a more level regulatory playing field for owners and operators within and outside of Indian country. *See* 76 FR 38748 at 38754 (July 1, 2011). This final

rulemaking is not intended to establish a new set of minimum criteria that a Tribe or a state would need to follow in developing its own minor source permitting program. Rather, these rules simply represent how we will implement the program in Indian country in the absence of an EPA-approved Tribal implementation plan. However, if a Tribe is developing its own program, this can serve as one example of a program that meets the objectives and requirements of the Act. 76 FR 38748 at 38754 (July 1, 2011).

This final minor source permitting program addresses, on a national level, many environmental and regulatory issues that are specific to Indian country. We understand that different Tribes may face different issues and may therefore, like states developing SIPs, choose to develop TIPs tailored to their individual Tribal circumstances and needs. This rule will allow Tribes to develop their own TIPs, consistent with the overarching requirement that the Tribe ensure that the TIP will not interfere with any applicable requirement of the CAA. 76 FR 38748 at 38754 (July 1, 2011).

Finally, we note that the State of Connecticut's SIP-approved minor new source review threshold is 15 tons per year for covered pollutants.

The MPTN's minor NSR permit program requires each applicant for a minor new source review permit to submit, among other things, a certified application containing information about the facility, the industrial process, the nature and amount of emissions, and any information needed to determine applicable technology-based emission limitations.

The permit program establishes administrative procedures for action on permit applications, including public notice and a comment period of at least 30 days. The program also provides for an opportunity for public hearings on such permit applications. The issuance or denial of a permit may be appealed administratively and, thereafter, judicially to the Tribal Court.

We propose to approve these procedures as legally enforceable procedures that establish a base program suitable to the MPTN's reservation and that satisfy the minimum requirements of CAA section 110(a)(2)(C) and 40 CFR 51.160 through 51.164. Note that we are not approving into the TIP the administrative appeal and judicial review procedures in Tribal Court, although they nonetheless remain a valid and important part of the MPTN's permitting program.

2. EPA's Evaluation of the MPTN Major NSR Programs

a. *Nonattainment New Source Review:* MPTN proposes to implement the nonattainment major new source review program as set forth in sections 171 through 193 of the CAA (42 U.S.C. Sections 7501–7515). It requires that major NSR sources subject to this program comply with the provisions and requirement of 40 CR Part 51 (Appendix S) and the requirements of Section 173(c)(1) of the CAA (42 U.S.C. Section 7503(c)(1)), which requires the application of lowest achievable emissions reductions and emissions offsets for new major sources and major modifications for pollutants (and precursors of those pollutants) designated as nonattainment in the geographic area the facility is located in. At present, MPTN is designated as serious nonattainment for the 2008 ozone NAAQS and marginal nonattainment for the 2015 ozone NAAQS.

The AQP will use the criteria and procedures stipulated within Appendix S to issue, administer and enforce permits subject to the TIP. It should be noted that some important provisions of Appendix S are paraphrased in various paragraphs of the application; however, the full provisions of Appendix S, as may be amended from time to time, are incorporated by reference into the Tribe's regulations. For the purposes of the Tribe's application, the term State Implementation Plan (SIP) as used in Appendix S means Tribal Implementation Plan (TIP) and the term ''State'' shall mean the Tribe (MPTN), Tribal or, as applicable, Mashantucket. In addition, the requirements of Sec. 173(c)(1) of the CAA are also incorporated by reference into the Tribe's regulations. The provisions (Chapter 3, Sec. 2. Applicability) apply to major NSR sources and major modifications if, for the applicable regulated NSR pollutant evaluated, Mashantucket is currently designated as a nonattainment area under 40 CFR Sec.81.307. Under NSR, the MPTN AQP will issue, administer and enforce permits subject to the TIP by following the provisions stipulated within 40 CFR part 51, Appendix S. In accordance with section 173(a)(4) of the Act (42 U.S.C. Section 7503(a)(4), the AQP shall not issue a permit or permits to a stationary source to which the requirements of the part apply if the reviewing authority has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified. In accordance with section 173(a)(3) of the CAA and 40 CFR 51 Appendix S, the TIP requires that a permit applicant certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in Mashantucket are in compliance with all applicable emission limitations and standards under the Act (or are in compliance with an expeditious schedule which is Federally enforceable or contained in a court decree).

b. Prevention of Significant Deterioration: MPTN proposes in the TIP to implement the prevention of significant deterioration (PSD) program as set forth in Sections 160 through 169B of the Act (42 U.S.C. Sections 7470–7492). This requires that major NSR sources subject to this program comply with the provisions and requirement of 40 CFR 52.21. While some of the important provisions of 40 CFR 52.21 are paraphrased in various paragraphs in the Tribe's application, the provisions of 40 CFR 52.21 are incorporated into the Tribe's regulations by reference, as the federal regulations may be amended from time to time. The following paragraphs of 40 CFR 52.21 do not apply for the purposes of the Tribe's program: Paragraph (a)(1); Paragraph (g); Paragraph (s), Paragraph (t); and Paragraph (u). In addition, the AQP will use the criteria and procedures stipulated within 40 CFR 52.21 to issue, administer and enforce permits subject to the TIP. Pursuant to 40 CFR 52.21(g)(1), MPTN shall be considered a Class II area. An application for PSD permits shall contain all the following information: (1) Control technology evaluation in accordance with 40 CFR 52.21(j), (2) a source impact analysis in accordance with 40 CFR 52.21(k)(1), (3) an air quality analysis in accordance with 40 CFR 52.21(m), (4) source information required in accordance with 40 CFR 52.21 (n), (5) additional impact analyses required pursuant to 40 CFR 52.21 (o), and (6) a demonstration showing that all stationary sources with MPTN exterior boundaries are subject to emissions limitations and are in compliance, or on schedule for compliance which is federally enforceable or contained in a court decree, with all applicable emission limitations and standards under the CAA.

The major source permit program establishes administrative procedures for action on permit applications, including public notice and a comment period of at least 30 days. The program also provides for an opportunity for public hearings on such permit

applications. The issuance or denial of a permit may be appealed administratively and, thereafter, judicially to the Tribal Court. Note that we are not approving into the TIP the administrative appeal and judicial review procedures in Tribal Court, although they nonetheless remain a valid and important part of the MPTN's permitting program.

3. EPA's Evaluation of the Tribe's Public Participation Requirements

The MPTN's TIP meets the CAA's requirements for public participation in the permitting process. The AQP regulations provide for an opportunity for public comment prior to permit issuance on all draft permits and the associated public record, except for sources seeking coverage under a general permit and for administrative permit revisions. However, the AQP in its discretion may determine that public participation is warranted for these actions also.

The MTPN's public participation requirements include at a minimum the following: Availability, in the area affected by the air pollution source, of the draft permit and associated public record, for public inspection; public notice, describing the availability of the documents for review and the opportunity to comment; a comment period, no less than thirty (30) days commencing upon the date of notice publication; a thirty (30) day period for EPA to review commencing upon the date a copy of the required notice is provided to the Administrator through the appropriate Regional Office; and if requested by a member of the public or if the AQP determines that comments received were significant and warrant such, a public hearing for tentative approval of the permit shall be held with appropriate notice provided.

The MTPN TIP allows for under limited circumstances administrative permit revisions for minor and major sources of air pollution. Administrative permit revisions are not subject to the permit application, issuance, public participation, or administrative and judicial review requirements. Circumstances that would allow for administrative permit revisions include: (1) The correction of typographical errors; (2) changes in the name, address or phone number of any person identified in the permit or similar minor administrative change at the source; (3) changes in ownership or operational control of a source; (4) requirements related to more frequent monitoring or reporting by the permittee; (5) increases in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that necessitates such increase is not otherwise subject to minor or major source permitting requirements; (6) the establishment of an emission limitation for a replacement unit when the construction of which does not trigger the need for a new permit; or (7) any other type of change that the AQP has determined to be similar to the circumstances references above. We note that similar provisions related to administrative permit revisions at minor and major sources of air pollution exist within the EPA's Federal Minor New Source Review Program in Indian Country. *See* 40 CFR 49.159(f) and 49.153(a)(2)

B. What procedural requirements did the MPTN satisfy?

Section 110(a) of the CAA requires that implementation plans be adopted by a state after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing. The MPTN developed its CAA programs in consultation with EPA Region 1 starting in 2005. Following an extensive public comment process, the MPTN Tribal Council codified the CAP under Tribal Law. The program includes both the TIP, which only applies to permitting programs under Section 110 of the CAA, 42 U.S.C Section 7410, and other ''tribal only rules'' that are not intended to be federally enforceable, and the program was made available for a 30-day public comment period that included the opportunity for the public to request a hearing. No public hearing was requested, and all comments received have been addressed, provided to EPA and posted as part of the public record. The program was then adopted to provide for sound regulation and control of sources of air pollution in Mashantucket to ensure the health, safety and general welfare of all Tribe's members, residents, employees, and guests. The administration of the Tribe's program furthers the Tribe's sovereignty and self-government. We find that the MPTN's process for adopting and submitting the TIP satisfied the procedural requirements for adoption and submission of implementation plans under CAA section 110(a) and EPA's implementing regulations.

Specifically, MPTN's TIP submittal has fulfilled the following requirements: (1) a formal letter of submittal from the Tribe's Chairman requesting EPA approval of the plan in a letter dated Dec. 7, 2018 from Rodney A. Butler, MPTN, Council Chairman, to Alexandra D. Dunn, Region Administrator, EPA New England Region 1 (Cover Letter), (2) evidence that the Tribe has adopted the plan in the Tribal code or body of regulations to include the date of adoption or final issuance as well as the effective date of the plan (TCR101118–05 of 05) in Attachment 1, (3) evidence that the Tribe has the necessary legal authority under tribal law to adopt and implement the plan, (4) a copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan (Attachment 3), (5) evidence that the Tribe followed all the procedural requirements of the Tribe's laws and constitution in conducting and completing the adoption/issuance of the plan (Article II and IV MPTN constitution), (6) evidence that the public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice (Attachment 4, Exhibits A, B, C, D and E), (7) certification that public hearings were held in accordance with information provided in the public notice and the Tribe's laws and constitution (Attachment 4, Exhibit C), and (8) compilation of public comments and the Tribe's response thereto (Attachment 4, Exhibit H, Attachment 5).

V. Proposed Action

EPA is proposing to approve the Mashantucket Pequot Tribal Nation's Tribal Implementation Plan under the Clean Air Act to regulate air pollution within the exterior boundaries of the Tribe's reservation. In this action we propose to act only on those portions of MPTN's CAP that constitute a TIP containing severable elements of an implementation plan under CAA section 110(a). The proposed TIP includes permitting requirements for major and minor sources of air pollution. Specifically, we are proposing to approve the following sections of the MPTN's air quality regulations. Title 12, Subtitle 12.1, § 2—Applicability (with effective date); Title 12, Subtitle 12.1, § 4—Definitions; and Title 12, Subtitle 12.2—New Source Review—MPTN TIP.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written

comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MPTN rules discussed in section III. and IV. of this preamble. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

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

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: August 18, 2020.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2020–18397 Filed 9–8–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 85, No. 175
Wednesday, September 9, 2020

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

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comment; National Visitor Use Monitoring; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Forest Service published a document in the **Federal Register** on August 20, 2020, in accordance with the Paperwork Reduction Act of 1995, to seek comments from all interested individuals and organizations on the extension of a currently approved information collection, National Visitor Use Monitoring (0596–0110). The document contained the incorrect Expiration Date of Approval.

FOR FURTHER INFORMATION CONTACT: Dr. Donald B.K. English, Recreation, Heritage, and Volunteer Resources staff, at 202–205–9595 or by email to: *don.english@usda.gov*.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 20, 2020, in Volume 85, FR Doc 162, on page 51405, in the third column, correct under the **SUPPLEMENTARY INFORMATION** caption to read:

Expiration Date of Approval: December 31, 2017.

Jacqueline Emanuel,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2020–19929 Filed 9–8–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–56–2020]

Foreign-Trade Zone (FTZ) 90—Syracuse, New York; Notification of Proposed Production Activity; Xylem Water Systems USA LLC (Centrifugal and Submersible Pumps), Auburn, New York

Xylem Water Systems USA LLC (Xylem Water Systems) submitted a notification of proposed production activity to the FTZ Board for its facilities in Auburn, New York. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 11, 2020.

Xylem Water Systems already has authority to produce centrifugal and submersible pumps and related controllers within Subzone 90D (originally approved as Subzone 37D). The current request would add finished products and foreign status components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Xylem Water Systems from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status components noted below and in the existing scope of authority, Xylem Water Systems would be able to choose the duty rates during customs entry procedures that apply to: Booster packages (which include centrifugal pumps with affixed variable frequency drives that are stationed on a base); basin packages (which include compact, corrosion resistant, 6 gallon, cube-shaped basins with built-in threaded inlets, vent and discharge connections, sump pumps (submersible) and cord grommets for power cord sealing); transmission cables; and, motor parts (including motor fan covers, terminal box kits, conduit boxes and motor plug-in elements) (duty rate ranges from duty-free to 3%). Xylem Water Systems would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components sourced from abroad include transmission cables and motor parts (including motor fan covers, terminal box kits, conduit boxes and motor plug-in elements) (duty rate ranges from duty-free to 3%). The request indicates that certain components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is October 19, 2020.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: September 2, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–19905 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 200828–0228]

XRIN 0694–XC066

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2022 Annual Materials Plan

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The purpose of this notice is to request public comments on the potential market impact of the proposed Fiscal Year 2022 National Defense Stockpile Annual Materials Plan (AMP). Changes to the AMP are discussed and

decided by the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State. The role of the Market Impact Committee is to advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions, conversions, and disposals involving the stockpile and related material research and development projects. Public comments are an important element of the Committee's market impact review process.

DATES: To be considered, written comments must be received by October 9, 2020.

ADDRESSES: Address all comments concerning this notice to Eric Longnecker, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue NW, Room 3876, Washington, DC 20230, (Attn: Eric Longnecker), email: *MIC@bis.doc.gov*; and Matthew McManus, Deputy Director, Office of Policy Analysis and Public Diplomacy, U.S. Department of State, Bureau of Energy Resources, 2201 C Street NW, Washington, DC 20520 (Attn: Matthew McManus), email: *McManusMT@state.gov*.

FOR FURTHER INFORMATION CONTACT: Liam McMenamin, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–2233, (Attn: Liam McMenamin), email: *MIC@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98 *et seq.*), the Department of Defense's Defense Logistics Agency (DLA), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 9(b)(2)(G)(ii) of the Stock Piling Act (50 U.S.C. 98h(b)(2)(H)(ii)) authorizes the National Defense Stockpile Manager to fund material research and development projects to develop new materials for the stockpile.

Section 3314 of the National Defense Authorization Act for Fiscal Year 1993 (FY 1993 NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile. . . .'' The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials stored in or of interest to the National Defense Stockpile Manager.

As the National Defense Stockpile Manager, the DLA must produce an Annual Materials Plan (AMP) proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold by the DLA in a particular fiscal year. In Attachment 1, the DLA lists the quantities and types of activity (potential disposals, potential acquisitions, potential conversions (upgrade, rotation, reprocessing, etc.) or potential recovery from government sources) associated with each material in its proposed FY 2022 AMP. The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, conversion, recovery, reprocessing, or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold in a particular fiscal year by the DLA, as noted. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of each material approved for acquisition, disposal, conversion (upgrade, rotation, reprocessing, etc.), or recovery by Congress.

The Committee is seeking public comments on the potential market impact associated with the proposed FY 2022 AMP as enumerated in Attachment 1. Public comments are an important element of the Committee's market impact review process.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the quantities associated with the proposed FY 2022 AMP. All comments must be submitted to the addresses indicated in this notice. All comments submitted through email must include the phrase ''Market Impact Committee Notice of Inquiry'' in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on October 9, 2020. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) website at *https://efoia.bis.doc.gov/*. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this website, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

Attachment 1

PROPOSED FISCAL YEAR 2022 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Potential Disposals			
Beryllium Metal	ST	8	
Chromium, Ferro	ST	24,000	
Chromium, Metal	ST	500	
Germanium	kg	5,000	
Manganese, Ferro	ST	50,000	
Manganese, Metallurgical Grade	SDT	322,025	
Aerospace Alloys	Lbs	1,500,000	
Platinum	Tr Oz	8,380	
PGM—Iridium	Tr Oz	489	
Quartz Crystals	Lbs	15,759	
Tantalum	Lbs	190	
Tantalum Carbide Powder	Lbs Ta	3,777	
Tin	MT	4,000	
Titanium Based Alloys	Lbs	600,000	
Tungsten Metal Powder	Lbs W	275,741	
Tungsten Ores and Concentrates	Lbs W	3,000,000	
Zinc	ST	7,993	
Potential Acquisitions			
Antimony	MT	1,100	
Carbon Fibers (Pitch Based)	Lbs	5,000	
Cerium	MT	550	
Dysprosium	MT	20	
Electrolytic Manganese Metal	MT	5,000	
Electrical Steel, Grain Oriented	MT	3,200	
Graphite, Iso Molded	MT	900	
Lanthanum	MT	1,300	
Neodymium	MT	600	
Praseodymium	MT	70	
Rare Earth Magnet Block	MT	100	
Rayon	MT	600	
Samarium Cobalt Alloy	MT	50	
Tire Cord	MT	2,000	
Titanium	MT	1,500	
TNT/HMX/RDX	Lbs	2,000,000	
Yttrium	MT	25	
Potential Conversions (Upgrade, rotation, reprocessing, etc.)			
Beryllium Metal	ST	8	
CZT (Cadmium Zinc Tellurium substrates)	EA	5	
Carbon Fibers (Pan Based)	Lbs	5,000	
Europium	MT	35	
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Lithium Ion Materials	MT	25	
Rare Earths Elements	MT	12	
Silicon Carbide Fibers	Lbs	875	
Triamino Trinitrobenzene (TATB)	Lbs	48,000	
Potential Recovery from Government sources			
Boron Carbide	MT	150	
E-Waste	MT	50	[1]
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Battery Materials	MT	50	
Magnesium Metal	MT	25	
Aerospace Alloys	Lbs	1,500,000	
Tantalum	MT	10	
Yttrium Aluminum Garnet Rods	kg	250	

Footnote Key:
[1] Strategic and Critical Materials collected from E-Waste (Strategic Materials collected from electronics waste).

[FR Doc. 2020–19828 Filed 9–8–20; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–870]

Certain Oil Country Tubular Goods From the Republic of Korea: Notice of Court Decision Not in Harmony With the Amended Final Results in the Antidumping Duty Administrative Review and Notice of Amended Final Results

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

SUMMARY: On June 17, 2020, the United States Court of International Trade (CIT) issued its final judgment in *NEXTEEL* v. *United States,* Court No. 17–00091, sustaining the Department of Commerce (Commerce)'s remand redetermination concerning the final results in the antidumping duty (AD) administrative review of certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), covering the period of review (POR) July 18, 2014 through August 31, 2015. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's final results in the administrative review of OCTG from Korea. Pursuant to the CIT's final judgment, Commerce is amending the weighted-average dumping margin calculated for SeAH Steel Corporation (SeAH), NEXTEEL Co., Ltd. (NEXTEEL), and non-examined companies.

DATES: Applicable September 9, 2020.

FOR FURTHER INFORMATION CONTACT: Chelsey Simonovich, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1979.

SUPPLEMENTARY INFORMATION:

Background

On April 17 and July 10, 2017, Commerce published the *Final Results.*[1] NEXTEEL and SeAH challenged the *Final Results* before the CIT.[2] On January 2, 2019, the CIT remanded Commerce's determination, instructing Commerce to reverse its finding of a particular market situation (PMS) and provide further explanation or analysis of its treatment of SeAH's proprietary grade products and deduction of general and administrative (G&A) expenses.[3] Commerce issued a redetermination on remand, under protest, complying with the CIT's instructions to reverse its finding of a PMS, and providing further explanation of its treatment of SeAH's proprietary grade products and deduction of G&A expenses.[4] On September 4, 2019, the CIT remanded Commerce's deduction of G&A expenses for clarification or reconsideration.[5] Commerce issued a second redetermination on remand, providing further clarification on its deduction of G&A expenses as U.S. selling expenses.[6] On June 17, 2020, the CIT sustained the *Remand Results.*[7]

Timken Notice

In its decision in *Timken,*[8] as clarified by *Diamond Sawblades,*[9] the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's June 17, 2020 judgment in this case constitutes a final decision of the court that is not in harmony with Commerce's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results.* Commerce finds that the revised the weighted-average dumping margins are 2.97 percent for SeAH, 3.63 percent for NEXTEEL, and 3.30 percent for the non-examined companies.

Cash Deposit Requirements

The cash deposit rates calculated in the 2014–2015 administrative review for SeAH, NEXTEEL, and the non-examined companies subject to this litigation, with the exception of Dongbu Steel Co., Ltd., have been superseded by cash deposit rates calculated in subsequent administrative reviews of the antidumping duty order on OCTG from Korea.[10] Thus, we are not implementing the amended cash deposit rates for these companies. For Dongbu Steel Co., Ltd., effective the date of publication of this notice, we will instruct Customs and Border Protection (CBP) to collect cash deposits of estimated antidumping duties at the rate of 3.30 percent.

Liquidation of Suspended Entries

If the CIT's final judgment is not appealed, or if it is appealed and upheld, Commerce will instruct CBP to terminate the suspension of liquidation, and to liquidate and to assess duties at the margins shown above for entries during the POR that were produced and exported by SeAH, NEXTEEL, and the non-examined companies. Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by SeAH and NEXTEEL for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

Finally, during the pendency of litigation, including any appeal, Commerce remains enjoined by Court order from liquidating entries that: (1) Were the subject of the administrative determination published in the *Final Results;*[12] (2) were produced and/or exported by any of the following: SeAH, NEXTEEL, and the non-examined companies; (3) were entered, or were withdrawn from warehouse, for

[1] *See Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 18105 (April 17, 2017), and accompanying Issues and Decision Memorandum (IDM), as amended by *Certain Oil Country Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 31750 (July 10, 2017) (collectively, *Final Results*).

[2] The following companies that were not subject to individual examination in the administrative review joined the challenge by NEXTEEL and SeAH of the *Final Results:* AJU Besteel Co., Ltd.; Dongbu Incheon Steel; Dongbu Steel Co., Ltd.; Husteel Co., Ltd.; Husteel Co., Ltd.; Hyundai Steel Company; and ILJIN Steel Corporation.

[3] *See NEXTEEL Co.* v. *United States,* Court No. 17–00091, Slip Op. 19–1 (CIT January 2, 2019).

[4] *See* Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea, *Nexteel Co.* v. *United States,* Consolidated Court No. 17–00091, Slip Op. 19–01 (CIT January 2, 2019), dated April 2, 2019.

[5] *See NEXTEEL Co.* v. *United States,* Court No. 17–00091, Slip Op. 19–116 (CIT September 4, 2019).

[6] *See* Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea *Nexteel Co.* v. *United States,* Consolidated Court No. 17–00091, Slip Op. 19–116 (CIT September 4, 2019), dated November 20, 2019 (*Remand Results*).

[7] *See Nexteel Co.* v. *United States,* Consolidated Court No. 17–00091, Slip Op. 20–85 (CIT June 17, 2020), at 14.

[8] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[9] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[10] *See Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review;* 2017–2018, 85 FR 41949 (July 13, 2020).

[11] For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[12] *See Final Results.*

consumption on or after July 18, 2014 through August 31, 2015; and (4) remain unliquidated as of 5:00 p.m. Eastern Time on June 16, 2017.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: September 2, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–19895 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–854]

Standard Steel Welded Wire Mesh From Mexico: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable September 9, 2020.

FOR FURTHER INFORMATION CONTACT: Joshua Tucker or Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2044 or (202) 482–4798, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2020, the Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of standard steel welded wire mesh from Mexico.[1] Currently, the preliminary determination is due no later than September 23, 2020.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.[2]

On August 28, 2020, the petitioners [3] submitted a timely request that Commerce postpone the preliminary CVD determination.[4] The petitioners requested postponement of the preliminary determination because they stated that additional time is necessary for Commerce to conduct its investigation and permit interested parties sufficient time to develop the record in this investigation.[5]

In accordance with 19 CFR 351.205(e), the petitioners have stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to November 27, 2020. Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: September 2, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–19901 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Standard Steel Welded Wire Mesh from Mexico: Initiation of Countervailing Duty Investigation,* 85 FR 45181 (July 27, 2020) (*Initiation Notice*).

[2] *See* 19 CFR 351.205(e).

[3] The petitioners are Insteel Industries, Inc.; Mid South Wire Company; National Wire LLC; Oklahoma Steel & Wire Co.; and Wire Mesh Corp.

[4] *See* Petitioners' Letter, ''Countervailing Duty Investigation of Standard Steel Welded Wire Mesh from Mexico: Petitioners' Request to Postpone Preliminary Determination,'' dated August 28, 2020.

[5] *Id.* at 2.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA478]

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 public meeting of its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Monday, September 21, 2020 at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8048234209657399056.*

ADDRESSES: The meeting will be held via webinar.

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 Advisory Panel will review public comments on Amendment 23: Groundfish Monitoring and the summary document prepared by the Groundfish Plan Development Team (PDT) and make final recommendations on preferred alternatives. They will also discuss draft alternatives on Framework Adjustment 61: Specifications/Management Measures—developed by the PDT focusing on (1) white hake rebuilding plan options, (2) 2021 U.S./Canada total allowable catches of Eastern Georges Bank (GB) cod, Eastern GB haddock, and GB yellowtail flounder and (3) other measures. The panel will discuss possible groundfish priorities for 2021 including a follow-up discussion on the Groundfish Sector Program Catch Share Review. They will also make recommendations to the Groundfish Committee and discuss other business, as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19917 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA477]

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.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Tuesday, September 22, 2020 at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/3381405484073852176*.

ADDRESSES: The meeting will be held via webinar.

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 Committee will review public comments on Amendment 23: Groundfish Monitoring and the summary document prepared by the Groundfish Plan Development Team (PDT) and make final recommendations on preferred alternatives. They will also discuss draft alternatives on Framework Adjustment 61: Specifications/Management Measures—developed by the PDT focusing on (1) white hake rebuilding plan options, (2) 2021 U.S./Canada total allowable catches of Eastern Georges Bank (GB) cod, Eastern GB haddock, and GB yellowtail flounder and (3) other measures. The Committee will discuss possible groundfish priorities for 2021 including a follow-up discussion on the Groundfish Sector Program Catch Share Review. They will also make recommendations to the Groundfish Committee. The Committee will review PDT, Groundfish Advisory Panel, and Transboundary Management Guidance Committee recommendations and make recommendations to the Council. They will also continue discussion of the Conservation Law Foundation petition for rulemaking on Atlantic cod, and discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19916 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA422]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The NMFS Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would allow eight commercial lobster vessels to participate in a lobster and Jonah crab monitoring study in the South Fork wind farm lease area, under the direction of the Commercial Fisheries Research Foundation. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notice to provide interested parties the opportunity to comment on Exempted Fishing Permit applications.

DATES: Comments must be received on or before September 24, 2020.

ADDRESSES: You may submit written comments by any of the following methods:

Email: NMFS.GAR.EFP@noaa.gov. Include in the subject line ''Comments on the South Fork Wind Farm Lobster and Jonah Crab EFP.'' If you are unable to submit your comment through *NMFS.GAR.EFP@noaa.gov,* contact Laura Hansen, Fishery Management Specialist, *Laura.Hansen@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978–281–9225.

SUPPLEMENTARY INFORMATION: The Commercial Fisheries Research Foundation (CFRF) submitted a complete application for an Exempted

Fishing Permit (EFP) to conduct a lobster and Jonah crab monitoring study that Federal regulations would otherwise restrict. The purpose of this study is to collect pre-construction data on the abundance, size, and distribution of lobster and Jonah crab in the South Fork wind farm lease area and adjacent waters.

The EFP would authorize the eight participating vessels (3 active and 5 back up vessels) to deploy 4 standard and 6 ventless traps per 10-pot trawl. The project consists of two survey periods from August 2020 through November 2020 and May 2021 through November 2021. Each vessel would take three one-day trips during the survey periods; one day to set traps, one day for sampling and resetting, and another day of additional sampling. Soak time between trips will be five days. CFRF staff will be on board for the sampling trips. All gear would be Atlantic Large Whale Take Reduction Plan compliant. Survey traps will be separate from each vessel's commercial lobster traps and will have unique identification markers. To reduce the potential risk to right whales, CFRF has agreed to report if line and/or trawls are missing, apply distinct gear marking colors to the research trawls, and use 1,700 lb breaking strength buoy lines.

All catch during sampling trips would be retained temporarily to collect biological data and returned promptly to the ocean. No catch from the research traps would be landed for sale.

If approved, CFRF may request minor modifications and extensions to the EFP throughout the study. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: September 2, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–19864 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA342]

Pacific Island Fisheries; Marine Conservation Plan for Guam; Western Pacific Sustainable Fisheries Fund

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a Marine Conservation Plan (MCP) for Guam.

DATES: This agency decision is effective from August 4, 2020, through August 3, 2023.

ADDRESSES: You may obtain a copy of the MCP, identified by NOAA–NMFS–2020–0115, from the Federal e-Rulemaking Portal, *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0115,* or from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, 808–522–8220, *http://www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: David O'Brien, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–725–5038.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary), and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the Northern Mariana Islands. The Governor of the Pacific Insular Area to which the PIAFA applies must request the PIAFA. The Secretary of State may negotiate and enter the PIAFA after consultation with, and concurrence of, the applicable Governor.

Before entering into a PIAFA, the applicable Governor, with concurrence of the Council, must develop and submit to the Secretary a 3-year MCP providing details on uses for any funds collected by the Secretary under the PIAFA. NMFS is the designee of the Secretary for MCP review and approval. The Magnuson-Stevens Act requires payments received under a PIAFA to be deposited into the United States Treasury and then conveyed to the Treasury of the Pacific Insular Area for which funds were collected.

In the case of violations by foreign fishing vessels in the EEZ around any Pacific Insular Area, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act, including sums collected from the forfeiture and disposition or sale of property seized subject to its authority, are deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, after direct costs of the enforcement action are subtracted. The Pacific Insular Area government may use funds deposited into the Treasury of the Pacific Insular Area for fisheries enforcement and for implementation of an MCP.

Federal regulations at 50 CFR 665.819 authorize NMFS to specify catch limits for longline-caught bigeye tuna for U.S. territories. NMFS may also authorize each territory to allocate a portion of that limit to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Payments collected under specified fishing agreements are deposited into the Western Pacific Sustainable Fisheries Fund, and any funds attributable to a particular territory may be used only for implementation of that territory's MCP. An MCP must be consistent with the Council's FEPs, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects.

At its June 2020 meeting, the Council reviewed and concurred with the MCP. On July 24, 2020, the Governor of Guam submitted the MCP to NMFS for review and approval. The MCP contains the following six conservation and management objectives:

1. Fisheries resource assessment, research and monitoring;
2. Effective surveillance and enforcement mechanisms;
3. Promote ecosystems approach to fisheries management, climate change;
4. Public participation, research, education and outreach, and local capacity;
5. Domestic fisheries development;
6. Recognizing the importance of island cultures and traditional fishing practices and community based management.

Please refer to the MCP for projects and activities designed to meet each objective, the evaluative criteria, and priority rankings.

This notice announces that NMFS has reviewed the MCP and determined that it satisfies the requirements of the Magnuson-Stevens Act. Accordingly, NMFS has approved the MCP for the 3-year period from August 4, 2020, through August 3, 2023. This MCP supersedes the one approved previously for August 4, 2017, through August 3, 2020 (82 FR 38876, August 16, 2017).

Dated: September 3, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–19885 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA466]

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.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee Meeting 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 Thursday, September 24, 2020 at 9.30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/7996552764995088399.*

ADDRESSES: The meeting will be held via webinar.

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 Committee will meet to review Framework 8 to the Atlantic Herring Fishery Management Plan and recommend final preferred alternatives. Framework 8 is considering fishery specifications for fishing years 2021–23 and adjusting measures in the herring plan that potentially inhibit the mackerel fishery from achieving optimum yield. There will also be an initial discussion of potential work priorities for 2021 for the herring plan. 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: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19914 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA458]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold a meeting of the Snapper Grouper Advisory Panel (AP) on September 24, 2020.

DATES: The Snapper Grouper AP will meet on September 24, 2020, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held via webinar.

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 AP meeting is open to the public and will be available via webinar as it occurs. Registration is required. Webinar registration information, a public comment form, and other meeting materials will be posted to the Council's website at: *http://safmc.net/safmc-meetings/current-advisory-panel-meetings/* as it becomes available.

During the meeting the Snapper Grouper AP will provide information to develop a fishery performance report for gag.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19913 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA393]

Fisheries of the Gulf of Mexico and the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of Southeast Data, Assessment, and Review (SEDAR)ss 68 Data Plenary Webinar III for Gulf of Mexico and Atlantic scamp grouper.

SUMMARY: The SEDAR 68 assessment process of Gulf of Mexico and Atlantic scamp grouper will consist of a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 68 Data Plenary Webinar III will be held September 24, 2020, from 1 p.m. to 5 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Data Webinars are as follows:

1. An assessment data set and associated documentation will be developed during the webinars.

2. Participants will evaluate proposed data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery dependent and fishery independent measures of stock abundance.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19908 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA457]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will convene a meeting of the South Atlantic Selectivity Workgroup via webinar to address gear selectivity for fishery stock assessments for species managed by the Council.

DATES: The South Atlantic Selectivity Workgroup meeting will be held via webinar on Thursday, September 24, 2020, from 9 a.m. until 12:30 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Information, including a link to webinar registration and meeting materials will be posted on the Council's website at: *https://safmc.net/safmc-meetings/other-meetings/* as it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Chip Collier, Deputy Director for Science, SAFMC; phone: (843) 302–8444 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *chip.collier@safmc.net.*

SUPPLEMENTARY INFORMATION: The South Atlantic Selectivity Workgroup consists of scientists with expertise in selectivity or gears used in fisheries in the South Atlantic region including members of the Council's Scientific and Statistical Committee chosen to participate. The Workgroup will provide recommendations on selectivity for species managed by the Council for consideration in upcoming stock assessments.

Agenda items include:

1. Review of the findings and follow up from the August 25, 2020 meeting of the Workgroup;

2. Discussion and review of analysis on selectivity from fishery independent and fishery dependent data sources; and

3. Recommendations on the type and shape of selectivity.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19912 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA444]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its

Scallop Advisory Panel 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 meeting will be held on Wednesday, September 23, 2020 at 8:30 a.m.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://attendee.gotowebinar.com/register/9134937625686223119*.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel will discuss Amendment 21, specifically, review of public comments and select final preferred alternatives. Amendment 21 includes measures related to: (1) Management of the Northern Gulf of Maine (NGOM) Management Area, (2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits, and (3) ability of Limited Access vessels with LAGC IFQ to transfer quota to LAGC IFQ only vessels. The panel will also discuss 2021/22 Specifications: Discuss the timing and outlook for 2020 surveys and 2021/22 specifications process. They also plan to review 2021 Priorities: Discuss and rank potential 2021 scallop work priorities. Other business may be discussed, as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19910 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA439]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Aleutian Islands

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

ACTION: Notice; issuance of 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 the Lamont-Doherty Earth Observatory of Columbia University (L–DEO) to incidentally harass marine mammals during a marine geophysical survey in the Aleutian Islands, Alaska.

DATES: The authorization is effective for a period of one year, from September 1, 2020, through August 31, 2021.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

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: *www.fisheries.noaa.gov/action/incidental-take-authorization-lamont-doherty-earth-observatory-marine-geophysical-survey-2.* In case of problems accessing these documents, please call the contact listed above.

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.

Summary of Request

On March 27, 2020, NMFS received a request from L–DEO for an IHA to take marine mammals incidental to a marine geophysical survey along and across the Aleutian Andreanof Arc in Alaska. L–DEO submitted a revised version of the application, which was deemed adequate and complete, on June 25, 2020. NMFS published a proposed IHA for public review and comment on July 28, 2020 (85 FR 45389). NMFS has authorized take of 24 species of marine mammals by harassment. For seven of these species, taking by Level A and Level B harassment is authorized, with only Level B harassment authorized for the remaining 17 species.

Description of Proposed Activity

Overview

Researchers from L–DEO and Woods Hole Oceanographic Institution (WHOI), with funding from the National Science Foundation (NSF), proposed to conduct a high-energy seismic survey from the Research Vessel (R/V) *Marcus G. Langseth* (*Langseth*) along and across the Aleutian Andreanof Arc in Alaska during September-October 2020. The two-dimensional (2–D) seismic survey will occur within the Exclusive

Economic Zone (EEZ) of the United States. The survey will use a 36-airgun towed array with a total discharge volume of ~6,600 cubic inches (in^3) (108,155 cm^3) as an acoustic source, acquiring return signals using both a towed streamer as well as ocean bottom seismometers (OBSs).

The study will use 2–D seismic surveying to seismically image the structure of the crust along and across the Andreanof segment of the Aleutian Arc, an intact arc segment with a simple and well known history. Existing geochemical analyses of igneous rocks from this segment suggest an along-segment trend in crustal-scale fractionation processes. Seismic velocity provides strong constraints on bulk composition, and so seismic images will reveal the constructional architecture, vertical fractionation patterns, and along-arc trends in both of those things. Together with existing observations from surface rocks (*e.g.,* bulk composition, volatile content) and forcing parameters (*e.g.,* slab geometry, sediment input, deformation-inferred stress regime), hypotheses related to controls on oceanic-arc crustal construction and fractionation can be tested and refined.

Dates and Duration

The survey is expected to last for approximately 48 days, including approximately 16 days of seismic operations, 19 days of equipment deployment/retrieval, and 8 days of transits, and 5 contingency days (accounting for potential delays due to, *e.g.,* weather). R/V *Langseth* will likely leave out of and return to port in Dutch Harbor, Alaska, during September-October 2020.

Specific Geographic Region

The survey will occur within the area of approximately 49–53.5° N and approximately 172.5–179° W. Representative survey tracklines are shown in Figure 1, available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-lamont-doherty-earth-observatory-marine-geophysical-survey-2.* Tracklines in the vicinity of specific Steller sea lion haul-outs and rookeries are designed to ensure that the area assumed to be ensonified above the Level B harassment threshold (see Estimated Take section) does not extend beyond a 3,000 ft (0.9 kilometers (km)) buffer around those areas. In addition, the survey vessel will not physically travel within 3 nautical miles (nmi) (5.5 km) of listed Steller sea lion rookeries. Some deviation in actual track lines, including the order of survey operations, could be necessary for reasons such as science drivers, poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment. The survey will occur within the EEZ of the United States, including Alaskan state waters, ranging in depth from 35–7,100 meters (m). Approximately 3,224 km of transect lines will be surveyed. Most of the survey (73 percent) would occur in deep water (≤1,000 m), 26 percent would occur in intermediate water (100–1,000 m deep), and approximately 1 percent would take place in shallow water <100 m deep.

Detailed Description of Specific Activity

The procedures to be used for the survey would be similar to those used during previous seismic surveys by L–DEO and involve conventional seismic methodology. The survey will involve one source vessel, R/V *Langseth,* which is owned by NSF and operated on its behalf by L–DEO. R/V *Langseth* will deploy an array of 36 airguns as an energy source with a total volume of 6,600 in^3. The array consists of 36 elements, including 20 Bolt 1500LL airguns with volumes of 180 to 360 in^3 (2,950–5,800 cm^3) and 16 Bolt 1900LLX airguns with volumes of 40 to 120 in^3 (655–1,966 cm^3). The airgun array configuration is illustrated in Figure 2–11 of NSF and USGS's Programmatic Environmental Impact Statement (PEIS; NSF–USGS, 2011). (The PEIS is available online at: *www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis-with-appendices.pdf*). The vessel speed during seismic operations will be approximately 4.5 knots (~8.3 km/hour) during the survey and the airgun array will be towed at a depth of 9 m. The receiving system consists of OBSs and a towed hydrophone streamer with a nominal length of 8 km. As the airguns are towed along the survey lines, the hydrophone streamer transfers the data to the on-board processing system, and the OBSs receive and store the returning acoustic signals internally for later analysis.

The study consists of one east-west strike-line transect (~540 km), two north-south dip-line transects (~420 km and ~285 km), connecting multi-channel seismic (MCS) transects (~480 km), and an MCS survey of the Amlia Fracture Zone (~285 km). (See Figure 1, available online.) The representative tracklines have a total length of 2,010 km. The strike- and dip-line transects will first be acquired using OBSs, which will be deployed along one line at a time, the line will be surveyed, and the OBSs will then be recovered, before moving onto the next line. After all refraction data is acquired, the strike and dip lines will be acquired a second time using MCS. The MCS transect lines and Amlia Fracture Zone transect lines will be acquired only once using MCS. Thus, the line km to be acquired during the entire survey is expected to be approximately 3,255 km. There could be additional seismic operations associated with turns, airgun testing, and repeat coverage of any areas where initial data quality is sub-standard, and 25 percent has been added to the assumed survey line-kilometers to account for this potential.

For the majority of the survey (90 percent), R/V *Langseth* will tow the full array, consisting of four strings with 36 airguns (plus 4 spares) with a total discharge volume of 6,600 in^3. In certain locations (see Figure 1) closest to islands, only half the array (18 airguns) would be operated, with a total volume of approximately 3,300 in^3 (54,077 cm^3). The airguns would fire at a shot interval of 22 seconds (s) during MCS shooting with the hydrophone streamer and at a 120-s interval during refraction surveying to OBSs.

The seismometers consist of short-period multi-component OBSs from Scripps Institution of Oceanography (SIO). Fifty OBSs will be deployed and subsequently retrieved by R/V *Langseth* prior to MCS surveying. When an OBS is ready to be retrieved, an acoustic release transponder (pinger) interrogates the instrument at a frequency of 12 kiloHertz (kHz); a response is received at the same frequency. The burn-wire release assembly is then activated, and the instrument is released from its 36-kilogram iron grate anchor to float to the surface. Take of marine mammals is not expected to occur incidental to L–DEO's use of OBSs.

In addition to the operations of the airgun array, a multibeam echosounder (MBES), a sub-bottom profiler (SBP), and an Acoustic Doppler Current Profiler (ADCP) will be operated from R/V *Langseth* continuously during the seismic surveys, but not during transit to and from the survey area. Take of marine mammals is not expected to occur incidental to use of the MBES, SBP, or ADCP because they will be operated only during seismic acquisition, and it is assumed that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES, SBP, and ADCP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, given their characteristics (*e.g.,* narrow downward-directed beam), marine mammals would experience no more than one or two

brief ping exposures, if any exposure were to occur. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of proposed IHA was published in the **Federal Register** on July 28, 2020 (85 FR 45389). During the 30-day public comment period, NMFS received a letter from the Marine Mammal Commission (Commission). Please see the Commission's letter for full details regarding their recommendations and rationale. The letter is available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-lamont-doherty-earth-observatory-marine-geophysical-survey-2.* A summary of the Commission's recommendations as well as NMFS' responses is below.

Comment—Noting certain inconsistencies and errors in information provided in L–DEO's application and NMFS' **Federal Register** notice, the Commission recommends that NMFS (1) determine what the percentages of the survey tracklines in the three depth strata should be, (2) ensure that the same percentages of survey tracklines are used for Level A and B harassment in each of the three depth strata, (3) re-estimate the numbers of Level A and B harassment takes accordingly, and (4) ensure that the total takes of low-frequency and high-frequency cetaceans and Level B harassment takes of mid-frequency cetaceans, otariids, and phocids are based on the Level A and B harassment takes added together.

Response—As noted in the Commission's letter, L–DEO provided revised tables C–1 and D–1, which corrected various minor errors described in the Commission's letter. Of greater substance, L–DEO also revised the estimated take numbers to reflect the movement of certain tracklines to minimize impacts on areas of importance to Steller sea lions and sea otters, as described above (see Changes from the Proposed IHA below for additional discussion). Correct values representing the proportion of trackline in each depth stratum and associated size of ensonified area were used in calculating the estimated takes, and the total takes authorized represent the sum of estimated instances of Level A harassment and Level B harassment, as recommended by the Commission. NMFS does note that the supposed ''discrepancies'' referenced by the Commission regarding percentages of survey trackline in each depth stratum appear instead to be a misunderstanding about what these values represent. The values referenced by the Commission from revised Table C–1 are not percentages of survey trackline, but rather percentages of ensonified area in each depth stratum. Due to the large size of the estimated Level B harassment ensonified areas relative to the estimated Level A harassment ensonified areas, the percentages of ensonified area within each depth stratum will be different. Because the Level A harassment ensonified areas are all generally small, the percentages of ensonified area per depth stratum are essentially the same as the percentages of trackline per depth stratum.

Comment—Describing what it believes to be the best available information regarding Steller sea lion occurrence in the survey area, the Commission recommends that NMFS ensure that the number of Level B harassment takes of Steller sea lions are correct based on a revised density of 0.0392 sea lions/km^2 in shallow- and intermediate-water depths and the same revised percentages of survey tracklines for Level A and B harassment in each of the three depth strata.

Response—NMFS concurs with the Commission's recommendation and has adopted it. Estimated takes of Steller sea lion have been revised in part through incorporation of the recommended density values.

Comment—The Commission recommends that NMFS adjust the marine mammal density estimates used in estimating potential takes using either coefficients of variation (CVs) or standard deviations for L–DEO's proposed survey, and reiterates a previous recommendation that NMFS develop a policy and consistent approach for how L–DEO and other NSF-affiliated entities should incorporate uncertainty in density estimates that have been extrapolated from other areas or during other times of the years or when the data themselves include high uncertainty.

Response—NMFS does not concur with the Commission's recommendation and does not adopt it. As noted by the Commission, it has previously provided this same recommendation. NMFS has previously expressed its disagreement with the recommendation, which we reiterate here.

The Commission states that ''[u]sing only the mean densities would likely result in an underestimation of takes due to the CVs being so much greater than the mean estimates.'' A CV simply shows the extent of variability in relation to the mean of the population, but does not indicate in which direction relative to the mean a true outcome will lie. The Commission does not explain why use of the mean densities would result in an underestimate of takes versus an overestimate of takes and, in fact, both outcomes should be considered equally likely. Therefore, the Commission's suggested approach of increasing the density estimate through, *e.g.,* use of the mean plus the CV, would be unnecessarily precautionary. NMFS' implementing regulations state that NMFS should rely on the best scientific evidence available in making findings of negligible impact and no unmitigable adverse impact. There is no requirement in the MMPA or NMFS' implementing regulations to introduce unwarranted precaution into the analyses. While NMFS acknowledges that there is uncertainty associated with any density estimate, the take estimate methodology used here produces the most appropriate estimate of potential takes.

NMFS indicated in its previous response to this comment that it is open to consideration of specific correction factors for use for specific circumstances or species in future IHAs and to further discussion with the Commission. However, it appears that the Commission misunderstood this comment as a commitment to take action. The Commission states in its letter that ''[i]t has been more than a year and NMFS has not contacted the Commission regarding this matter'' and that ''NMFS has yet to advance the issue.'' NMFS does not believe that it needs to develop a policy regarding this issue and, therefore, NMFS does not intend to contact the Commission or take steps to advance an issue that it does not believe requires action. However, NMFS reiterates its willingness to discuss the issue with the Commission in greater detail.

Comment—Noting its disagreement with L–DEO's approach to estimating the size of various ensonified areas, the Commission recommends that NMFS require L–DEO to either (1) re-estimate the proposed Level A and B harassment zones and associated takes of marine mammals using (a) both operational and site-specific environmental parameters, (b) what the Commission believes to be a comprehensive source model and (c) what the Commission believes to be an appropriate sound propagation model for the proposed IHA or (2) collect or provide the relevant acoustic data to substantiate that its modeling approach is conservative for both deep- and intermediate-water depths beyond the Gulf of Mexico. In addition, the Commission recommends that NMFS (1) explain why sound channels with downward refraction, as well as seafloor

reflections, are not likely to occur during the geophysical survey, (2) specify the degree to which both of those parameters would affect the estimation (or underestimation) of Level B harassment zones in deep- and intermediate-water depths, (3) explain why L–DEO's model and other modeling approaches provide more accurate, realistic, and appropriate Level A and B harassment zones than BELLHOP (a different propagation model favored by the Commission), particularly for deep- and intermediate-water depths, and (4) explain why, if L–DEO's model and other modeling approaches are considered best available science, other action proponents that conduct seismic surveys are not implementing similar methods, particularly given their simplicity.

Response—As noted by the Commission, these comments reflect a longstanding disagreement between NMFS and the Commission regarding L–DEO's approach to modeling the output of their airgun array and its propagation through the water column. NMFS has previously responded to similar Commission comments on L–DEO's modeling approach. We refer the reader to previous **Federal Register** notices providing responses rather than repeat them here (*e.g.,* 84 FR 60059, November 07, 2019; 84 FR 54849, October 11, 2019; 84 FR 35073, July 22, 2019). Regardless of the addition of slightly different points or modifications to the language with which the Commission expresses these points, the gist of the Commission's disagreement with L–DEO's modeling approach remains the same. NMFS believes that its prior responses have adequately explained the rationale for not following the Commission's recommendations and, importantly, why L–DEO's modeling approach is adequate. NMFS will, however, provide an additional detailed explanation of the reasons why the Commission's recommendations regarding this matter are not followed within 120 days, as suggested by the Commission and required by section 202 of the MMPA.

Comment—The Commission recommends that NMFS require L–DEO to (1) analyze the data recorded on the OBSs to determine the extents of the Level B harassment zones in shallow-, intermediate-, and deep-water depths and specify how the in-situ zones compare to the Level B harassment zones specified in the final authorization, (2) justify why it did not use the maximum radii as its Level B harassment zones in deep water for both the 36- and 18-airgun array as it did for intermediate and shallow water, and (3) if the justification is inconsistent with the approach taken for intermediate and shallow water, revise the Level B harassment zones in deep water based on the maximum radii and re-estimate the numbers of takes accordingly.

Response—Regarding the Commission's recommendation to conduct analysis of OBS data, L–DEO has not previously undertaken the type of analysis suggested by the Commission, and indicated to NMFS that it does not have the expertise or capability to do so at this time. In addition, we note that the Commission's recommendation is vague; detailed direction would be needed from the Commission on how to accomplish the recommended effort. This would need to include agreement on the analytical approach in order to meet expectations and to ensure acceptance of results. The Commission's recommendation does not acknowledge the time it would take to perform the analysis or the level of effort and cost that would be involved, *e.g.,* experts needed to obtain and review data, perform detailed comparative analysis, preparation of a report. Based on these concerns, NMFS believes that the recommendation is not practicable.

Also, implementation of this recommendation would not provide any additional conservation value (*e.g.,* improvement in mitigation effectiveness) for the proposed survey. The analysis would be retrospective and could be used to help inform analysis of future surveys in the same area. However, there are no NSF-proposed seismic surveys on the R/V *Langseth* for this region in the foreseeable future.

The Commission also recommended that NMFS require L–DEO to justify why it did not use the maximum radii as its Level B harassment zones in deep water. L–DEO used the maximum deep-water radii to estimate the scaling factors discussed by the Commission, as the isopleths are not spherical. The highest scaling factor (2.08) is obtained for the maximum radii and when scaling to account for differences in towed depths and/or volumes between sources, L–DEO uses the highest scaling factor to be conservative. However, the maximum deep-water radii are not used for defining the Level B harassment zones in deep water, but rather the radii at 2,000 m depth.

The maximum radii for the 6,600 and 3,300 in^3 arrays are at depths of 10,129 m and 4,700 m, depths that are well below where marine mammals would be encountered. Given the sound propagation loss in water, the maximum radii would thus not be appropriate to define the Level B harassment zones. L–DEO uses the radius at a 2,000 m depth, as this is approximately the maximum relevant water depth for marine mammals. The maximum radii were used for both intermediate and shallow water as the water depth for these depth strata is less than 2,000 m.

In light of this justification, NMFS determined that revising the Level B harassment zones in deep water based on the maximum radii is not appropriate, and therefore, re-estimating the numbers of takes is not warranted.

Comment—The Commission recommends that NMFS include in the final authorization a requirement to use a method believed by the Commission to be appropriate for estimating the numbers of marine mammals taken, *e.g.,* by applying relevant corrections to account for animals that are not detected.

Response—NMFS appreciates the Commission's development of a recommended approach to better estimate the numbers of marine mammals that may have been taken during geophysical survey activities, including marine mammals that were not detected. The ''Commission's method'' (see the Commission's letter for additional discussion and citation to a full description provided in an addendum to a 2019 Commission comment letter) involves correction of marine mammal sightings data through use of proxies for marine mammal detectability ($f(0)$) and platform/observer bias on marine mammal detection ($g(0)$), and extrapolation of corrected marine mammal sightings data based on the assumed extent of the Level B harassment zones.

However, NMFS does not concur with the recommendation to require L–DEO to implement this approach because we do not have confidence in the reliability of estimates of potential marine mammal take that would result from use of the approach. The Commission does not address the multiple assumptions that must be made in order to have confidence in the estimates that would be produced through application of the method. For example, the assumption that the application of proxy values for $g(0)$ and $f(0)$ is appropriate is not justified (including application of $f(0)$ values to species for which no value is available and assuming that application of $f(0)$ to species in a wholly different region is appropriate). Notably, $g(0)$ values are typically derived on a platform-specific basis, and even for specific observers—not generalized across platforms, as the Commission's method would require.

Separately, the appropriate application of distance sampling methods requires that certain assumptions are valid, and the Commission does not explain why these assumptions should be assumed to be valid during a seismic survey, as compared with typical line-transect surveys operating without an active acoustic source. For example, a key underlying concept of distance sampling methodology is that the probability of detecting an animal decreases as its distance from the observer increases. This cannot be assumed true during an active seismic survey. NMFS believes it unlikely that the numerous assumptions inherent to application of the Commission's method would be accepted in a research context (where distance sampling approaches are typically applied).

Furthermore, the area over which observations are to be extrapolated through the Commission's method is a modeled ensonified area. We do not believe it appropriate to assume a modeled ensonified area is always accurate for purposes of estimating total take. In purporting to estimate total takes, the method ignores the fact that marine mammals exposed to a level of received sound assumed to cause take for analytical purposes may not in fact respond behaviorally in a way that equates to take, especially at great distance from the source.

NMFS believes it is important to focus on collection and reporting of empirical data that can directly inform an assessment of the effects of a specified activity on the affected species or stock. While there may be value in an assessment of potential unobserved take, we need to proceed cautiously in the development of derived values given our low confidence in multiple inputs. NMFS is currently more broadly evaluating monitoring requirements, including data collection, interpretation, and reporting, as well as the specific issue the Commission has raised, and is committed to developing improved approaches.

Comment—The Commission recommends that NMFS require L–DEO to specify in the final monitoring report (1) the number of days on which the airgun array was active and (2) the percentage of time and total time the array was active during daylight versus nighttime hours (including dawn and dusk), and further recommends that NMFS require L–DEO to include in its monitoring report all data to be collected under section 5(d)(ii), (iii), and (iv) through specific stipulations in section 6(a) of the final authorization.

Response—NMFS concurs with the recommendation and has included these requirements in the IHA.

Comment—The Commission asserts that L–DEO and other NSF-affiliated entities have not complied with all of the requirements set forth in certain final IHAs, and recommends that, should the alleged shortcomings occur again, NMFS refrain from issuing any further authorizations to L–DEO and other NSF-affiliated entities until such time that the monitoring reports include all of the required information.

Response—NMFS appreciates the Commission's concern but will consider any future requests for incidental take authorization from NSF-affiliated entities according to the requirements of the MMPA.

Comment—The Commission asserts that ''only one of the last six monitoring reports involving geophysical surveys conducted by L–DEO and other NSF-affiliated entities has been posted on NMFS' website,'' and recommends that NMFS post all final monitoring reports on its website as soon as they are available.

Response—NMFS concurs with the Commission's recommendation and it is our practice to post all final monitoring reports on its website as soon as they are available. All available monitoring reports involving geophysical surveys conducted by L–DEO and other NSF-affiliated entities are currently available on NMFS' website. We note that reports are not yet available for the three most recent IHAs issued for these activities.

Comment—The Commission recommends that NMFS include in all draft and final IHAs the explicit requirements to cease activities if a marine mammal is injured or killed during the specified activities, including by vessel strike, until NMFS reviews the circumstances involving any injury or death that is likely attributable to the activities and determines what additional measures are necessary to minimize additional injuries or deaths.

Response—NMFS does not expect that the proposed activities have the potential to result in injury or mortality to marine mammals and therefore does not agree that a blanket requirement for project activities to cease would be warranted. NMFS does not agree that a requirement for a vessel that is operating on the open water to suddenly stop operating is practicable, 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.

With respect to the Commission's recommendation that NMFS include these requirements in all proposed and final IHAs, NMFS determines the requirements for mitigation measures in each authorization based on numerous case-specific factors, including 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. As NMFS must make these determinations on a case by case basis, we therefore do not agree with this recommendation.

Comment—The Commission recommends that NMFS refrain from issuing a renewal for any authorization unless it is consistent with the procedural requirements specified in section 101(a)(5)(D)(iii) of the MMPA.

Response—In prior responses to comments about IHA Renewals (*e.g.,* 84 FR 52464; October 02, 2019 and 85 FR 53342; August 28, 2020), NMFS has explained how the Renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA and, therefore, we plan to continue to issue qualifying Renewals when the requirements outlined on our website are met. Thus, NMFS agrees with the Commission's recommendation that we should not issue a Renewal for any authorization unless it is consistent with the procedural requirements specified in section 101(a)(5)(D)(iii) of the MMPA. NMFS has found that the Renewal process is consistent with the statutory requirements of the MMPA and, further, promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process. Therefore, we intend to continue implementing the Renewal process.

Changes From the Proposed IHA

The only substantive change from the proposed IHA is the revision of take estimates. As noted in the notice of proposed IHA, L–DEO agreed to modify its originally proposed tracklines in order to avoid takes of sea otters (through consultation with the U.S. Fish and Wildlife Service) and to minimize impacts on Steller sea lions (by moving tracklines near specific, known sea lion rookeries such that the track is

sufficiently distant from shore that the estimated Level B harassment zone does not overlap with a 3,000 ft (0.9-km) buffer around these areas). Although L–DEO had committed to these changes at the time of publication of the notice of proposed IHA, take estimates had not yet been revised accordingly. In addition, the take estimate for Steller sea lions was revised through use of the adjusted density value recommended by the Marine Mammal Commission (as discussed above). For species where the take number changed, all take numbers decreased, except for the Steller sea lion, where the increased density value led to an increase in the take estimate.

During the public review period, NMFS-affiliated scientists noted that a newly described species of beaked whale (*Berardius minimus;* Yamada *et al.,* 2019) could be present in the survey area. At least five specimens of Sato's beaked whale have been reported from U.S. waters in the vicinity of the eastern Aleutian Islands, St. George Island, and the southern Alaska Peninsula (Morin *et al.,* 2017). No information is available regarding the occurrence of this species. Therefore, NMFS has authorized take of one group of the species, as represented by the average group size of *Berardius* spp. from Barlow (2016).

Finally, NMFS has included reporting requirements recommended by the Marine Mammal Commission (discussed above).

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; *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 (*www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in the survey area and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). 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's 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's U.S. Pacific and Alaska SARs. All MMPA stock information presented in Table 1 is the most recent available at the time of publication and is available in the 2019 SARs (Caretta *et al.,* 2020; Muto *et al.,* 2020).

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Pacific right whale	*Eubalaena japonica*	Eastern North Pacific (ENP)	E/D; Y	31 (0.226; 26; 2015)	0.05	0
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	ENP	-; N	26,960 (0.05; 25,849; 2016)	801	139
		Western North Pacific (WNP).	E/D; Y	290 (n/a; 271; 2016	0.12	Unk
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae kuzira.*	Central North Pacific (CNP) *	E/D; Y	10,103 (0.3; 7,891; 2006)	83	25
		Western North Pacific *	E/D; Y	1,107 (0.3; 865; 2006)	3	2.6
Minke whale	*Balaenoptera acutorostrata scammoni.*	Alaska *	-; N	Unknown	n/a	0
Sei whale	*B. borealis borealis*	ENP	E/D; Y	519 (0.4; 374; 2014)	0.75	≥0.2
Fin whale	*B. physalus physalus*	Northeast Pacific *	E/D; Y	Unknown	n/a	0.4
Blue whale	*B. musculus musculus*	ENP	E/D; Y	1,496 (0.44; 1,050; 2014)	[6] 1.2	≥19.4
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter macrocephalus*	North Pacific *	E/D; Y	Unknown	n/a	4.7
Family Ziphiidae (beaked whales):						
Cuvier's beaked whale	*Ziphius cavirostris*	Alaska	-; N	Unknown	n/a	0
Baird's beaked whale	*Berardius bairdii*	Alaska	-; N	Unknown	n/a	0
Sato's beaked whale	*B. minimus*	n/a	-; N	Unknown	n/a	0
Stejneger's beaked whale.	*Mesoplodon stejnegeri*	Alaska	-; N	Unknown	n/a	0
Family Delphinidae:						
Pacific white-sided dolphin.	*Lagenorhynchus obliquidens*	North Pacific [5]	-; N	26,880 (n/a; 26,880; 1990)	n/a	0
Northern right whale dolphin.	*Lissodelphis borealis*	CA/OR/WA *	-; N	26,556 (0.44; 18,608; 2014)	179	3.8
Risso's dolphin	*Grampus griseus*	CA/OR/WA *	-; N	6,336 (0.32; 4,817; 2014)	46	≥3.7
Killer whale	*Orcinus orca* [4]	ENP Offshore	-; N	300 (0.1; 276; 2012)	2.8	0

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA—Continued

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]
	ENP Gulf of Alaska, Aleutian Islands, and Bering Sea Transient.	.....	-; N	587 (n/a; 2012)	5.9	1
	ENP Alaska Resident	.....	-; N	2,347 (n/a; 2012)	24	1
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena vomerina.*	Bering Sea [5]	-; Y	48,215 (0.22; 40,150; 1999)	n/a	0.2
Dall's porpoise	*Phocoenoides dalli dalli*	Alaska [5]	-; N	83,400 (0.097; n/a; 1991)	n/a	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Northern fur seal	*Callorhinus ursinus*	Pribilof Islands/Eastern Pacific.	D; Y	620,660 (0.2; 525,333; 2016)	11,295	399
Steller sea lion	*Eumetopias jubatus jubatus*	Western U.S	E/D; Y	53,624 (n/a; 2018)	322	247
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	Aleutian Islands	-; N	5,588 (n/a; 5,366; 2018)	97	90
Spotted seal	*P. largha*	Alaska *	-; N	461,625 (n/a; 423,237; 2013)	12,697	329
Ribbon seal	*Histriophoca fasciata*	Alaska *	-; N	184,697 (n/a; 163,086; 2013)	9,785	3.9
Northern elephant seal ...	*Mirounga angustirostris*	California Breeding	-; N	179,000 (n/a; 81,368; 2010)	4,882	8.8

* Stocks marked with an asterisk were addressed in further detail in the notice of proposed IHA.

[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 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 most stocks of killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species' (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual mortality/serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the 2019 SARs.

[4] Transient and resident killer whales are considered unnamed subspecies (Committee on Taxonomy, 2020).

[5] Abundance estimates for these stocks are not considered current. PBR is therefore considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

[6] This stock is known to spend a portion of time outside the U.S. EEZ. Therefore, the PBR presented here is the allocation for U.S. waters only and is a portion of the total. The total PBR for blue whales is 2.1 (7/12 allocation for U.S. waters). Annual M/SI presented for these species is for U.S. waters only.

Prior to 2016, humpback whales were listed under the ESA as an endangered species worldwide. Following a 2015 global status review (Bettridge *et al.,* 2015), NMFS established 14 distinct population segments (DPS) with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The DPSs that occur in U.S. waters do not necessarily equate to the existing stocks designated under the MMPA and shown in Table 1.

Within Alaska waters, four current humpback whale DPSs may occur: The Western North Pacific (WNP) DPS (endangered), Hawaii DPS (not listed), Mexico DPS (threatened), and Central America DPS (endangered). Two humpback whale stocks designated under the MMPA may occur within Alaskan waters: The Western North Pacific Stock and the Central North Pacific Stock. Both these stocks are designated as depleted under the MMPA. According to Wade (2017), in the Aleutian Islands and Bering, Chukchi, and Beaufort Seas, encountered whales are most likely to be from the Hawaii DPS (86.8 percent), but could be from the Mexico DPS (11 percent) or WNP DPS (2.1 percent). Note that these probabilities reflect the upper limit of the 95 percent confidence interval of the probability of occurrence; therefore, numbers may not sum to 100 percent for a given area.

Additional detailed information regarding the potentially affected stocks of marine mammals was provided in the notice of proposed IHA (85 FR 45389; July 28, 2020). No new information is available, and we do not reprint that discussion here. Please see the notice of proposed IHA for additional information.

Biologically Important Areas (BIA)

Several biologically important areas for marine mammals are recognized in the Bering Sea, Aleutian Islands, and Gulf of Alaska. Critical habitat is designated for the Steller sea lion (58 FR 45269; August 27, 1993). Critical habitat is defined by section 3 of the ESA as (1) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Designated Steller sea lion critical habitat includes terrestrial, aquatic, and air zones that extend 3,000 ft (0.9 km) landward, seaward, and above each major rookery and major haulout in Alaska. For the Western DPS, the aquatic zone extends further, out 20 nmi (37 km) seaward of major rookeries and haulouts west of 144°W. In addition to major rookeries and haulouts, critical habitat foraging areas have been designated in Seguam Pass, Bogoslof area, and Shelikof Strait. Of the foraging areas, only Seguam Pass overlaps the

proposed survey area. The Bogoslof foraging area is located to the east of the survey area, and Shelikof Strait is in the western Gulf of Alaska. In addition, ''no approach'' buffer areas around rookery sites of the Western DPS of Steller sea lions are identified. ''No approach'' zones are restricted areas wherein no vessel may approach within 3 nmi (5.6 km) of listed rookeries; some of these are adjacent to the survey area. In the Aleutian Islands, critical habitat includes 66 sites (26 rookeries and 40 haulout sites) and foraging areas in Seguam Pass (within the proposed survey area) and the Bogoslof area (east of the survey area). Please see Figure 1 of L–DEO's application for additional detail.

Critical habitat has also been designated for the North Pacific right whale (73 FR 19000; April 8, 2008). The designation includes areas in the Bering Sea and Gulf of Alaska. However, the closest critical habitat unit, in the Bering Sea, is more than 400 km away from the proposed survey area. There is no critical habitat designated for any other species within the region. In addition, a feeding BIA for right whales is recognized to the south of Kodiak Island, and the Bering Sea critical habitat unit is also recognized as a BIA.

For fin whales, a BIA for feeding is recognized in Shelikof Strait, between Kodiak Island and the Alaska Peninsula, and extending west to the Semidi Islands. For gray whales, a feeding BIA is recognized to the south of Kodiak Island, and a migratory BIA is recognized as extending along the continental shelf throughout the Gulf of Alaska, through Unimak Pass in the eastern Aleutian Islands, and along the Bering Sea continental shelf. For humpback whales, feeding BIAs are recognized around the Shumagin Islands and around Kodiak Island. These areas are sufficiently distant from the proposed survey area that no effects to important behaviors occurring in the BIAs should be expected. Moreover, the timeframe of the planned survey does not overlap with expected highest abundance of whales on the feeding BIAs or with gray whale migratory periods.

A separate feeding BIA is recognized in the Bering Sea for fin whales. Because the distribution of presumed feeding fin whales in the Bering Sea is widespread, a wide region from the Middle Shelf domain to the slope is considered to be a BIA. The highest densities of feeding fin whales in the Bering Sea likely occur from June through September. The BIA is considered as being in waters shallower than the 1,000-m isobath on the eastern Bering Sea shelf, and does not extend past approximately Unimak Pass in the Aleutian Islands. A gray whale feeding BIA is recognized along the north side of the Alaska Peninsula. Marine mammal behavior in these BIAs is similarly not expected to be affected by the proposed survey due to distance and timing.

Large aggregations of feeding humpback whales have historically been observed along the northern side of the eastern Aleutian Islands and Alaska Peninsula, and a feeding BIA is recognized. Highest densities are expected from June through September. The eastern edge of the planned survey area is approximately 100 km west of the western edge of the recognized BIA, but it is possible that the survey could affect feeding humpback whales. For more information on BIAs, please see Ferguson et al. (2015a, 2015b).

Unusual Mortality Events (UME)

A UME is defined under the MMPA as ''a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.'' For more information on UMEs, please visit: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events.* Currently recognized UMEs in Alaska involving species under NMFS' jurisdiction include those affecting ice seals in the Bering and Chukchi Seas and gray whales. Since June 1, 2018, elevated strandings for bearded, ringed and spotted seals have occurred in the Bering and Chukchi seas in Alaska, with causes undetermined. For more information, please visit: *www.fisheries.noaa.gov/alaska/marine-life-distress/2018-2020-ice-seal-unusual-mortality-event-alaska.*

Since January 1, 2019, elevated gray whale strandings have occurred along the west coast of North America from Mexico through Alaska. As of June 5, 2020, there have been a total of 340 whales reported in the event, with approximately 168 dead whales in Mexico, 159 whales in the United States (53 in California; 9 in Oregon; 42 in Washington, 55 in Alaska), and 13 whales in British Columbia, Canada. For the United States, the historical 18-year 5-month average (Jan–May) is 14.8 whales for the four states for this same time-period. Several dead whales have been emaciated with moderate to heavy whale lice (cyamid) loads. Necropsies have been conducted on a subset of whales with additional findings of vessel strike in three whales and entanglement in one whale. In Mexico, 50–55 percent of the free-ranging whales observed in the lagoons in winter have been reported as ''skinny'' compared to the annual average of 10–12 percent ''skinny'' whales normally seen. The cause of the UME is as yet undetermined. For more information, please visit: *www.fisheries.noaa.gov/national/marine-life-distress/2019-2020-gray-whale-unusual-mortality-event-along-west-coast-and.*

Another recent, notable UME involved large whales and occurred in the western Gulf of Alaska and off of British Columbia, Canada. Beginning in May 2015, elevated large whale mortalities (primarily fin and humpback whales) occurred in the areas around Kodiak Island, Afognak Island, Chirikof Island, the Semidi Islands, and the southern shoreline of the Alaska Peninsula. Although most carcasses have been non-retrievable as they were discovered floating and in a state of moderate to severe decomposition, the UME is likely attributable to ecological factors, *i.e.,* the 2015 El Niño, ''warm water blob,'' and the Pacific Coast domoic acid bloom. The UME was closed in 2016. More information is available online at *www.fisheries.noaa.gov/national/marine-life-distress/2015-2016-large-whale-unusual-mortality-event-western-gulf-alaska.*

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-

frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 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. Twenty-four marine mammal species (18 cetacean and six pinniped (two otariid and four phocid) species) are considered herein. Of the cetacean species that may be present, seven are classified as low-frequency cetaceans (*i.e.,* all mysticete species), nine are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e.,* porpoises).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for activities occurring within the same specified geographical region (*e.g.,* 83 FR 29212, June 22, 2018; 84 FR 14200, April 9, 2019; 85 FR 19580, April 7, 2020). Section 7 of L–DEO's application provides a comprehensive discussion of the potential effects of the proposed survey. We have reviewed L–DEO's application and believe it is accurate and complete. No significant new information is available. The information in L–DEO's application and in the referenced **Federal Register** notices are sufficient to inform our determinations regarding the potential effects of L–DEO's specified activity on marine mammals and their habitat. We refer the reader to these documents rather than repeating the information here. The referenced information includes a summary and discussion of the ways that the specified activity may impact marine mammals and their habitat. Consistent with the analysis in our prior **Federal Register** notices for similar L–DEO surveys and after independently evaluating the analysis in L–DEO's application, we determine that the survey is likely to result in the takes described in the Estimated Take section of this document and that other forms of take are not expected to occur.

The Estimated Take section 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 potential effects of the specified activity, the Estimated Take section, and the 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 Active Acoustic Sound Sources

The notice of proposed IHA provided a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document. Please see that document (85 FR 45389; July 28, 2020) for additional information. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the 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 are primarily by Level B harassment, as use of seismic airguns has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) for mysticetes and high-frequency cetaceans (*i.e.,* porpoises). The mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no serious injury or 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 numbers.

Acoustic Thresholds

NMFS uses 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 permanent threshold shift (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). NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals may be behaviorally harassed (*i.e.,* Level B harassment) when exposed to underwater anthropogenic noise above a received level of 160 dB re 1 microPascal (μPa) root mean square (rms) for the impulsive source (*i.e.,* seismic airguns) evaluated here.

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). L–DEO's seismic survey includes the use of impulsive (seismic airguns) 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 *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that feed into identifying the area ensonified above the acoustic thresholds, which include source levels and acoustic propagation modeling.

L–DEO's modeling methodologies are described in greater detail in Appendix A of L–DEO's IHA application. The survey would acquire data using the 36-airgun array with a total discharge volume of 6,600 in^3 at a maximum tow depth of 9 m. During approximately 10 percent of the planned survey tracklines, the array would be used at half the total volume (*i.e.,* an 18-airgun array with total volume of 3,300 in^3). L–DEO's modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). To validate the model results, L–DEO measured propagation of pulses from the 36-airgun array at a tow depth of 6 m in the Gulf of Mexico, for deep water (1,600 m), intermediate water depth on the slope (600–1,100 m), and shallow water (50 m) (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010).

L–DEO collected a MCS data set from R/V *Langseth* on an 8 km streamer in 2012 on the shelf of the Cascadia Margin off of Washington in water up to 200 m deep that allowed Crone *et al.* (2014) to analyze the hydrophone streamer (>1,100 individual shots). These empirical data were then analyzed to determine in situ sound levels for shallow and upper intermediate water depths. These data suggest that modeled radii were 2–3 times larger than the measured radii in shallow water. Similarly, data collected by Crone *et al.* (2017) during a survey off New Jersey in 2014 and 2015 confirmed that in situ measurements collected by R/V *Langseth* hydrophone streamer were 2–3 times smaller than the predicted radii.

L–DEO model results are used to determine the assumed radial distance to the 160-dB rms threshold for these arrays in deep water (>1,000 m) (down to a maximum water depth of 2,000 m). Water depths in the project area may be up to 7,100 m, but marine mammals in the region are generally not anticipated to dive below 2,000 m (Costa and Williams, 1999). For the 36-airgun array, the estimated radial distance for intermediate (100–1,000 m) and shallow (<100 m) water depths is taken from Crone *et al.* (2014). L–DEO typically derives estimated distances for intermediate water depths by applying a correction factor of 1.5 to the model results for deep water. The Crone *et al.*

(2014) empirical data produce results consistent with L–DEO's typical approach (8,233 m versus 8,444 m). For the 18-airgun array, the radii for shallow and intermediate-water depths are taken from Crone *et al.* (2014) and scaled to account for the difference in airgun volume.

The estimated distances to the Level B harassment isopleths for the arrays are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Source and volume	Tow depth (m)	Water depth (m)	Level B harassment zone (m)
36 airgun array; 6,600 in[3]	9	>1,000	[1] 5,629
		100–1,000	[3] 8,233
		<100	[3] 11,000
18 airgun array; 3,300 in[3]	9	>1,000	[1] 3,562
		100–1,000	[2] 3,939
		<100	[2] 5,263

[1] Distance based on L–DEO model results.
[2] Based on empirical data from Crone *et al.* (2014) with scaling factor based on deep-water modeling applied to account for differences in array size.
[3] Based on empirical data from Crone *et al.* (2014).

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L–DEO using the NUCLEUS source modeling software program and the NMFS User Spreadsheet, described below. The acoustic thresholds for impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure metrics (NMFS 2018). 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.,* 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. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL_{cum} and peak sound pressure level (SPL) for the *Langseth* airgun arrays were derived from calculating the modified far-field signature. The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.,* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.,* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the large array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. L–DEO used the acoustic modeling methodology as used for estimating Level B harassment distances with a small grid step of 1 m in both the inline and depth directions. The propagation modeling takes into account all airgun interactions at short distances from the source, including interactions between subarrays, which are modeled using the NUCLEUS software to estimate the notional signature and MATLAB software to calculate the pressure signal at each mesh point of a grid.

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the *Langseth's* airgun array (modeled in 1 Hz bands) were used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation and source velocities and shot intervals specific to the planned survey, potential radial distances to auditory injury zones were then calculated for SEL_{cum} thresholds.

Inputs to the User Spreadsheet in the form of estimated source levels are shown in Appendix A of L–DEO's application. User Spreadsheets used by L–DEO to estimate distances to Level A harassment isopleths for the airgun arrays are also provided in Appendix A of the application. Outputs from the User Spreadsheets in the form of estimated distances to Level A harassment isopleths for the survey are shown in Table 5. As described above, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the dual metrics (SEL_{cum}

and Peak SPL_{flat}) is exceeded (*i.e.,* metric resulting in the largest isopleth).

TABLE 5—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Source (volume)	Threshold	Level A harassment zone (m)				
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids
36-airgun array (6,600 in^3)	SEL_{cum}	376	0	1	10	0
	Peak	39	14	229	42	11
18-airgun array (3,300 in^3)	SEL_{cum}	55	0	0	2	0
	Peak	23	11	119	25	10

Note that because of some of the assumptions included in the methods used (*e.g.,* stationary receiver with no vertical or horizontal movement in response to the acoustic source), isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimation of Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as this seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Auditory injury is unlikely to occur for mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds given very small modeled zones of injury for those species (all estimated zones less than 15 m for mid-frequency cetaceans and otariid pinnipeds, up to a maximum of 42 m for phocid pinnipeds), in context of distributed source dynamics. The source level of the array is a theoretical definition assuming a point source and measurement in the far-field of the source (MacGillivray, 2006). As described by Caldwell and Dragoset (2000), an array is not a point source, but one that spans a small area. In the far-field, individual elements in arrays will effectively work as one source because individual pressure peaks will have coalesced into one relatively broad pulse. The array can then be considered a ''point source.'' For distances within the near-field, *i.e.,* approximately 2–3 times the array dimensions, pressure peaks from individual elements do not arrive simultaneously because the observation point is not equidistant from each element. The effect is destructive interference of the outputs of each element, so that peak pressures in the near-field will be significantly lower than the output of the largest individual element. Here, the peak isopleth distances would in all cases be expected to be within the near-field of the array where the definition of source level breaks down. Therefore, actual locations within this distance of the array center where the sound level exceeds peak SPL isopleth distances would not necessarily exist. In general, Caldwell and Dragoset (2000) suggest that the near-field for airgun arrays is considered to extend out to approximately 250 m. We provided additional discussion and quantitative support for this theoretical argument in the notice of proposed IHA. Please see that notice (85 FR 45389; July 28, 2020) for additional information.

In consideration of the received sound levels in the near-field as described above, we expect the potential for Level A harassment of mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors (*e.g.,* Nachtigall *et al.,* 2018) are considered. We do not believe that Level A harassment is a likely outcome for any mid-frequency cetacean, otariid pinniped, or phocid pinniped and do not propose to authorize any Level A harassment for these species. Any estimated exposures above Level A harassment criteria are assumed to be takes by Level B harassment instead (see Table 6).

Marine Mammal Occurrence

Information about the presence, density, and group dynamics of marine mammals that informs the take calculations was provided in our notice of proposed IHA (85 FR 45389; July 28, 2020). That information is not re-printed here. For additional detail, please see the proposed IHA notice and Appendix B of L–DEO's application. Density values are provided in Table B–1 of L–DEO's application. No new information is available since we published the notice of proposed IHA, and no changes have been made, other than those described in the Changes from the Proposed IHA section, provided previously in this document.

The Marine Mammal Commission noted several concerns with the density values used for Steller sea lions. As noted by the Commission, L–DEO used data from Department of the Navy (2014), which relied on abundance estimates from the 2008 stock assessment report divided by an area. The Commission raised the following issues: (1) Abundance estimates have increased since the 2008 SAR and the original estimates were based on portions of the eastern stock of Steller sea lions that would not occur in L–DEO's survey area; (2) the density value should be corrected on the basis of telemetry data, as done in Department of the Navy (2019); and (3) true density estimates may be even greater in shallow waters near critical habitat areas. For these reasons, the Commission recommended use of a corrected, revised density value of 0.0392 sea lions/km^2 in shallow- and intermediate-water depths, while retaining the estimate of 0.0098 sea lions/km^2 in deep water. NMFS concurred with the recommendation and the take calculations for shallow- and intermediate-water depths were revised accordingly.

In addition, as described in Changes from the Proposed IHA, NMFS was made aware of the potential occurrence of Sato's beaked whale (a newly described species previously considered to be a conspecific form of Baird's beaked whale) in the survey area and added a nominal amount of take in the form of one mean group size. This inclusion likely represents an overestimate of actual take, as occurrence of Sato's beaked whale would have been accounted for in the existing density estimates for Baird's beaked whale. However, we determined it appropriate to acknowledge the presence and potential exposure of this new species.

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 Level A or Level B harassment, radial distances from the airgun array to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A and Level B harassment thresholds. The distance for the 160-dB threshold (based on L–DEO model results) was used to draw a buffer around every transect line in a geographic information system (GIS) to determine the total ensonified area in each depth category. Estimated incidents of exposure above Level A and Level B harassment criteria are presented in Table 6. As noted previously, L–DEO has added 25 percent in the form of operational days, which is equivalent to adding 25 percent to the proposed line-kms to be surveyed. This accounts for the possibility that additional operational days are required, but likely results in an overestimate of actual exposures.

The estimated marine mammal exposures above harassment thresholds are generally assumed here to equate to take, and the estimates form the basis for our take authorization numbers. For the species for which NMFS does not expect there to be a reasonable potential for take by Level A harassment to occur, *i.e.,* mid-frequency cetaceans and all pinnipeds, the estimated exposures above Level A harassment thresholds have been added to the estimated exposures above the Level B harassment threshold to produce a total number of incidents of take by Level B harassment that is authorized. Estimated exposures and authorized take numbers are shown in Table 6. Regarding humpback whale take numbers, we assume that whales encountered will follow Wade (2017), *i.e.,* that 86.8 percent of takes would accrue to the Hawaii DPS, 11 percent to the Mexico DPS, and 2.1 percent to the WNP DPS. Of the estimated take of gray whales, we assume that 1.1 percent of encountered whales would be from the WNP stock (Carretta et al., 2019) and authorize take accordingly.

Importantly, as described in the Changes from the Proposed IHA section, revised take numbers have been produced after accounting for modification of planned tracklines to avoid take of sea otters and to maintain a larger buffer around specific Steller sea lion haul-outs and rookeries. Aside from the change to Steller sea lion density in shallow- and intermediate-depth waters and the addition of take of Sato's beaked whale, all changes to take numbers from the notice of proposed IHA result from revised calculations accounting for these shifts in planned tracklines.

TABLE 6—ESTIMATED TAKING BY LEVEL A AND LEVEL B HARASSMENT, AND PERCENTAGE OF POPULATION

Species	Stock [1]	Estimated Level A harassment	Estimated Level B harassment	Authorized Level A harassment	Authorized Level B harassment	Total take	Percent of stock [1]
North Pacific right whale [2]	.....	0	0	0	2	2	6.5
Humpback whale	WNP	106	1,842	106	1,842	1,948	176.0
	CNP	.....	.....	.....	.....	.....	19.3
Blue whale	.....	2	23	2	23	25	1.7
Fin whale [5]	.....	104	1,650	104	1,650	1,754	n/a
Sei whale	.....	0	5	0	5	5	1.0
Minke whale [5]	.....	2	27	2	27	29	n/a
Gray whale	ENP	1	61	1	61	62	0.2
	WNP	0	1	0	1	1	0.3
Sperm whale [5]	.....	0	43	0	43	43	n/a
Baird's beaked whale [5]	.....	0	24	0	24	24	n/a
Sato's beaked whale [5]	.....	.....	.....	0	9	9	n/a
Stejneger's beaked whale [3 5]	.....	0	47	0	47	47	n/a
Cuvier's beaked whale [5]	.....	0	106	0	106	106	n/a
Pacific white-sided dolphin	.....	2	1,000	0	1,002	1,002	3.7
Northern right whale dolphin [3]	.....	.....	.....	0	58	58	0.2
Risso's dolphin [3]	.....	0	0	0	22	22	0.3
Killer whale	Offshore	0	141	0	141	141	47.0
	Transient	.....	.....	.....	.....	.....	24.0
	Resident	.....	.....	.....	.....	.....	6.0
Dall's porpoise	.....	157	4,312	157	4,312	4,469	5.4
Harbor porpoise	.....	23	679	23	679	702	1.5
Northern fur seal	.....	1	788	0	789	789	0.1
Steller sea lion	.....	2	907	0	909	909	1.7
Northern elephant seal	.....	1	105	0	106	106	0.1
Harbor seal	.....	1	148	0	149	149	2.7
Spotted seal [4]	.....	.....	.....	0	5	5	0.0
Ribbon seal [4]	.....	.....	.....	0	5	5	0.0

[1] In most cases, where multiple stocks are being affected, for the purposes of calculating the percentage of the stock impacted, the take is being analyzed as if all takes occurred within each stock. Where necessary, additional discussion is provided in the "Small Numbers Analysis" section.

[2] In the notice of proposed IHA, estimated exposure of one whale was increased to group size of two (Shelden *et al.,* 2005; Waite *et al.,* 2003; Wade *et al.,* 2011). Following revision of the take estimates, no exposures of North Pacific right whale are predicted. We retain the take number, reflecting potential exposure of one group of two whales.

[3] L–DEO requested authorization of northern right whale dolphin take equivalent to exposure of one group. In the notice of proposed IHA, estimated exposure of one Risso's dolphin was increased to group size of 22. Following revision of the take estimates, no exposures of Risso's dolphin are predicted. We retain the take number, reflecting potential exposure of one group of 22 dolphins. Take of Sato's beaked whale reflects mean group size information for Baird's beaked whale. Group sizes for these species follow Barlow (2016).

[4] L–DEO requested authorization of five takes each of spotted seal and ribbon seal.

[5] As noted in Table 1, there is no estimate of abundance available for these species.

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.

As described previously, L–DEO agreed to modify certain tracklines in order to reduce the number and intensity of acoustic exposures of Steller sea lions in waters around the specific haul-outs and rookeries of greatest importance for the stock. Tracklines were modified to ensure that the vessel maintains a standoff distance sufficient to prevent the assumed Level B harassment zone from overlapping with a 3,000-ft (0.9-km) buffer around those haul-outs and rookeries.

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSO)) to scan the ocean surface for the presence of marine mammals. The area to be scanned visually includes primarily the exclusion zone, within which observation of certain marine mammals requires shutdown of the acoustic source, but also a buffer zone. The buffer zone means an area beyond the exclusion zone to be monitored for the presence of marine mammals that may enter the exclusion zone. During pre-clearance monitoring (*i.e.,* before ramp-up begins), the buffer zone also acts as an extension of the exclusion zone in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.,* ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 m exclusion zone, out to a radius of 1,000 m from the edges of the airgun array (500–1,000 m). Visual monitoring of the exclusion zone and adjacent waters is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring closer to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to naïve marine mammals that may be in the area during pre-clearance, and (2) during airgun use, aid in establishing and maintaining the exclusion zone by alerting the visual observer and crew of marine mammals that are outside of, but may approach and enter, the exclusion zone.

L–DEO must use dedicated, trained, NMFS-approved PSOs. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

At least one of the visual and two of the acoustic PSOs (discussed below) aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two visual PSOs 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). Visual monitoring of the exclusion and buffer zones must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the exclusion and buffer zones. These zones shall be based upon the radial distance from the edges of the acoustic source (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.,* anytime airguns are active, including ramp-up), detections of marine mammals within the buffer zone (but outside the exclusion zone) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source.

During use of the airgun (*i.e.,* anytime the acoustic source is active, including ramp-up), detections of marine mammals within the buffer zone (but outside the exclusion zone) should be communicated to the operator to prepare for the potential shutdown of the acoustic source. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall 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, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Passive Acoustic Monitoring

Acoustic monitoring means the use of trained personnel (sometimes referred to as passive acoustic monitoring (PAM) operators, herein referred to as acoustic PSOs) to operate PAM equipment to acoustically detect the presence of marine mammals. Acoustic monitoring involves acoustically detecting marine mammals regardless of distance from the source, as localization of animals may not always be possible. Acoustic monitoring is intended to further support visual monitoring (during daylight hours) in maintaining an exclusion zone around the sound source that is clear of marine mammals. In cases where visual monitoring is not effective (*e.g.,* due to weather, nighttime), acoustic monitoring may be used to allow certain activities to occur, as further detailed below.

PAM would take place in addition to the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual PSOs (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. It would be monitored in real time so that the visual observers can be advised when cetaceans are detected.

The R/V *Langseth* will use a towed PAM system, which must be monitored by at a minimum one on duty acoustic PSO beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source. Acoustic PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (acoustic and visual but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional five hours without acoustic monitoring during daylight hours only under the following conditions:

- Sea state is less than or equal to Beaufort sea state (BSS) 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the applicable exclusion zone in the previous two hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and
- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of five hours in any 24-hour period.

Establishment of Exclusion and Buffer Zones

An exclusion zone (EZ) is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs will establish a minimum EZ with a 500-m radius. The 500-m EZ is based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the acoustic source will be shut down.

The 500-m EZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m EZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions.

An extended EZ of 1,500 m must be enforced for all beaked whales. No buffer of this extended EZ is required.

Pre-Clearance and Ramp-Up

Ramp-up (sometimes referred to as ''soft start'') means the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up begins by first activating a single airgun of the smallest volume, followed by doubling the number of active elements in stages until the full complement of an array's airguns are active. Each stage should be approximately the same duration, and the total duration should not be less than approximately 20 minutes. The intent of pre-clearance observation (30 minutes) is to ensure no protected species are observed within the buffer zone prior to the beginning of ramp-up. During pre-clearance is the only time observations of protected species in the buffer zone would prevent operations (*i.e.,* the beginning of ramp-up). The intent of ramp-up is to warn protected species of pending seismic operations and to allow sufficient time for those animals to leave the immediate vicinity. A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. All operators must adhere to the following pre-clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the exclusion and buffer zones for 30 minutes prior to the initiation of ramp-up (pre-clearance);
- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;
- One of the PSOs conducting pre-clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;
- Ramp-up may not be initiated if any marine mammal is within the applicable exclusion or buffer zone. If a marine mammal is observed within the applicable exclusion zone or the buffer zone during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes and

pinnipeds, and 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as killer whales and Risso's dolphins);

- Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration shall not be less than 20 minutes. The operator must provide information to the PSO documenting that appropriate procedures were followed;
- PSOs must monitor the exclusion and buffer zones during ramp-up, and ramp-up must cease and the source must be shut down upon detection of a marine mammal within the applicable exclusion zone. Once ramp-up has begun, detections of marine mammals within the buffer zone do not require shutdown, but such observation shall be communicated to the operator to prepare for the potential shutdown;
- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances;
- If the acoustic source is shut down for brief periods (*i.e.,* less than 30 minutes) for reasons other than that described for shutdown (*e.g.,* mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of marine mammals have occurred within the applicable exclusion zone. For any longer shutdown, pre-clearance observation and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required, but if the shutdown period was brief and constant observation was maintained, pre-clearance watch of 30 minutes is not required; and
- Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance of 30 min.

Shutdown

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable exclusion zone. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual and acoustic PSOs are on duty, all detections will be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs. When the airgun array is active (*i.e.,* anytime one or more airguns is active, including during ramp-up) and (1) a marine mammal appears within or enters the applicable exclusion zone and/or (2) a marine mammal (other than delphinids, see below) is detected acoustically and localized within the applicable exclusion zone, the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation. Additionally, shutdown will occur whenever PAM alone (without visual sighting), confirms presence of marine mammal(s) in the EZ. If the acoustic PSO cannot confirm presence within the EZ, visual PSOs will be notified but shutdown is not required.

Following a shutdown, airgun activity will not resume until the marine mammal has cleared the 500-m EZ. The animal would be considered to have cleared the 500-m EZ if it is visually observed to have departed the 500-m EZ, or it has not been seen within the 500-m EZ for 15 min in the case of small odontocetes and pinnipeds, or 30 min in the case of mysticetes and large odontocetes, including sperm whales, beaked whales, killer whales, and Risso's dolphins.

The shutdown requirement can be waived for small dolphins if an individual is visually detected within the exclusion zone. As defined here, the small dolphin group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement applies solely to specific genera of small dolphins (*Lagenorhynchus* and *Lissodelphis*).

We include this small dolphin exception because shutdown requirements for small dolphins under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small dolphins are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* PTS).

A large body of anecdotal evidence indicates that small dolphins commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (*e.g.,* Barkaszi *et al.,* 2012, 2018). The potential for increased shutdowns resulting from such a measure would require the *Langseth* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.,* large delphinids) are no more likely to incur auditory injury than are small dolphins, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger exclusion zone).

Upon implementation of shutdown, the source may be reactivated after the marine mammal(s) has been observed exiting the applicable exclusion zone (*i.e.,* animal is not required to fully exit the buffer zone where applicable) or following 15 minutes for small

odontocetes and pinnipeds, and 30 minutes for mysticetes and all other odontocetes, including sperm whales, beaked whales, killer whales, and Risso's dolphins, with no further observation of the marine mammal(s).

L–DEO must implement shutdown if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the takes have been met, approaches the Level A or Level B harassment zones. L–DEO must also implement shutdown if any of the following are observed at any distance:

- Any large whale (defined as a sperm whale or any mysticete species) with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult);
- An aggregation of six or more large whales; and/or
- A North Pacific right whale.

Vessel Strike Avoidance

1. Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal.

2. Vessel speeds must also be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.

3. All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.

4. All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.

5. All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other protected species, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).

6. When protected species are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If protected species are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

7. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

We have carefully evaluated the suite of mitigation measures described here and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of the proposed measures, as well as other measures considered by NMFS described above, 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 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.

Vessel-Based Visual Monitoring

As described above, PSO observations will take place during daytime airgun operations. During seismic operations, at least five visual PSOs would be based aboard the *Langseth.* Two visual PSOs would be on duty at all time during daytime hours. Monitoring shall be conducted in accordance with the following requirements:

- The operator shall provide PSOs with bigeye binoculars (*e.g.,* 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel; and
- The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals. PSOs must have the following requirements and qualifications:
- PSOs shall be independent, dedicated, trained visual and acoustic

PSOs and must be employed by a third-party observer provider;

- PSOs shall have no tasks other than to conduct observational effort (visual or acoustic), collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards);
- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic). Acoustic PSOs are required to complete specialized training for operating PAM systems and are encouraged to have familiarity with the vessel with which they will be working;
- PSOs can act as acoustic or visual observers (but not at the same time) as long as they demonstrate that their training and experience are sufficient to perform the task at hand;
- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;
- NMFS shall have one week to approve PSOs from the time that the necessary information is submitted, after which PSOs meeting the minimum requirements shall automatically be considered approved;
- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;
- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and
- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within one week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

For data collection purposes, PSOs shall use standardized data collection forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel names (source vessel and other vessels associated with survey) and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Date and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*).

The following information should be recorded upon visual observation of any protected species:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach and/or closest distance from any element of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up) and time and location of the action.

If a marine mammal is detected while using the PAM system, the following information should be recorded:

- An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
- Date and time when first and last heard;
- Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and
- Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

Reporting

A report must be submitted to NMFS within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report must summarize the dates and locations of seismic operations, all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and all information required to be collected (as listed in the preceding section).

The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as described above and in the IHA. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in survey activities covered by the authorization discover an injured or dead marine mammal, the L–DEO shall report the incident to the Office of Protected Resources (OPR), NMFS and to the NMFS Alaska Regional Stranding Coordinator 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.

Vessel strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, L–DEO shall report the incident to OPR, NMFS and to the NMFS Alaska Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- 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 measure 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;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the animal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present 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).

Actions To Minimize Additional Harm to Live-Stranded (or Milling) Marine Mammals

In the event of a live stranding (or near-shore atypical milling) event within 50 km of the survey operations, where the NMFS stranding network is engaged in herding or other interventions to return animals to the water, the Director of OPR, NMFS (or designee) will advise L–DEO of the need to implement shutdown procedures for all active acoustic sources operating within 50 km of the stranding. Shutdown procedures for live stranding or milling marine mammals include the following: If at any time, the marine mammal the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, the Director of OPR, NMFS (or designee) will advise the IHA-holder that the shutdown around the animals' location is no longer needed. Otherwise, shutdown procedures will remain in effect until the Director of OPR, NMFS (or designee) determines and advises L–DEO that all live animals involved have left the area (either of their own volition or following an intervention).

If further observations of the marine mammals indicate the potential for re-stranding, additional coordination with the IHA-holder will be required to determine what measures are necessary to minimize that likelihood (*e.g.,* extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

Additional Information Requests—if NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted, and an investigation into the stranding is being pursued, NMFS will submit a written request to L–DEO indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information:

- Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and
- If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.,* within 48 hours and 50 km) and immediately after the discovery of the stranding.

In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

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 species listed in Tables 1, given that NMFS expects the anticipated effects of the planned geophysical survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality would occur as a result of L–DEO's planned survey, even in the absence of mitigation, and none is authorized. Similarly, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We are authorizing a limited number of instances of Level A harassment of seven species (low- and high-frequency cetacean hearing groups only) and Level B harassment only of the remaining marine mammal species. However, we believe that any PTS incurred in marine mammals as a result of the planned activity would be in the form of only a small degree of PTS, not total deafness, because of the constant movement of both the R/V *Langseth* and of the marine mammals in the project areas, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time. Since the duration of exposure to loud sounds will be relatively short it would be unlikely to affect the fitness of any individuals. Also, as described above, we expect that marine mammals would likely move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the R/V *Langseth's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007, Ellison *et al.,* 2012).

Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Prey species are mobile and are broadly distributed throughout the project areas; 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 relatively short duration (16 days) and temporary nature of the disturbance, 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.

The tracklines of this survey either traverse or are proximal to critical habitat areas for the Steller sea lion and to a feeding BIA for humpback whales. However, only a portion of seismic survey days would actually occur in or near these areas. As described previously, L–DEO's planned tracklines do not extend within 3 nmi of any island, and L–DEO has agreed to reduce the active array by half of the elements, also reducing the total array volume by half, over the 10 percent of planned tracklines that are closest to shore. Finally, L–DEO has agreed to maintain a standoff distance around specific Steller sea lion haul-outs and rookeries such that the modeled Level B harassment zone would not overlap a 3,000-ft (0.9-km) buffer around those areas. Impacts to Steller sea lions within these areas, and throughout the survey area, are expected to be limited to short-term behavioral disturbance, with no lasting biological consequences.

Yazvenko *et al.* (2007b) reported no apparent changes in the frequency of feeding activity in Western gray whales exposed to airgun sounds in their feeding grounds near Sakhalin Island. Goldbogen *et al.* (2013) found blue whales feeding on highly concentrated prey in shallow depths (such as the conditions expected within humpback feeding BIAs) were less likely to respond and cease foraging than whales feeding on deep, dispersed prey when exposed to simulated sonar sources, suggesting that the benefits of feeding for humpbacks foraging on high-density prey may outweigh perceived harm from the acoustic stimulus, such as the seismic survey (Southall *et al.,* 2016). Additionally, L–DEO will shut down the airgun array upon observation of an aggregation of six or more large whales, which would reduce impacts to cooperatively foraging animals. For all habitats, no physical impacts to habitat are anticipated from seismic activities. While SPLs of sufficient strength have been known to cause injury to fish and fish and invertebrate mortality, in feeding habitats, the most likely impact to prey species from survey activities would be temporary avoidance of the affected area and any injury or mortality of prey species would be localized around the survey and not of a degree that would adversely impact marine mammal foraging. The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution and behavior is expected. Given the short operational seismic time near or traversing important habitat areas, as well as the ability of cetaceans and prey species to move away from acoustic sources, NMFS expects that there would be, at worst, minimal impacts to animals and habitat within these areas.

Negligible Impact Conclusions

The survey will be of short duration (16 days of seismic operations), and the acoustic ''footprint'' of the survey will be small relative to the ranges of the marine mammals that would potentially be affected. Sound levels will increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the survey area. Short-term exposures to survey operations are not likely to significantly disrupt marine mammal behavior, and the potential for longer-term avoidance of important areas is limited. The survey vessel would pass Steller sea lion critical habitat only briefly, and would operate at half volume during the ten percent of tracklines closest to the islands.

The required mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures

via shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the mitigation will be effective in preventing, at least to some extent, potential PTS in marine mammals that may otherwise occur in the absence of the mitigation (although all authorized PTS has been accounted for in this analysis).

NMFS concludes that exposures to marine mammal species and stocks due to L–DEO's survey will result in only short-term (temporary and short in duration) effects to individuals exposed, over relatively small areas of the affected animals' ranges. Animals 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 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 serious injury or mortality is anticipated or authorized;
- The activity is temporary and of relatively short duration (16 days);
- The anticipated impacts of the activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel;
- The number of instances of potential PTS that may occur are expected to be very small in number. Instances of potential PTS that are incurred in marine mammals are expected to be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the survey to avoid exposure to sounds from the activity;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the survey will be temporary and spatially limited, and impacts to marine mammal foraging will be minimal; and
- The mitigation measures, including visual and acoustic monitoring, shutdowns, and use of the reduced array in certain areas adjacent to Steller sea lion critical habitat are expected to minimize potential impacts to marine mammals (both amount and severity).

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 mitigation and monitoring 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. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

There are several stocks for which the estimated instances of take appear high when compared to the stock abundance (Table 6), or for which there is no currently accepted stock abundance estimate. These include the humpback whale, fin whale, minke whale, sperm whale, four species of beaked whale, and the offshore stock of killer whales. However, when other qualitative factors are used to inform an assessment of the likely number of individual marine mammals taken, the resulting numbers are appropriately considered small. We discuss these in further detail below.

For all other stocks (aside from those referenced above and discussed below), the authorized take is less than one-third of the best available stock abundance (recognizing that some of those takes may be repeats of the same individual, thus rendering the actual percentage even lower).

Existing stock abundance estimates for humpback whales, based on 2006 surveys, are 10,103 animals for the CNP stock and 1,107 animals for the WNP stock. If all takes are assumed to accrue to the WNP stock, the resulting percentage would not be a small number. Here, we refer to additional pieces of information that demonstrate the authorized taking to be of no greater than small numbers. First, Wade (2017) provides a more recent estimate of 14,693 whales for the summer (feeding area) abundance in the Aleutian Islands and Bering Sea, which includes the survey area. The total estimated take of humpback whale (1,948 take incidents) would be 13.3 percent of this estimated summer abundance, *i.e.,* less than NMFS' small numbers threshold of one-third of the best available abundance estimate. Second, we expect that only 2.1 percent of whales encountered in this area would be from the WNP DPS. If we consider the WNP DPS to be a reasonable approximation of the historic WNP stock designation, then approximately 41 takes should be expected to accrue to the stock (or approximately 3.7 percent of the 2006 abundance estimate for the WNP stock). This information supports a determination that the take authorization for humpback whales would be of no greater than small numbers, for any stock.

The stock abundance estimates for the fin, minke, beaked, and sperm whale stocks that occur in the survey area are unknown, according to the latest SARs. Therefore, we reviewed other scientific information in making our small numbers determinations for these species. As noted previously, partial abundance estimates of 1,233 and 2,020 minke whales are available for shelf and nearshore waters between the Kenai Peninsula and Amchitka Pass and for the eastern Bering Sea shelf, respectively. For the minke whale, these partial abundance estimates alone are sufficient to demonstrate that the take number of 29 is of small numbers. The same surveys produced partial abundance estimates of 1,652 and 1,061 fin whales, for the same areas, respectively. For the fin whale, we must turn to the only available region-wide abundance estimate. Ohsumi and Wada (1974) provided an estimated North Pacific abundance of 13,620–18,680 whales. Using the lower bound produces a proportion of 12.9 percent.

As noted previously, Kato and Miyashita (1998) produced an abundance estimate of 102,112 sperm whales in the western North Pacific. However, this estimate is believed to be positively biased. We therefore refer to Barlow and Taylor (2005)'s estimate of 26,300 sperm whales in the northeast temperate Pacific to demonstrate that the take number of 43 is a small number. There is no abundance information available for any Alaskan stock of beaked whale. However, the take numbers are sufficiently small (ranging from 9–106) that we can safely

assume that they are small relative to any reasonable assumption of likely population abundance for these stocks. For reference, current abundance estimates for other Pacific beaked whale stocks include 3,044 Mesoplodont beaked whales (California/Oregon/Washington stock), 3,274 Cuvier's beaked whales (CA/OR/WA stock), 2,105 Blainville's beaked whales (Hawaii Pelagic stock), 7,619 Longman's beaked whales (Hawaii stock), and 723 Cuvier's beaked whales (HI Pelagic stock).

For the offshore stock of killer whale, it would be unreasonable to assume that all takes would accrue to this stock (which would result in the take of 47 percent of the population). During surveys from the Kenai Fjords to Amchitka Pass in the central Aleutian Islands, 59 groups totaling 1,038 individual killer whales were seen, including 39 (66 percent) residents, 14 (24 percent) transients, 2 (3 percent) offshore, and 4 (7 percent) unknown (Wade *et al.,* 2003). Based on this information, we assume it relatively unlikely that encountered killer whales will be of the offshore stock, and that take of offshore killer whales, if any, would be of small numbers.

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 is some sealing by indigenous groups in the survey area in the Aleutian Islands. However, given the temporary nature of the planned activities and the fact that all operations would occur more than 3 nmi from shore, the activity would not be expected to have any impact on the availability of the species or stocks for subsistence users. L–DEO conducted outreach to the Aleut Marine Mammal Commission and to the Alaska Sea Otter and Steller Sea Lion Commission to notify subsistence hunters of the planned survey, to identify the measures that would be taken to minimize any effects on the availability of marine mammals for subsistence uses, and to provide an opportunity for comment on these measures. L–DEO received confirmation from the Aleut Marine Mammal Commissioners that there were no concerns regarding the potential effects of the planned survey on the potential availability of marine mammals for subsistence uses. NMFS is unaware of any other subsistence uses of the affected marine mammal stocks or species that could be 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

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), the National Science Foundation prepared an Environmental Analysis (EA) to consider the direct, indirect, and cumulative effects to the human environment from this marine geophysical survey in the Aleutian Islands. NSF's EA was made available to the public for review and comment in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to L–DEO. In compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has reviewed the NSF's EA, determined it to be sufficient, and adopted that EA and signed a Finding of No Significant Impact (FONSI). NSF's EA is available at *www.nsf.gov/geo/oce/envcomp/,* and NMFS' FONSI is available at *www.fisheries.noaa.gov/action/incidental-take-authorization-lamont-doherty-earth-observatory-marine-geophysical-survey-2.*

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.

The NMFS Office of Protected Resources (OPR) ESA Interagency Cooperation Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to L–DEO under section 101(a)(5)(D) of the MMPA by the NMFS OPR Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of the sei whale, fin whale, blue whale, sperm whale, humpback whale (Western North Pacific DPS and Mexico DPS), western North Pacific gray whale, and western DPS of Steller sea lion.

Authorization

As a result of these determinations, NMFS has issued an IHA to L–DEO for conducting a marine geophysical survey in the Aleutian Islands beginning in September 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 2, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–19815 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA426]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council (CFMC) will hold its 171st public meeting (virtual) to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The CFMC 171st public meeting (virtual) will be held on September 25, 2020, from 9 a.m. to 3 p.m. The meeting will be at Eastern Day Time.

ADDRESSES: You may join the CFMC 171st public meeting (virtual) via GoToMeeting from a computer, tablet or smartphone by entering the following address:

CFMC September 25, 2020, 9 a.m. to 3 p.m.

Please join the meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/971749317*

You can also dial in using your phone.

United States: +1 (408) 650–3123.

Access Code: 971–749–317.

New to GoToMeeting? Get the app now and be ready when the first meeting starts:

https://global.gotomeeting.com/install/971749317

In case there are problems with GoToMeeting, and we cannot reconnect

via GoToMeeting, the meeting will continue via Google Meet.

By Google Meet on Sept. 25, 2020, 9 a.m., follow this link:

https://calendar.google.com/calendar/r/eventedit/copy/NDdzYXU5OWdrMDZsZzJnNmJlMW1pczVlbzQgbWlndWVsYXIyOUBt/bWlndWVsYXIyOUBnbWFpbC5jb20?pli=1&sf=true

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

Tentative Agenda

9 a.m.–12 p.m.—Five-Year Strategic Plan—Dr. Michelle Duval
12 p.m.–1 p.m.—Lunch Break
1 p.m.–2:30 p.m.—Executive Order on Promoting American Seafood Competitiveness and Economic Growth (May 7, 2020)
2:30 p.m.–2:45 p.m.—Other Business
2:45 p.m.–3 p.m.—5-minutes Public Comments/Presentations

The CFMC is interested in hearing feedback on priorities for its Five-Year Strategic Plan (Sept. 25, 2020, 9 a.m.). The list of topics the Council is considering in developing the Strategic Plan, and on which the Council would like feedback include: (1) Resource Health: Invasive species, climate change, erosion & sedimentation, coastal development, natural disasters, habitat loss & destruction, enforcement, pollution, bycatch & discard mortality, abundance of baitfish and forage species, lack of biological or ecosystem information, overfishing, and illegal fishing; (2) Social, Cultural, Economic Concerns: closed seasons and stock assessment, valuation and assessment of area closures, increasing costs, competition with foreign fishermen, recreational & commercial user conflicts, displacement of fishing communities, and ability to support a family, illegal/unlicensed commercial fishers, lack of new entrants into fishery, lack of social & economic data, excess gear, market instability, infrastructure needs (landing sites), inadequate enforcement, excess fishing capacity; (3) Management & Operational Issues: accurate/timely commercial and recreational catch data, enforcement of existing regulations, fisher involvement in data collection, regulatory consistency (federal & territorial), clear management objectives, bycatch/regulatory discards, gear limits, cost-effective data collection technology, balancing commercial & recreational concerns, incorporation of climate change into management, Federal permit program, and territorial licensing requirements; and (4) Communication and Outreach: frequency of communication (alerts/reminders of scoping meetings and council meetings), variety of tools used in communication (*e.g.* email, website, social media, paper, text message alerts), educational resources (*e.g.* science & stock assessment, business planning, restaurant choices, etc.), improving general public awareness of fisheries issues, regular in-person outreach workshops on important topics, and clarity and simplicity of presentations.

The order of business may be adjusted as necessary to accommodate the completion of agenda items. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair.

Special Accommodations

Simultaneous interpretation will be provided. To receive interpretation in Spanish you can dial into the meeting as follows:

US/Canada: call +1–888–947–3988, when system answers, enter 1*999996#. Para interpretación en inglés marcar: US/Canada: call +1–888–947–3988, cuando el sistema conteste, entrar el siguiente número 2*999996#.

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 226–8849.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19909 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA402]

Pacific Ocean AquaFarms Environmental Impact Statement

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

ACTION: Notice of intent to prepare an Environmental Impact Statement; request for comments.

SUMMARY: NOAA is publishing this Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed development of a commercial-scale finfish aquaculture facility to be located in Federal waters off the coast of southern California. The proposed facility would require two Federal permits: A Section 402 Clean Water Act (CWA) permit, and a Section 10 Rivers and Harbor Act (RHA) permit, over which the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE), respectively, have authority. The EPA and USACE will act as cooperating agencies for purposes of this EIS. This NOI initiates the public scoping process for the EIS during which time interested parties are invited to provide comments on the proposed project, its potential to effect the human environment, means for avoiding, minimizing, or mitigating those effects, the preliminary reasonable range of alternatives, and any additional reasonable alternatives that should be considered.

DATES: Written comments on the scope of the analysis to be considered in the draft EIS must be submitted no later than October 26, 2020.

Two public meetings (in webinar format) are scheduled for October 14, 2020 at 3 p.m.–5 p.m. Pacific Daylight Time and October 16, 2020 at 1 p.m.–3 p.m. Pacific Daylight Time.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0117, by using the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2020–0117. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

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

The webinar link for October 14 and 16, 2020, is *https://bit.ly/34sj1UT*. You

may also participate by phone toll-free at 844–621–3956 with access code: 146 738 1449.

FOR FURTHER INFORMATION CONTACT: Steve Leathery, National NEPA Coordinator, NMFS; phone: 301–427–8013; email: *poa.eis@noaa.gov*; or website: *https://www.fisheries.noaa.gov/national/aquaculture/pacific-ocean-aquafarms-environmental-impact-statement*.

SUPPLEMENTARY INFORMATION: As required by the National Environmental Policy Act (NEPA), the EIS will analyze the environmental consequences of implementing each of the alternatives, if carried forward for full review following public scoping, by assessing the direct, indirect, and cumulative effects of each alternative on the human environment. This EIS will be prepared in accordance with the requirements of NEPA and implementing regulations published by the Council on Environmental Quality in 1978, and amended in 1986 and 2005 (40 CFR parts 1500–1508).

Background

Pacific Ocean AquaFarms (POA), the applicant, proposes to construct, operate, and maintain an offshore marine finfish aquaculture operation comprised of floating surface pens in Federal waters located approximately 4 nautical miles (7.4 kilometers) off the coast of San Diego, California. To identify a site for the proposed action, POA sought spatial analysis expertise from the NOAA National Ocean Service (NOS) to identify potential offshore locations that would be technically and commercially feasible while minimizing environmental effects. The technical and commercial parameters for the proposed project were established by the applicant to identify potential sites. Those parameters included, but were not limited to the following:

- Within 35 nautical miles (65 kilometers) of suitable port(s);
- *Minimum and Maximum Depth to Seafloor:* ≥ 100 feet (30 meters) and < 495 feet (150 meters);
- *Suitability for Species:* California yellowtail (*Seriola dorsalis*)—(other native or naturalized species may also be cultivated that have the same requirements for temperature, space, and other fixed parameters); and
- *Gear Type*: Submersible net pen.

The NOS siting analysis included review of other engineering, development, and environmental constraints, including but not limited to presence of submarine cables, oil and gas infrastructure or leases, squid and trawl fisheries, wastewater treatment discharge structures, shipping lanes and high vessel traffic areas, marine protected areas, deep sea corals and hard bottom habitat, and marine mammal migration routes. The siting analysis included a review by the U.S. Department of Defense (DoD) to ensure that potential sites avoided areas of DoD operations in Federal waters, which are extensive offshore of southern California.

POA and NOS identified a site that best meets the technical, commercial, and environmental parameters within an area located approximately 4 nautical miles (7.4 kilometers) offshore of San Diego, California. Following initial site identification, POA coordinated with local U.S. Navy commands and organizational units and received informal approval from the DoD.

NOAA has directives to preserve ocean sustainability and facilitate domestic aquaculture in the U.S. consistent with the National Aquaculture Act of 1980, the NOAA Marine Aquaculture Policy (2011), and Presidential Executive Order 13921—''Promoting American Seafood Competitiveness and Economic Growth'' (May 7, 2020) through, among other things, providing technical expertise and supporting environmental review and permitting of commercial scale aquaculture proposals. NOAA may also be called upon to engage in consultations, permitting, and authorization for such projects under the Endangered Species Act, the Magnuson-Stevens Fishery Management and Conservation Act, and the Marine Mammal Protection Act.

Purpose and Need

The proposed Federal action includes decisions on two permits under the respective authorities of the EPA and the USACE as required to site, install, and operate the proposed aquaculture facility. The EPA's proposed Federal action is the issuance, if appropriate, of a National Pollutant Discharge Elimination System (NPDES) permit, which would authorize effluent discharge from an aquatic animal production facility because such discharges are considered a point source discharge into waters of the U.S. The USACE's proposed Federal action is the issuance, if appropriate, of a permit pursuant to Section 10 of the RHA that authorizes structures and work in navigable waters of the U.S.

Agency Purpose and Need

The EPA has authority to issue NPDES permits pursuant to Section 402 of the CWA and regulations at 40 CFR part 125, subpart M. Under Section 402, all point sources that discharge directly into U.S. waters are required to obtain an NPDES permit from the EPA. Each NPDES permit specifies effluent limitations for particular pollutants, as well as monitoring and reporting requirements for the proposed discharge. POA intends to apply for a NPDES permit from the EPA. Because the POA facility is proposed in Federal waters, it requires a NPDES permit to operate and the EPA will evaluate POA's permit application pursuant to the CWA and implementing regulations. The NPDES permit, if issued, would authorize POA to discharge pollutants into waters of the U.S. The EPA has a statutory responsibility to respond to applicant requests for NPDES permits. EPA is required to review applications and, if appropriate, issue NPDES permits under the CWA.

The USACE has authority to issue permits pursuant to Section 10 of the RHA and regulations at 33 CFR parts 320–332. Prior authorization (a permit) is required for installation of structures and work in, over, or under navigable waters of the U.S. This will require evaluation of impacts to navigation and public interests. The USACE's proposed Federal action is a direct outcome of POA's permit application to establish and operate a commercial-scale finfish facility in marine waters off the southern California coast; thus, the purpose of USACE's action is to evaluate POA's application pursuant to the RHA. The USACE has a statutory responsibility to respond to applicant requests for Section 10 permits. USACE is required to review applications and, if appropriate, issue permits under Section 10 of the RHA.

Applicant Purpose and Need

The applicant's stated purpose of the proposed project is to construct and operate a new commercial-scale, offshore finfish aquaculture facility in the U.S. Exclusive Economic Zone (EEZ) off the southern California coast.

The United Nations estimates that the world population will reach approximately 9.7 billion people by the year 2050, and approximately 11.0 billion people by the year 2100. With this approximate 26 to 43 percent growth in population, the demand for food (and protein) will also grow proportionally. Terrestrial meat production cannot support this demand without significant land use and environmental consequences.

The U.S. has the world's largest EEZ including a wide range of habitats and farmable species with the resultant potential to support large stocks of wild fish species and extensive offshore aquaculture operations to provide

additional protein sources for the U.S. and exports. However, many wild fisheries within the EEZ are at, or near, maximum sustainable yield and the U.S. is one of the world's largest importers of fish and fishery products. By weight, greater than 85 percent of the seafood Americans eat comes from abroad, over half of it from aquaculture. The U.S. is ranked 17th in the world for aquaculture production as of 2018, contributing to an annual $16.8 billion seafood industry trade deficit.

By operating in U.S. waters, POA would be under U.S. regulatory oversight. Data generated and collected from the aquaculture facility could provide multiple benefits to government agencies, universities, fisheries managers, and the scientific community. Such a commercial-scale, offshore aquaculture facility would provide an opportunity for study, new technology development, and transferable knowledge and would be the first of its kind in California waters.

Preliminary Reasonable Range of Alternatives for Consideration

NOAA has identified a proposed action and preliminary alternatives for potential consideration in the draft EIS. Both a no-action and several preliminary action alternatives are presented for consideration for public review and comment. NOAA is also soliciting additional alternatives for consideration.

No-Action Alternative

Under the no-action alternative, the EPA and USACE would not issue permits and the applicant would not be authorized to construct or operate a finfish aquaculture facility offshore of southern California; and the project's direct, indirect, and cumulative impacts would not occur. Under the no-action alternative, the proposed project would not take place, however the resulting environmental effects of no action would be compared with the effects of allowing the proposed project or an alternate project to go forward.

Reasonable Range of Action Alternatives

Action alternatives describe potential alternative approaches to achieve the defined purpose and need of the proposed action. NOAA is considering the following action alternatives at this time: The San Diego Site Alternative (applicant's proposed action), Long Beach Site Alternative, and Half-Scale Alternative at either location.

San Diego Site Alternative

POA proposes to construct and operate a new commercial-scale, offshore source of finfish in the U.S. EEZ approximately 4 nautical miles (7.4 kilometers) off the coast of San Diego. An area of approximately 1,000 acres (4 square kilometers) (exact area to be determined based on engineering design) is sited as suitable for potential use; of this, approximately 717 acres (2.9 square kilometers) would be occupied by the project, including a total of 28 submersible pens, anchors and mooring lines, and surface marker buoys. The total area may change relative to the exact location of the pen grids, the relative depth of the pens, and the final engineering requirements that would delineate the location, number, and depth of mooring lines. Initial production is projected to yield 2.2 million pounds (1,000 metric tons) annually growing up to 11 million pounds (5,000 metric tons) after environmental monitoring confirms that each successive scale of expansion has not resulted in any substantial environmental or space-use impacts. California yellowtail (*Seriola dorsalis*) would be the initial cultivated species, as it is native to California waters. Other local species such as white seabass (*Atractoscion nobilis*), may be grown in addition to or in lieu of California yellowtail when the project has become operational under Federal and state permit requirements.

The project would utilize established and tested pen and mooring technologies that are able to withstand storm and rough sea conditions. The POA pen culture system would be constructed of high density poly-ethylene pipe with a suspended copper-alloy mesh to control for fouling organisms and inhibit parasitic infestations. The pens would have an approximately 98.4-foot (30-meter) diameter and 46-foot (14-meter) depth. The mooring system would be designed with 2 pen grids, each containing 2 rows of 7 pens (28 pens total) with grid cell dimensions of 328 feet by 328 feet (100 meters by 100 meters). The mooring system would be made of nylon ropes, galvanized steel shackles, and buoys (surface and subsurface) located at nodes in the grid. Steel chains and anchors or concrete blocks would secure the system to the ocean floor.

Once all applicable permits are obtained, construction of the aquaculture facilities will take approximately 1 year. Stocking of the cages would then occur sometime within the following year with the first commercial harvest occurring 18 to 24 months later. POA would scale up production after initial yields are reached and subject to environmental monitoring. The anticipated maximum production up to 11 million pounds (5,000 metric tons) per year would occur approximately 3 to 6 years after the project is constructed.

Once operational, the aquaculture facility would follow Best Aquaculture Practices set forth by the Aquaculture Stewardship Council (in collaboration with the World Wildlife Foundation) and the Global Aquaculture Alliance. The applicant has proposed to only work with feed suppliers and processing facilities that are Best Aquaculture Practices certified.

Dedicated vessels would haul feed, personnel, and harvested fish to and from the aquaculture facility daily from the Port of San Diego. The vessels would include an offshore feeding system, harvest vessel, multiuse vessel, and a personnel transport vessel. A dedicated harvest vessel would visit the aquaculture facility site at least three times per week at full production to remove fish from the net pens. Actual frequency of use would depend on time of year and harvesting schedule as determined by fish growth and aquaculture facility need.

Landside facilities would include existing facilities and infrastructure at the Port of San Diego. Pier or wharf access would be needed for construction staging and preparation and loading and unloading of feed and harvested fish; occasional access would also be needed to transport juvenile fish to the aquaculture facility, and to accommodate vessel docking or mooring capacity for multiple vessels of various lengths.

Long Beach Site Alternative

This action alternative would construct and operate the POA aquaculture grid arrays offshore at approximately 4 nautical miles (7.4 kilometers) southwest of Sunset Beach in Long Beach. The Long Beach site has not been analyzed by the DoD to receive informal clearance. However, the analysis conducted by NOS included review of DoD spatial data regarding operating areas, ocean disposal areas, unexploded ordnances, danger zones, and restricted areas and adequate surface and seafloor space was identified that avoided these areas. Onshore facilities needed for this alternative would be similar to those identified for the proposed action, but would be expected to be located within existing developed areas at the Port of Long Beach or the Port of Los Angeles. Aside from the different site location,

this alternative would be of similar size at full build-out, would use the same net pen design, anchoring design, phased development, and operational plans as the San Diego Site Alternative.

Half-Scale Alternative

This action alternative would consider an initial projected production of 2.2 million pounds (1,000 metric tons) and a final production of 5.5 million pounds (2,500 metric tons) from 3 to 6 years after the project is constructed and operated. This production level and project spatial extent would be approximately half that described in the San Diego Site Alternative. The anchoring and mooring system for a single submerged grid would use the same engineering design as the full-scale San Diego Site Alternative. Only 1 pen grid containing 2 rows of 7 pens (14 pens total) would be installed. The half-scale alternative would be analyzed for both the San Diego and Long Beach Alternative sites.

Action Alternatives Summary

Currently, two location alternatives and a half-scale alternative are being considered for detailed analysis in the EIS. The two location alternatives in southern California—San Diego and Long Beach—are considered for the offshore finfish aquaculture site and the landside facilities that would be used to receive, process, and distribute the harvested fish.

Dated: September 2, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–19921 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA445]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee 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 meeting will be held on Friday, September 25, 2020 at 8:30 a.m. via webinar.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://attendee.gotowebinar.com/register/3170442187257265423.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will discuss Amendment 21, specifically, review of public comments and select final preferred alternatives. Amendment 21 includes measures related to: (1) Management of the Northern Gulf of Maine (NGOM) Management Area, (2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits, and (3) ability of Limited Access vessels with LAGC IFQ to transfer quota to LAGC IFQ only vessels. The committee will also discuss 2021/22 Specifications: Discuss the timing and outlook for 2020 surveys and 2021/22 specifications process. They also plan to review 2021 Priorities: Discuss and rank potential 2021 scallop work priorities.

Other business may be discussed, as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: September 3, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–19911 Filed 9–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Air Force Scientific Advisory Board, Department of the Air Force, Department of Defense.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Air Force Scientific Advisory Board will take place.

DATES: Open to the public virtually. September 15, 2020 from 3:00 p.m. to 4:10 p.m. EDT.

ADDRESSES: The virtual meeting can be accessed at the following link: *https://us02web.zoom.us/j/85940304005?pwd=SHR2cDg1SlZQWWtlVjNGKzVUUGdNUT09.*
Meeting ID: 859 4030 4005
Passcode: 421833
Find your local number: https://us02web.zoom.us/u/kegecLgh9I.

FOR FURTHER INFORMATION CONTACT: Lt Col Elizabeth Sorrells, (321) 480–1009 (Voice), *elizabeth.d.sorrells.mil@mail.mil* (Email). Mailing address is 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762. Website: *https://www.scientificadvisoryboard.af.mil/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer for the U.S. Air Force Scientific Advisory Board, the U.S. Air Force Scientific Advisory Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its September 15, 2020 meeting. Accordingly, the

Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The purpose of this Air Force Scientific Advisory Board meeting is for the Parent Board to receive the outbrief of the FY20 SecAF-directed study on Future Air Force Vanguard Selection and Management Processes (FVS). This meeting will be open to the public but held by virtual means as noted above.

Agenda: [All times are Eastern Daylight Time] 3:00 p.m. to 3:00 p.m.: Welcome Remarks 3:05 p.m.–4:05 p.m.: Future Air Force Vanguard Selection and Management Processes—Outbrief and Deliberation 4:05 p.m.–4:10 p.m.: Vote and Closing Remarks.

Written Statements: Any member of the public wishing to provide input to the United States Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed above at any time. Statements being submitted in response to the agenda announced in this notice must be received by the Designated Federal Officer at the address listed below at least five working days prior to the meeting date. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice. Written statements received after this date may not be considered by the Scientific Advisory Board until the next scheduled meeting.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2020–19902 Filed 9–8–20; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–407–A]

Application To Export Electric Energy; Vitol Inc.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Vitol Inc. (Applicant or Vitol) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 9, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On August 25, 2020, Vitol filed an application with DOE (Application or App.) to transmit electric energy from the United States to Mexico for a term of five years. Vitol states that it ''is a Delaware corporation with its principal place of business in Houston, Texas'' and that it ''is a wholly-owned, direct subsidiary of Vitol US Holding Co.'' App. at 4. Vitol adds that it ''does not own any electric generation or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution, or sale of electric power.'' *Id.* at 6.

Vitol further states that it ''has purchased, or will purchase, the power that may be exported to Mexico from wholesale generators, electric utilities, and federal power marketing agencies.'' App. at 6. Vitol contends that any power it purchased for export would be ''surplus to the needs of the selling entities.'' *See id.* at 7. Further, ''the proposed exports will not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operations.'' *Id.*

Vitol also ''agrees to abide by the export limits contained in the relevant [authorizations] of any [approved] transmission facilities,'' and states that ''[t]he controls that are inherent in any transaction that complies with all [reliability] requirements and the export limits imposed by the Department on the international transmission facilities are sufficient to ensure that exports by Vitol would not impede or tend to impede the coordinated use of transmission facilities'' under the Federal Power Act. App. at 8.

The existing international transmission facilities that would be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Vitol's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–407–A. Additional copies are to be provided directly to Robert Viola, 2925 Richmond Avenue, 11th Floor, Houston, TX 77098; *rfv@vitol.com;* Daniel E. Frank, 700 Sixth St. NW, Suite 700, Washington, DC 20001; *danielfrank@eversheds-sutherland.com;* Martha M. Hopkins, 700 Sixth St. NW, Suite 700, Washington, DC 20001; *marthyhopkins@eversheds-sutherland.com.*

A final decision will be made on the Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on September 3, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–19894 Filed 9–8–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–96–LNG]

Alaska LNG Project LLC; Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas To Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Record of decision.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of a Record of Decision (ROD) published under the National Environmental Policy Act of 1969 (NEPA) and implementing regulations. This ROD supports DOE/FE's decision in DOE/FE Order No. 3643–A, an opinion and order authorizing Alaska LNG Project LLC to export domestically-produced liquefied natural gas (LNG) to non-free trade agreement countries.

FOR FURTHER INFORMATION CONTACT:

Brian Lavoie, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2459, *Brian.Lavoie@hq.doe.gov*

Irene V. Nemesio, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8606, *Irene.Nemesio@hq.doe.gov*

SUPPLEMENTARY INFORMATION: On August 20, 2020, DOE/FE issued Order No. 3643–A to Alaska LNG Project LLC (Alaska LNG) under the Natural Gas Act section 3(a), 15 U.S.C. 717b(a). This Order authorizes Alaska LNG to export LNG produced from Alaskan sources by vessel to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Alaska LNG is authorized to export LNG in a volume equivalent to 929 billion cubic feet (Bcf) per year of natural gas (2.55 Bcf/day) from the proposed Alaska LNG Project (Project) to be located in the Nikiski area of the Kenai Peninsula, Alaska.

DOE/FE participated as a cooperating agency with the Federal Energy Regulatory Commission in preparing an environmental impact statement (EIS) analyzing the potential environmental impacts of the proposed Project (including an LNG export terminal, along with the associated facilities and pipeline) that would be used to support the export authorization sought from DOE/FE. DOE adopted the EIS and prepared the ROD, which is attached as an appendix to the Order. The ROD can be found here: *https://www.energy.gov/sites/prod/files/2020/08/f77/ord3643a.pdf.*

Signed in Washington, DC, on September 3, 2020.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Oil and Natural Gas.

[FR Doc. 2020–19920 Filed 9–8–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Certification Notice—257]

Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity, Energy (DOE).

ACTION: Notice of filing.

SUMMARY: On August 20, 2020, Hill Top Energy Center LLC (HTEC), as owner and operator of a new baseload power plant, submitted a coal capability self-certification to the Department of Energy (DOE). The Powerplant and Industrial Fuel Use Act of 1978, as amended, and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity, Mail Code OE–20, Room 8G–024, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586–5260 or *Christopher.lawrence@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On August 20, 2020, HTEC, as owner and operator of a new baseload power plant, submitted a coal capability self-certification to DOE pursuant to section 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8311(d)), and DOE regulations at 10 CFR 501.61(a). The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register** within fifteen days. *See* 42 U.S.C. 8311(d)(1); 10 CFR 501.61(c). Section 201(a) of the FUA provides that ''no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source.'' 42 U.S.C. 8311(a). Pursuant to section 201(d) of the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source must certify to the Secretary of Energy (Secretary), prior to construction or prior to operation as a baseload powerplant, that such powerplant has the capability to use coal or another alternate fuel. *See* 42 U.S.C. 8311(d)(1). Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. *Id.;* 10 CFR 501.61(b).

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations at 10 CFR 501.61:

Owner: Hill Top Energy Center LLC.

Design Capacity: 620 megawatts (MW).

Plant Location: Carmichaels, PA 15320.

In-Service Date: May 2021.

Signed in Washington, DC, on September 3, 2020.

Christopher Lawrence,

Program Management Analyst, Office of Electricity.

[FR Doc. 2020–19891 Filed 9–8–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–515–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on August 25, 2020, Transcontinental Gas Pipe Line Company, LLC (Transco), Post Office Box 1396, Houston, Texas 77251, filed a prior notice application pursuant to sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act, and Transco's blanket certificate issued in Docket No. CP82–426. Transco proposes to abandon a 16-inch supply lateral originating from Eugene Island Block 57, Platform ''D'' to Ship Shoal Area Block 11, (hereinafter referred to as the Supply Lateral) and appurtenant metering facilities, all in Federal offshore waters, offshore Louisiana. Details of Transco's project are more

fully set forth in the application which is on file with the Commission and open to public inspection.

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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Andre Pereira, Regulatory Analyst, Senior, at: P.O. Box 1396, Houston, Texas 77251; or by phone at: (713) 215–4362.

Any person or the Commission's staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene, or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: September 1, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–19878 Filed 9–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–2473–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Report Filing: 2019 CICO Report Filing.

Filed Date: 9/1/20.

Accession Number: 20200901–5136.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP19–57–002.

Applicants: Algonquin Gas Transmission, LLC.

Description: Compliance filing RP19–57 AGT Settlement Compliance Filing to be effective 6/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5151.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1154–000.

Applicants: Columbia Gulf Transmission, LLC.

Description: § 4(d) Rate Filing: Vitol Inc. Negotiated Rate Agreement to be effective 9/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5091.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1155–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Sept 20 Negotiated Rate Agreements to be effective 9/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5092.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1156–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—9/1/2020 to be effective 9/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5094.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1157–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Expired Negotiated Rate Agreement—9/1/2020 to be effective 10/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5097.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1158–000.

Applicants: Great Lakes Gas Transmission Limited Parnership.

Description: § 4(d) Rate Filing: SEMCO Negotiated Rate Amendment to be effective 9/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5158.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1159–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing BXP Rate Implementation to be effective 11/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5164.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1160–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Initial Rate Filing—Southeastern Trail Project to be effective 11/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5252.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–1161–000.

Applicants: Midship Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Periodic Retainage Adjustment Effective 10/1/2020 to be effective 10/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5268.

Comments Due: 5 p.m. ET 9/14/20.

Docket Numbers: RP20–614–004.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing Motion Filing—Cash-Out Price Calculation—Revised Section 18 to be effective 9/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5223.

Comments Due: 5 p.m. ET 9/14/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by 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: September 1, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–19861 Filed 9–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
NONE		
Exempt:		
ER19–1958–000	8–20–2020	U.S. Congress [1]

[1] U.S. Representatives Jeff Duncan and G.K. Butterfield.

Dated: September 1, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–19862 Filed 9–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–69–000]

Californians for Renewable Energy (CARE) and Michael E. Boyd v. California Independent System Operator Corporation, California Public Utilities Commission, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company; Notice of Complaint

Take notice that on August 31, 2020, pursuant to sections 206 of the Federal Power Act, 16 U.S.C. 824e(a), and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Californians for Renewable Energy and Michael E. Boyd (Complainants) filed a formal complaint against California Independent System Operator Corporation, California Public Utilities Commission, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (California Parties or Respondents) alleging that, Respondent's markets for energy and ancillary services operated by the California Parties are not workable, and that the prices in those markets are unjust and unreasonable requiring mitigation as requested, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondents 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 encourages electronic submission of 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 September 21, 2020.

Dated: September 1, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–19879 Filed 9–8–20; 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 electric corporate filings:

Docket Numbers: EC20–97–000.

Applicants: Sugar Creek Wind One LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Sugar Creek Wind One LLC.

Filed Date: 9/1/20.

Accession Number: 20200901–5323.

Comments Due: 5 p.m. ET 9/22/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–240–000.

Applicants: Wilmot Energy Center, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Wilmot Energy Center, LLC.

Filed Date: 9/1/20.

Accession Number: 20200901–5302.

Comments Due: 5 p.m. ET 9/22/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–942–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2020–08–31_Additional Compliance filing to PJM–JOA related to Affected Systems to be effective 4/6/2020.

Filed Date: 8/31/20.

Accession Number: 20200831–5391.

Comments Due: 5 p.m. ET 9/21/20.

Docket Numbers: ER20–943–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Compliance Filing Revising SPP–MISO JOA in Response to June 30 Order to be effective 4/4/2020.

Filed Date: 8/31/20.

Accession Number: 20200831–5375.

Comments Due: 5 p.m. ET 9/21/20.

Docket Numbers: ER20–944–002.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance to Revise JOA in Docket Nos. EL18–26 and ER20–944 to be effective 4/6/2020.

Filed Date: 8/31/20.

Accession Number: 20200831–5403.

Comments Due: 5 p.m. ET 9/21/20.

Docket Numbers: ER20–945–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Compliance Filing Revising Tariff in Response to June 30 Order to be effective 4/4/2020.

Filed Date: 8/31/20.

Accession Number: 20200831–5380.

Comments Due: 5 p.m. ET 9/21/20.

Docket Numbers: ER20–2376–001.

Applicants: Duke Energy Indiana, LLC.

Description: Tariff Amendment: DEI-Vectren—Unexecuted Interconnection Agreement—Extension Request to be effective 6/11/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5148.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2794–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits ILDSA, SA No. 1336 and Trail FA to be effective 11/2/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5251.

Comments Due: 5 p.m. ET 9/22/20.

Docket Numbers: ER20–2795–000.

Applicants: NorthWestern Corporation, Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: NorthWestern update to Formula Rate and Protocols to be effective 11/1/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5265.

Comments Due: 5 p.m. ET 9/22/20.

Docket Numbers: ER20–2796–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5736; Queue No. AF1–326 to be effective 8/10/2020.

Filed Date: 9/1/20.

Accession Number: 20200901–5269.

Comments Due: 5 p.m. ET 9/22/20.

Docket Numbers: ER20–2797–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5754; Queue No. AF2–289 to be effective 8/18/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5063.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2798–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5738; Queue No. AF1–327 to be effective 8/10/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5130.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2799–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to the OATT, OA, and RAA re GDECS 5 and Standard Formatting to be effective 11/2/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5142.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2800–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) Rate Filing: 2020–09–02_SPS–OEDC Construction Agrmt–719–000–0.0.0 to be effective 9/3/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5151.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2801–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B.GLA to be effective 11/2/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5156.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2802–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Deseret TSOA Rev 7 to be effective 11/1/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5157.

Comments Due: 5 p.m. ET 9/23/20.

Docket Numbers: ER20–2803–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: Service Agreement No. 18–00087 NPC—Sunshine Valley Solar EPC Amended to be effective 9/3/2020.

Filed Date: 9/2/20.

Accession Number: 20200902–5224.

Comments Due: 5 p.m. ET 9/23/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by 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: September 1, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–19860 Filed 9–8–20; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10097	First BankAmericano	Elizabeth	NJ	9/1/2020
10194	Liberty Pointe Bank	New York	NY	9/1/2020
10408	Old Harbor Bank	Clearwater	FL	9/1/2020

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 3, 2020.

James P. Sheesley,

Acting Assistant Executive Secretary.

[FR Doc. 2020–19863 Filed 9–8–20; 8:45 am]

BILLING CODE 6714–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MG–2020–05; Docket No. 2020–0002; Sequence No. 32]

Office of Federal High-Performance Buildings; Green Building Advisory Committee; Request for Membership Nominations

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of request for membership nominations.

SUMMARY: The Green Building Advisory Committee provides advice to GSA as a mandatory federal advisory committee, as specified in the Energy Independence and Security Act of 2007 (EISA) and in accordance with the provisions of the Federal Advisory Committee Act (FACA). This notice invites qualified candidates to apply for appointment to a voluntary position on the Committee. This is a competitive process for a limited number of positions.

DATES: *Applicable:* September 9, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Sandler, Office of Federal High-Performance Buildings, GSA, *ken.sandler@gsa.gov* or 202–219–1121.

SUPPLEMENTARY INFORMATION:

Background

The Administrator of the GSA established the Green Building Advisory Committee (hereafter, ''the Committee'') on June 20, 2011 (76 FR 118) pursuant to Section 494 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17123, or EISA), in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2). Under this authority, the Committee advises GSA on how the Office of Federal High-Performance Buildings can most effectively accomplish its mission. Information about this Office is available online at *http://www.gsa.gov/hpb,* while information about the Committee may be found at *http://www.gsa.gov/gbac.*

The EISA statute authorizes the Committee and identifies categories of members to be included. Per EISA § 494(b)(1)(B), these are to include at least one representative of each of the following categories:

''(i) State and local governmental green building programs;

(ii) Independent green building associations or councils;

(iii) Building experts, including architects, material suppliers, and construction contractors;

(iv) Security advisors focusing on national security needs, natural disasters, and other dire emergency situations;

(v) Public transportation industry experts; and

(vi) Environmental health experts, including those with experience in children's health.''

EISA further specifies: ''The total number of non-federal members on the Committee at any time shall not exceed 15.''

Member responsibilities: Approved Committee members will be appointed to terms of either 2 or 4 years with the possibility of membership renewals as appropriate. Membership is limited to the specific individuals appointed and is non-transferrable. Members are expected to personally attend all meetings, review all Committee materials, and actively provide their advice and input on topics covered by the Committee. Committee members will not receive compensation or travel reimbursements from the Government except where need has been demonstrated and funds are available.

Request for membership nominations: This notice provides an opportunity for individuals to present their qualifications and apply for an open seat on the Committee. GSA will review and consider all applications and determine which candidates are likely to add the most value to the Committee based on the criteria outlined in this notice.

No person who is a federally-registered lobbyist may serve on the Committee, in accordance with the Presidential Memorandum ''Lobbyists on Agency Boards and Commissions'' (June 18, 2010).

Nomination process for Advisory Committee appointment: Individuals may nominate themselves or others. Requirements include:

- At least 5 years of high-performance building experience, which may include a combination of project-based, research and policy experience.
- Academic degrees, certifications and/or training demonstrating high-performance building and related sustainability and real estate expertise.
- Knowledge of federal sustainability and energy laws and programs.
- Proven ability to work effectively in a collaborative, multi-disciplinary environment and add value to the work of a committee.
- Qualifications appropriate to specific statutory categories listed above.

A nomination package shall include the following information for each nominee: (1) A letter of nomination stating the name and organizational affiliation(s) of the nominee, nominee's field(s) of expertise, specific qualifications to serve on the Committee, and description of interest and qualifications; (2) A professional resume or CV; and (3) Complete contact information including name, return address, email address, and daytime telephone number of the nominee and nominator.

GSA reserves the right to choose Committee members based on qualifications, experience, Committee balance, statutory requirements and all other factors deemed critical to the success of the Committee. Candidates may be asked to provide detailed financial information to permit evaluation of potential conflicts of interest that could impede their work on the Committee, in accordance with the requirements of FACA. All nominations must be submitted in sufficient time to be received by 5:00 p.m., Eastern Time (ET), on Friday, September 25, 2020, and be addressed to *ken.sandler@gsa.gov.*

Kevin Kampschroer,

Federal Director, Office of Federal High-Performance Buildings, Office of Government-Wide Policy.

[FR Doc. 2020–19897 Filed 9–8–20; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0300; Docket No. 2020–0001; Sequence No. 9]

Information Collection; General Services Administration Acquisition Regulation; Implementation of Information Technology Security Provision

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of the currently approved information collection requirement regarding Implementation of Information Technology Security Provision.

DATES: Submit comments on or before November 9, 2020.

ADDRESSES: Submit comments identified by Information Collection 3090–0300, Implementation of Information Technology Security Provision, via *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0300. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0300, Implementation of Information Technology Security Provision''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information

Collection 3090–0300, Implementation of Information Technology Security Provision'' on your attached document.

Instructions: Please submit comments only and cite Information Collection 3090–0300, Implementation of Information Technology Security Provision, in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Johnnie McDowell, Program Analyst, Office of Acquisition Policy, at *gsarpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Clause 552.239–71 requires contractors, within 30 days after contract award, to submit an IT Security Plan to the Contracting Officer and Contacting Officer's Representative that describes the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under the contract. The clause will also require that contractors submit written proof of IT security authorization six months after contract award, and verify that the IT Security Plan remains valid annually.

B. Annual Reporting Burden

Respondents: 146.
Responses per Respondent: 2.
Total Annual Responses: 292.
Hours per Response: 5.
Total Burden Hours: 1,460.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0300, Implementation of Information Technology Security Provision, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020–19870 Filed 9–8–20; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–D–1106 and FDA–2020–D–1138]

Guidance Documents Related to Coronavirus Disease 2019; Availability

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of FDA guidance documents related to the Coronavirus Disease 2019 (COVID–19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the **Federal Register** of March 25, 2020, for making available to the public COVID–19-related guidances. The guidances identified in this notice address issues related to the COVID–19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidance documents have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidances is published in the **Federal Register** on September 9, 2020. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the name of the guidance document that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) 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, 240–402–7500.

- 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, 240–402–7500.

You may submit comments on any guidance at any time (see § 10.115(g)(5) (21 CFR 10.115(g)(5))).

Submit written requests for single copies of these guidances to the address noted in table 1. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Kimberly Thomas, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993–0002, 301–796–2357; or Erica Takai, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, (HFZ–450), Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID–19, and after consultation with public health officials as necessary, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority under section 319 of the Public Health Service Act (PHS Act), determined that a PHE exists and has existed since January 27, 2020, nationwide.[1] On March 13, 2020, President Donald J. Trump declared that the COVID–19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.[2]

In the **Federal Register** of March 25, 2020 (the March 25, 2020, notice) (available at *https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf*), FDA announced procedures for making available FDA guidance documents related to the COVID–19 PHE. These procedures, which operate within FDA's established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID–19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID–19-related guidance documents. Therefore, FDA will issue COVID–19-related guidance documents for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(h)(1)(C) and § 10.115(g)(2). The guidances are available at FDA's web page titled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders'' (*https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders*) and through FDA's web page titled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.*

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID–19-related guidance document, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID–19-related guidances FDA issued during the relevant period, as included in table 1. This notice announces COVID–19-related guidances that are posted on FDA's website.

II. Availability of COVID–19-Related Guidance Documents

Pursuant to the process described in the March 25, 2020, notice, FDA is announcing the availability of the following COVID–19-related guidances:

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA–2020–D–1106.	Center for Drug Evaluation and Research (CDER).	Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19) (March 2020) (Updated August 7, 2020).	*druginfo@fda.hhs.gov,* Please include the docket number FDA–2020–D–1106 and complete title of the guidance in the request.
FDA–2020–D–1106.	CDER	Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (March 2020) (Updated August 7, 2020).	*druginfo@fda.hhs.gov,* Please include the docket number FDA–2020–D–1106 and complete title of the guidance in the request.

[1] On April 21, 2020, the PHE Determination was extended, effective April 26, 2020; on July 23, 2020, it was extended again, effective July 25, 2020. These PHE Determinations are available at *https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx.*

[2] Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (March 13, 2020), available at *https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY—Continued

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA–2020–D–1106.	CDER	Temporary Policy for Manufacture of Alcohol for Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19) (March 2020) (Updated August 7, 2020).	*druginfo@fda.hhs.gov,* Please include the docket number FDA–2020–D–1106 and complete title of the guidance in the request.
FDA–2020–D–1138.	Center for Devices and Radiological Health (CDRH).	Enforcement Policy for Viral Transport Media During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (July 2020).	*CDRH-Guidance@fda.hhs.gov,* Please include the document number 20038 and complete title of the guidance in the request.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

A. CDER Guidances

The guidances listed in the table below refer to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the table below. These guidances also contain a collection of information not approved under a current collection. This collection of information has been granted a PHE waiver from the PRA by the Department of Health and Human Services (HHS) on March 19, 2020, under section 319(f) of the PHS Act. Information concerning the PHE PRA waiver can be found on the HHS website at *https://aspe.hhs.gov/public-health-emergency-declaration-pra-waivers.*

TABLE 2—CDER GUIDANCES AND COLLECTIONS

COVID–19 guidance title	CFR cite(s) referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB Control No(s).
Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19)—UPDATE of guidance announced in March 2020.	27 CFR parts 20 and 21.	—Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency. —Temporary Policy for Manufacture of Alcohol for Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19). —Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing. —Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application.	0910–0045, 0910–0139, 0910–0230, 0910–0291, 0910–0340, 0910–0641, 0910–0645, 0910–0800.
Temporary Policy for Manufacture of Alcohol for Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19)—UPDATE of guidance announced in March 2020.	27 CFR parts 20 and 21.	—Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency. —Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19). —Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing.	0910–0045, 0910–0139, 0910–0230, 0910–0291, 0910–0340, 0910–0641, 0910–0645.

TABLE 2—CDER GUIDANCES AND COLLECTIONS—Continued

COVID–19 guidance title	CFR cite(s) referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB Control No(s).
Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency—UPDATE of guidance announced in March 2020.	.....	—Current Good Manufacturing Practices for Finished Pharmaceuticals and Medical Gases. —Postmarketing Adverse Drug Experience Reporting. —MedWatch: Adverse Event and Product Experience Reporting System (Paper-Based). —Format and Content Requirements for Over-the-Counter Drug Product Labeling. —FDA Adverse Event and Product Experience Reports; Electronic Submissions. —Adverse Event Reporting for Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act. —Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19). —Temporary Policy for Manufacture of Alcohol for Incorporation Into Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID–19).	0910–0045, 0910–0139, 0910–0230, 0910–0291, 0910–0340, 0910–0641, 0910–0645.

B. CDRH Guidances

The guidance indicated in the table below refers to previously approved collections of information. These collections of information are subject to review by the OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the table below. This guidance also contains a new collection of information not approved under a current collection. This new collection of information has been granted a PHE waiver from the PRA by HHS on March 19, 2020, under section 319(f) of the PHS Act. Information concerning the PHE PRA waiver can be found on the HHS website at *https://aspe.hhs.gov/public-health-emergency-declaration-pra-waivers.*

TABLE 3—CDRH GUIDANCES AND COLLECTIONS

COVID–19 guidance title	CFR cites(s) referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB Control No(s).	New collection covered by PHE PRA waiver
Enforcement Policy for Viral Transport Media During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (July 2020).		Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders.	0910–0595	
		Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988 Categorization.	0910–0607	
	21 CFR parts 800, 801, and 809.	.....	0910–0485	
	21 CFR part 803	.....	0910–0437	
	21 CFR part 806	.....	0910–0359	
	21 CFR part 807, subparts A through D.	.....	0910–0625	
	21 CFR part 807, subpart E ..	.....	0910–0120	
	21 CFR part 820	.....	0910–0073	
	21 CFR part 830 and 21 CFR 801.20.	.....	0910–0720	
				Manufacturer voluntary reporting to FDA of viral transport media manufacturing capacity information.
				Manufacturer voluntary reporting to FDA of sterile phosphate buffered saline/saline manufacturing capacity information.

IV. Electronic Access

Persons with access to the internet may obtain COVID–19-related guidances at:

- The FDA web page entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders;*
- the FDA web page entitled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents;* or
- *https://www.regulations.gov.*

Dated: September 2, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–19883 Filed 9–8–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Disease Modifying Therapies for Chronic Lung Diseases.

Date: October 8, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 827–7953, *kristen.page@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 2, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19835 Filed 9–8–20; 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 Completion of Ongoing MFMU Network Protocols.

Date: October 30, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Helen Huang, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Bethesda, MD 20817, (301) 435–8380, *helen.huang@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Intellectual and Developmental Disabilities Research Centers [IDDRC] FY 2021 (P50).

Date: November 19–20, 2020.

Time: 8:00 a.m. to 5:00 p.m..

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Clayton W. Mash, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Bethesda, MD 20892, (301) 496–6866, *mashc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: September 2, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19833 Filed 9–8–20; 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: Emerging Technologies and Training Neurosciences Integrated Review Group Molecular Neurogenetics Study Section.

Date: October 8–9, 2020.

Time: 8:00 a.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: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, (301) 915–6301, *marygs@csr.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: October 8–9, 2020.

Time: 8:30 a.m. to 6:30 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: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, (301) 435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: October 8–9, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: October 8–9, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, (301) 435–2889, *rileyann@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.

Date: October 8–9, 2020.

Time: 9:00 a.m. to 6:30 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: Liliana Norma Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4215, Bethesda, MD 20892, *liliana.berti-mattera@nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: October 8–9, 2020.

Time: 9:00 a.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: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, (301) 827–7728, *lguo@mail.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: October 8–9, 2020.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, (301) 523–0646, *mintzermz@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

Date: October 8–9, 2020.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Biophysics of Neural Systems Study Section.

Date: October 8–9, 2020.

Time: 10:00 a.m. to 5:30 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: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, (301) 435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular and Cellular Endocrinology.

Date: October 9, 2020.

Time: 9:00 a.m. to 11:00 a.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: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, (301) 435–2514, *riverase@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: October 13–14, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, (301) 495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Vector Biology Study Section.

Date: October 13–14, 2020.

Time: 9:30 a.m. to 5:00 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: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, (301) 402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry A Study Section.

Date: October 13–14, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anita Szajek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, (301) 827–6276, *anita.szajek@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: September 2, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19836 Filed 9–8–20; 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: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.
Date: October 5–6, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.
Date: October 5–6, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Helena Eryam Dagadu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20892, 301–435–1266, *dagaduhe@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.
Date: October 8–9, 2020.
Time: 9:00 a.m. to 6:30 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: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Ocular Surface, Cornea, Anterior Segment Glaucoma and Refractive Error.
Date: October 8–9, 2020.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, 301–435–1252, *cinquej@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Bioengineering, Technology and Surgical Sciences Study Section.
Date: October 15–16, 2020.
Time: 8:00 a.m. to 5:00 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: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.
Date: October 15–16, 2020.
Time: 8:00 a.m. to 4:30 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: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.
Date: October 15–16, 2020.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Aleksey Gregory Kazantsev, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, 301–435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: October 15–16, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.
Date: October 15–16, 2020.
Time: 9:00 a.m. to 5:00 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: John Burch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–408–9519, *burchjb@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.
Date: October 15, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 5144, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.
Date: October 15–16, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Atherosclerosis and Inflammation of the Cardiovascular System Study Section.
Date: October 15–16, 2020.
Time: 9:00 a.m. to 4:00 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: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Guided Interventions and Surgery Study Section.
Date: October 15–16, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ileana Hancu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20892, 301–402–3911, *ileana.hancu@nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Nanotechnology Study Section.

Date: October 15–16, 2020.

Time: 9:00 a.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: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: October 15–16, 2020.

Time: 9:30 a.m. to 2:00 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: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Mechanisms of Cancer Therapeutics—1 Study Section.

Date: October 15–16, 2020.

Time: 9:30 a.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: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–905–8294, *rahman-sesay@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Emerging Technologies in Neuroscience.

Date: October 15, 2020.

Time: 9:30 a.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: Cibu Paul Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 402–4341, *cibu.thomas@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cellular and Molecular Biology of Complex Brain Disorders.

Date: October 15–16, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Adem Can, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, (301) 435–1042, *cana2@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Clinical and Integrative Diabetes and Obesity Study Section.

Date: October 15–16, 2020.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, 301–435–1044, *chenhui@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: September 3, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19900 Filed 9–8–20; 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: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.

Date: October 8, 2020.

Time: 9:00 a.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: Emily Foley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, Bethesda, MD 20892, (301) 435–0627, *emily.foley@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Translational Imaging Science.

Date: October 8, 2020.

Time: 1:00 p.m. to 3:00 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: Yuanna Cheng, MD, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Muscle and Exercise Physiology Study Section.

Date: October 14–15, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting)

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: October 14–15, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group Neurological, Aging and Musculoskeletal Epidemiology Study Section.

Date: October 14–16, 2020.

Time: 9:30 a.m. to 5:00 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: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Somatosensory and Pain Systems Study Section.

Date: October 14–15, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiovascular Differentiation and Development Study Section.

Date: October 14, 2020.

Time: 10:00 a.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: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20817–7814, 301–435–0904, *sara.ahlgren@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: September 2, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19834 Filed 9–8–20; 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; Ruth L. Kirschstein National Research Service Award (NRSA) Institutional Research Training Grant (Parent T32).

Date: December 7–8, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121A, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Postdoctoral Training in Pediatric Clinical Pharmacology (T32 Clinical Trial Not Allowed).

Date: December 10, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121A, Bethesda, MD 20817, 301–451–4989 *crobbins@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: September 2, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19830 Filed 9–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Eye Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Eye Institute.

Date: October 13–14, 2020.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Eye Institute, National Institutes of Health, Building 31, Room 6A22, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David M. Schneeweis, Ph.D., Acting Scientific Director, National Eye Institute, National Institutes of Health, Building 31, Room 6A22, Bethesda, MD 20892, 301–451–6763, *David.schneeweis@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 3, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–19898 Filed 9–8–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendment in the State of Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon amended their compact governing certain forms of class III gaming; this notice announces Secretarial approval of the Amendment to the Amended Tribal-State Compact for Regulation of Class III Gaming between the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon-Amendment II.

DATES: The compact amendment takes effect on September 9, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066, *paula.hart@bia.gov*.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The compact amendment authorizes the Tribe to waive the required payment to the Community Benefit Fund for the year 2020.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–19928 Filed 9–8–20; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1219]

Certain Non-Invasive Aesthetic Body-Contouring Devices, Components Thereof, and Methods of Using 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 August 5, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of BTL Industries, Inc. of Marlborough, Massachusetts. The complaint 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 non-invasive aesthetic body-contouring devices, components thereof, and methods of using same by reason of infringement of certain claims of U.S. Patent No. 10,632,321 (''the '321 patent''); U.S. Patent No. 10,695,575 (''the '575 patent''); U.S. Patent No. 10,695,576 (''the '576 patent''); U.S. Patent No. 10,709,894 (''the '894 patent''); U.S. Patent No. 10,709,895 (''the '895 patent''); and U.S. Patent No. 10,478,634 (''the '634 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue 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: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (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 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 2, 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 whether there is a violation of subsection (a)(1)(B) 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 claims 1, 2, 4, 6–8, 10, 12–16, 20, 22, 23, and 26–28 of the '321 patent; claims 1, 9–11, 13, 15, 16, and 20–22 of the '575 patent; claims 1, 8, 10, 11, 13, 16, 18, 23–25, 27, and 28 of the '576 patent; claims 1, 2, 4, 5, 9, 10, 12, 13, 17–21, 23, 24, and 26–29 of the '894 patent; claims 1, 2–6, 9, 10, and 14–25 of the '895 patent; and claims 1, 6, 7, 16, 21, and 22 of the '634 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(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: Non-invasive magnetic and cryolipolysis aesthetic body-contouring products and their components, including main units, applicators, straps, massagers, gel traps, and virtual consumables such as treatment cards that enable the products to administer the pre-programmed treatment protocols;

(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: BTL Industries, Inc., 362 Elm Street, Marlborough, MA 01752.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Allergan Limited, Clonshaugh Business and Technology Park, Coolock, Dublin D17 E400, Ireland

Allergan USA, Inc., 5 Giralda Farms, Madison, New Jersey 07940

Allergan, Inc., 5 Giralda Farms, Madison, New Jersey 07940

Zeltiq Aesthetics, Inc., 4410 Rosewood Dr., Pleasanton, California 94588–3050

Zeltiq Ireland Unlimited Company, Galway West Business Park, Western Distributor Road, Knocknacarra, Galway H91E8C3, Ireland

Zimmer MedizinSysteme GmbH, Junkersstraβe 9, 89231, Neu-Ulm, Germany

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

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: September 2, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–19816 Filed 9–8–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1472 (Final)]

Difluoromethane (R–32) From China; Scheduling of the Final Phase of an Anti-Dumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1472 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of difluoromethane (R–32) from China, provided for in subheading 2903.39.20 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: August 27, 2020.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari ((202) 205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of this investigation, Commerce has defined the subject merchandise as ''difluoromethane (R–32), or its chemical equivalent, regardless of form, type or purity level. R–32 has the Chemical Abstracts Service (CAS) registry number of 75–10–5 and the chemical formula CH2 F2. R–32 is also referred to as difluoromethane, HFC–32, FC–32, Freon-32, methylene difluoride, methylene fluoride, carbon fluoride hydride, halocarbon R32, fluorocarbon R32, and UN 3252. Subject merchandise also includes R–32 and unpurified R–32 that are processed in a third country or the United States, including, but not limited to, purifying or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope R–32. R–32 that has been blended with products other than pentafluoroethane (R–125) is included within this scope if such blends contain 85% or more by volume on an actual percentage basis of R–32. In addition, R–32 that has been blended with any amount of R–125 is included within this scope if such blends contain more than 52% by volume on an actual percentage basis of R–32. Whether R–32 is blended with R–125 or other products, only the R–32 component of the mixture is covered by the scope of this investigation. The scope also includes R–32 that is commingled with R–32 from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation. Excluded from the current scope is merchandise covered by the scope of the antidumping order on hydrofluorocarbon blends from the People's Republic of China.'' [1] [2]

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2903.39.2035. Other merchandise subject to the current scope, including the abovementioned blends that are outside the scope of the Blends Order, may be classified under 2903.39.2045 and 3824.78.0020. The HTSUS subheadings and CAS registry number are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

[1] *See* Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order, 81 FR 55436, August 19, 2016 (the Blends Order).

[2] For a complete definition, please see Commerce's scope in 85 FR 52950, August 27, 2020.

Background.—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by Commerce that imports of difluoromethane (R–32) from China are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on January 23, 2020, by Arkema, Inc., King of Prussia, Pennsylvania.

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to

BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on December 22, 2020, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on Tuesday, January 12, 2021. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 7, 2021. 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 January 8, 2021, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is January 5, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 20, 2021. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before January 20, 2021. On February 3, 2021, 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 February 5, 2021, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 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 § 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 §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 2, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–19831 Filed 9–8–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–704]

Bulk Manufacturer of Controlled Substances Application: Nanosyn Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Nanosyn Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substances. Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers 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 November 9, 2020. Such persons may also file a written request for a hearing on the application on or before November 9, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 6, 2020, Nanosyn Inc., 3331 Industrial Drive, Suite B, Santa Rosa, California 95403–2062, applied to be registered as an bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Oxymorphone	9652	II
Fentanyl	9801	II

The company is a contract manufacturer. At the request of the company's customers, it manufactures derivatives of controlled substances in bulk form.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–19868 Filed 9–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0043]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement of a Previously Approved Collection: Drug Questionnaire (DEA–341)

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 9, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Sharyn J. Saunders, Assistant Administrator, 202–307–6287, Human Resources Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Drug Use Statement.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is the DEA–341. The sponsoring component is the Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public is Drug Enforcement Administration applicants. DEA is requesting an extension of a previously approved collection. This collection requires the drug history of any individual seeking employment with DEA. DEA policy states that a past history of illegal drug use may result in ineligibility for employment. The form asks job applicants specific questions about their personal history, if any, of illegal drug use.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 15,000 respondents will complete the application in approximately 5 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1,250 hours. It is estimated that applicants will take 5 minutes to complete the questionnaire. (15,000 respondents × 5 minutes = 75,000 hours. 75,000/60 seconds = 1,250 hrs.).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: September 3, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–19924 Filed 9–8–20; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 07–20]

Sunshine Act Meetings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

TIME AND DATE: Thursday, September 17, 2020, at 10:00 a.m.

PLACE: This meeting will be held by teleconference. There will be no physical meeting place.

STATUS: Open. Members of the public who wish to observe the meeting via teleconference should contact Patricia M. Hall, Foreign Claims Settlement Commission, Tele: (202) 616–6975, two business days in advance of the meeting. Individuals will be given call-in information upon notice of attendance to the Commission.

MATTERS TO BE CONSIDERED: 10:00 a.m.—Issuance of Proposed Decisions under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328.

CONTACT PERSON FOR MORE INFORMATION: Requests for information, advance notices of intention to observe an open meeting, and requests for teleconference dial-in information may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 441 G St. NW, Room 6234, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2020–19964 Filed 9–4–20; 11:15 am]

BILLING CODE 4410–BA–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 20–05]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) Economic Advisory Council was established as a discretionary advisory committee on October 5, 2018. The MCC Economic Advisory Council serves MCC in an advisory capacity only and provides advice and guidance to MCC economists, evaluators, leadership of the Department of Policy and Evaluation, and senior MCC leadership regarding relevant trends in development economics, applied economic and evaluation methods, poverty analytics, as well as modeling, measuring, and evaluating development interventions. In doing so, the MCC Economic Advisory Council helps sharpen MCC's analytical methods and capacity in support of the agency's economic development goals. It also serves as a sounding board and reference group for assessing and advising on strategic policy innovations and methodological directions in MCC.

DATES: Friday, September 25th, 2020, from 10:00 a.m.–12:00 p.m. ET.

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Mesbah Motamed, 202.521.7874, *MCCEACouncil@mcc.gov* or visit

www.mcc.gov/about/org-unit/economic-advisory-council.

SUPPLEMENTARY INFORMATION:

Agenda. During this meeting of the MCC Economic Advisory Council, members will receive an overview of MCC's work and the context and function of the MCC Economic Advisory Council within MCC's mission. The MCC Economic Advisory Council will also discuss issues related to MCC's core functions, including the following topics: (i) Capturing environmental impacts of MCC programs; and (ii) agriculture in MCC analytics and program design.

Public Participation: The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to participate, please submit your name and affiliation no later than Friday, September 18, 2020 to *MCCEACouncil@mcc.gov* to receive dial-in instructions and to be placed on an attendee list.

Authority: Federal Advisory Committee Act, 5 U.S.C. App.

Dated: September 3, 2020.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2020–19915 Filed 9–8–20; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–060]

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: We are announcing an upcoming meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM).

DATES: The meeting will be on September 24, 2020, from 1:00 p.m. to 3:00 p.m.

ADDRESSES: This meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Sharon Shaver, Congressional Relations Specialist at the Center for Legislative Archives, by email at *Sharon.shaver@nara.gov* or at 202.357.6802. Please use the email contact method during the current COVID remote work situation. Contact the event host, Amy Camilleri at the Secretary of the Senate Office, by email at *amy_camilleri@sec.senate.gov.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations.

Agenda

(1) Chair's opening remarks—Secretary of the U.S. Senate
(2) Recognition of co-chair—Clerk of the U.S. House of Representatives
(3) Recognition of the Archivist of the United States
(4) Approval of the minutes of the last meeting
(5) Senate Archivist's report
(6) House Archivist's report
(7) Center for Legislative Archives update
(8) Other current issues and new business

Procedures: You must register in advance through the Webex link *natehttps://se.webex.com/senate/onstage/g.php?MTID=e518b348d45713914a701baaa332bacf4* if you wish to attend.

Maureen MacDonald,

Designated Committee Management Officer.

[FR Doc. 2020–19814 Filed 9–8–20; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of a new system of records (System of Records or Systems) titled, NCPC–4, Asset Management. The categories of records to be adopted include records of NCPC-owned or controlled property that has been issued to NCPC employees and contractors. Upon adoption the new System of Records will be titled NCPC–4, Asset Management System.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov*.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/Privacy Act Officer at 202–642–0591 or *privacy@ncpc.gov*.

SUPPLEMENTARY INFORMATION: The routine uses of the System of Records include the ability to track all NCPC-owned or controlled property that has been issued to current and former NCPC employees and contractors.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 603.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of the use to which their respective records are put, and assists individuals find records about themselves maintained by the agency. This notice complies with the requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information

concerning NCPC's Asset Management System of Records.

In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this new Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–4, Asset Management System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing asset management information are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE SYSTEM:

The National Capital Planning Act, 40 U.S.C. 8701 *et seq.* (2016); 44 U.S.C. Chapter 31; 40 U.S.C. 121; 41 CFR Chapter 101.

PURPOSE OF THE SYSTEM:

The purpose of the system is to track all NCPC-owned or controlled property that has been issued to current and former NCPC employees, contractors, and interns.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include all current and former NCPC employees, contractors, and interns assigned government-owned assets (*e.g.,* laptop computers, communication equipment, and other assets).

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in this system include: Individual's name; Email address; Office name; Office location; Office telephone number; Property management records, which include information on government-owned property (*e.g.,* laptop computers, communication equipment, and other assets) in the personal custody of the individuals covered by this system and used in the performance of their official duties.

RECORD SOURCE CATEGORIES:

Records are generated from purchase orders and receipts for property and assets; acquisition, transfer and disposal of data; or personnel information stored in the enterprise Active Directory system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

NCPC employees use records in this system to collect and maintain asset management information assigned to employees, contractors, and interns.

See, Appendix I for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name; general contact information, such as phone numbers, email addresses; office number; office division; or asset tag number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained until an individual separates from the agency; assets are retired or disposed; or as otherwise prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC personnel whose responsibilities include access. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card to the NCPC network and a ''user ID'' and password combination to the property management application.

NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures. NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions include the Commission chambers and adjacent meeting room). NCPC's suite entrances are also monitored by electronic surveillance.

Records processed, stored or transmitted and used by contractors are protected by controls implemented by the vendor pursuant to terms incorporated into its contract with NCPC.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures in set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19820 Filed 9–8–20; 8:45 am]

BILLING CODE 7502–02–P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of a new system of records (System of Records or Systems) titled, NCPC–6, Public Comments List. The categories of records to be adopted include records of individual(s) who provide comments to NCPC by email or mail prior to the Commission packet distribution, and individual(s) who provide oral or written testimony on items under consideration at a Commission meeting.

Upon adoption, the new System of Records will be titled NCPC–6, Public Comments List.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/ Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov.*

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/ Privacy Act Officer at 202–642–0591 or *privacy@ncpc.gov.*

SUPPLEMENTARY INFORMATION: The routine uses of the System of Records include the collection and record-keeping of public comment on items under consideration at a Commission meeting.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 603.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of the use to which their respective records are put, and assists individuals find records about themselves maintained by the agency. This notice complies with the requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information concerning NCPC's System of Records for Public Comments.

In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this new Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–6, Public Comments List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing public comments are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE SYSTEM:

The National Capital Planning Act, 40 U.S.C. 8701 *et seq.* (2016); 44 U.S.C. Chapter 31; 40 U.S.C. § 121; 41 CFR Chapter 101.

PURPOSE OF THE SYSTEM:

The purpose of the system is to maintain a list of individuals who provide public comment to the Commission on items under consideration at the Commission meeting.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include public citizens, authorized individuals speaking on behalf of a public or private entity, community organization, advocacy group, public office, academia or any other entity commenting on matters presented to and under consideration by the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in this system include: Individual's name; Email address; Phone Number, Organizational affiliation if applicable, NCPC Project on which the individual would like to provide comment; Public comment or testimony.

RECORD SOURCE CATEGORIES:

Records are generated from electronic registration forms that are submitted by the individual on the NCPC public website during the public registration period.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATGORIES OF USERS AND PURPOSES OF SUCH USE:

NCPC uses records in this system to collect, record, and maintain comments on NCPC projects from public citizens, organizations, and other interested stakeholders or parties. See, Appendix I for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name; general contact information, such as phone numbers, email addresses; and NCPC Project name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained as prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC personnel whose responsibilities include access. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card to the NCPC network and a ''user ID'' and password combination to the NCPC'S IT systems.

NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures. NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions

include the Commission chambers and adjacent meeting rooms). NCPC's suite entrances are also monitored by video surveillance.

Records processed, stored, or transmitted and used by contractors are protected by controls implemented by the vendor pursuant to terms incorporated into its contract with NCPC.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19822 Filed 9–8–20; 8:45 am]

BILLING CODE P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a new System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of a new system of records (System of Records or Systems) titled, NCPC–3, Financial System. The categories of records to be adopted include any individual or organization that serves as a creditor to NCPC, including parties for which reimbursable services are performed and employees for expense reimbursements. New records incorporated into the System of Records include: Individual's names; tax identification number, which may be a Social Security Number in certain instances; addresses and other general contact information, such as phone numbers, Facsimile numbers, or email addresses; records of expenses (bills, refund checks, out-of-pocket travel expenses); records of payments; disbursement schedules; monies owed; and electronic financial institution data. Upon adoption the new System of Records will be titled NCPC–3, Financial System.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov.*

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/Privacy Act Officer at 202–482–7200 or *privacy@ncpc.gov.*

SUPPLEMENTARY INFORMATION: The primary use of the System of Records includes use of information to pay individuals for reimbursable services and expenses. Other routine uses include, without limitation, sharing the information under certain enumerated circumstances with the Department of Justice; either House of Congress or a Congressional office, and other federal agencies and individuals. A complete listing of other routine uses will be adopted as an appendix that applies to this and all other NCPC System of Records to preclude redundancy (See, Appendix I of this Notice). Upon adoption the modified System of Records will be titled NCPC–3, NCPC Financial System.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents.

As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 603.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of the use to which their respective records are put, and assists individuals find records about themselves maintained by the agency. This notice complies with the requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information concerning NCPC's Financial System of Records.

In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this new Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–3, NCPC Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing financial information are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

The National Capital Planning Act, 40 U.S.C. 8701 *et seq.* (2016); 5 U.S.C. 5701 *et seq.,* Travel, Transportation, and Subsistence; 31 U.S.C. 7701(c); the Chief Financial Officers Act of 1990, Public Law 101–576; Executive Order 13478.

PURPOSE OF THE SYSTEM:

The purpose of the system is to collect and maintain the information from individuals in connection with reimbursable services provided to NCPC to ensure the agency properly pays these individuals. This system will allow NCPC to maintain payment records and record monies owed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The category of records to be adopted include any individual or organization that serves as a creditor to NCPC, including parties for which reimbursable services are performed and employees for expense reimbursement.

CATEGORIES OF RECORDS IN THE SYSTEM:

New records incorporated into the System of Records include: Individual's names; tax identification number, which may be a Social Security Number in certain instances; addresses and other general contact information, such as phone numbers, facsimile numbers, or email addresses; records of expenses (bills, refund checks, out-of-pocket travel expenses); records of payments; disbursement schedules; monies owed; and electronic financial institution data.

RECORD SOURCE CATEGORIES:

Information originates with NCPC and individuals submitting supporting documentation for payments and reimbursement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INLCUDING CATGORIES OF USERS AND PURPOSES OF SUCH USE:

Records in this system are used by NCPC employees or contractors retained by NCPC to collect and maintain records related to the duties and transactions falling under the purview of NCPC fiscal functions. See, Appendix A for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name; tax identification number, which may be a Social Security number in certain instances; addresses and other general contact information, such as phone numbers, facsimile numbers, or email addresses.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained until an individual requests deletion from the agency's list; a Commission member of alternative changes; distribution of information on a particular matter is no longer required because the matter is closed; or as otherwise prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC personnel or contractors whose responsibilities include access. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card or a ''user ID'' and password combination and/or other electronic access and network controls (*e.g.,* firewalls).

NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures. NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions include the Commission chambers and adjacent meeting room). NCPC's suite entrances are also monitored by electronic surveillance.

Records processed, stored or transmitted and used by contractors are protected by controls implemented by the vendor pursuant to terms incorporated into its contract with NCPC.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures in set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19819 Filed 9–8–20; 8:45 am]

BILLING CODE P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of its intention to update and reissue one system of records (System of Records or Systems) currently titled, NCPC–1, Mailing Lists—NCPC. The category of records to be adopted include the previously adopted list of Federal, State, and local government officials, neighborhood groups, and private citizens of the National Capital Region desiring information on Commission business and activities. New records incorporated into the System of Records include: Contact information for Commission members and designated alternatives; points of contact for media outlets seeking Commission announcements and press releases; and federal agency contacts for agencies submitting projects for inclusion in the Federal Capital Improvement Plan (FCIP) prepared by NCPC.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are

received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/ Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov*.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/ Privacy Act Officer at 202–642–0591 or *privacy@ncpc.gov*.

SUPPLEMENTARY INFORMATION: The routine uses of the System of Records have been updated to include, without limitation, the ability to share information under certain enumerated circumstances with the Department of Justice; either House of Congress or a Congressional office, and other federal agencies and individuals. The new routine uses will be adopted as an appendix that applies to this and all other NCPC System of Records to preclude redundancy (See, Appendix A of this Notice). Upon adoption the modified System of Records will be titled NCPC–1, NCPC Mailing and Other Lists.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 603.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of the use to which their respective records are put, and assists individuals find records about themselves maintained by the agency. This notice complies with the requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information concerning NCPC's Mailing and Other Lists System of Records. In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this updated Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–1, NCPC Mailing and Other Lists.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing the list of Federal, State, and local government officials, neighborhood groups, and private citizens of the National Capital Region desiring information on Commission business and activities are located at the premises of a vendor under contract to NCPC. Information on the location of this vendor can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

The records containing contact information for Commission members and designated alternatives; points of contact for media outlets seeking Commission announcements and press releases; and federal agency contacts for agencies submitting projects for inclusion in the Federal Capital Improvement Plan (FCIP) prepared by NCPC are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the first and second paragraphs of System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

The National Capital Planning Act, 40 U.S.C. 8701 *et seq.* (2016).

PURPOSE OF THE SYSTEM:

The purpose of the system is to store and maintain names, addresses (both postal and electronic mail) and other relevant information to enable distribution of information pertaining to Commission business and activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by the System include persons appearing on mailing lists maintained by NCPC to facilitate mailing to multiple addressees and implementation of other activities in furtherance of NCPC's duties. These lists include persons who serve on the Commission; individuals, organizations, and contractors participating in NCPC activities such as attendance at Commission or other public meetings; persons including members of the media requesting information from NCPC; and person, organizations who attend or express interest in NCPC business and activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the System include an individual's name; position title; phone number; electronic mail address; home and/or work address; and affiliation.

RECORD SOURCE CATEGORIES:

Records are obtained from the individuals on whom the records are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INLCUDING CATGORIES OF USERS AND PURPOSES OF SUCH USE:

Records in this system are used by NCPC employees or contractors retained by NCPC to fulfill requests for NCPC information, provide Commission members and their alternatives with materials necessary to conduct Commission business and keep abreast of NCPC activities, and to contact government agency contacts regarding their application for inclusion of a project in the FCIP. See, Appendix A for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or that of a contractor or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, title, phone number, electronic mail address; home or business address; affiliation, and IP

address (in some cases where information is submitted electronically).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained until an individual requests deletion from the agency's list; a Commission member of alternative changes; distribution of information on a particular matter is no longer required because the matter is closed; or as otherwise prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC personnel or contractors whose responsibilities include access. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card or a ''user ID'' and password combination and/or other electronic access and network controls (*e.g.* firewalls). NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures. NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions include the Commission chambers and adjacent meeting room). NCPC's suite entrances are also monitored by electronic surveillance.

Records processed, stored, or transmitted and used by contractors are protected by controls implemented by the vendor pursuant to terms incorporated into its contract with NCPC.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

42 FR 8028 (February 8, 1977); 57 FR 47881 (October 20, 1992).

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19824 Filed 9–8–20; 8:45 am]

BILLING CODE P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of a new system of records (System of Records or Systems) titled, NCPC–2, Physical Access Control and Visitor Management System—NCPC. The category of records to be adopted includes physical access records for agency personnel entering the NCPC facility, visitor logs for guests of the NCPC, and rosters of individuals attending NCPC-sponsored events. Upon adoption the new System of Records will be titled NCPC–2, NCPC Physical Access Control and Visitor Management System.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov*.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/Privacy Act Officer at 202–642–0591 or *privacy@ncpc.gov*.

SUPPLEMENTARY INFORMATION: The primary routine use of the System of Records is to account for individuals present on NCPC's premises at any given date or time. Other routine uses include, without limitation, sharing information under certain enumerated circumstances with the Department of Justice; either House of Congress or a Congressional office, and other federal agencies and individuals. All other routine uses will be adopted as an appendix that applies to this and all other NCPC System of Records to preclude redundancy (See, Appendix A of this Notice). Upon adoption the modified System of Records will be titled NCPC–2, NCPC Physical Access Control and Visitor Management System.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 455.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of the use to which their respective records are put, and assists individuals find records about themselves maintained by the agency. This notice complies with the

requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information concerning NCPC's Physical Access Control and Visitor Management System of Records.

In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this updated Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–2, NCPC Physical Access Control and Visitor Management System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing physical access control and visitor management are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; and the National Capital Planning Act, 40 U.S.C. 8701 *et seq.* (2016);

PURPOSE OF THE SYSTEM:

The purpose of the system is to store and maintain records associated with access to NCPC premises to account for and manage employees and visitors present at any given date or time in order to enhance physical security and protection of government property. The system also collects information from individuals who participate in meetings and training sessions to provide a roster of attendees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by the System include any employee, contractor, consultant, intern, fellow, or others with regular access and a building access token which grants unescorted access to the NCPC suite; a visitor is defined as any individual who is not an active employee or contractor working for NCPC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the System include an individual's name; visitor's representing agency; reason for visit, visitor badge number, visitor's escort name; and date and time of entry and departure.

RECORD SOURCE CATEGORIES:

Records are obtained from the individuals on whom the records are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

Records in this system are used by NCPC employees to maintain logs associated with NCPC facility and perimeter access control; and to identify individuals who participate in agency meetings and events. See, Appendix A for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, title, representing agency; visitor badge number; and/or date and time of entry.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained as prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC personnel or contractors whose responsibilities include access. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card or a ''user ID'' and password combination and/or other electronic access and network controls (*e.g.* firewalls).

NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures. NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions include the Commission chambers and adjacent meeting room). NCPC's suite entrances are also monitored by electronic surveillance.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures in set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

42 FR 8028 (February 8, 1977); 57 FR 47881 (October 20 1992).

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19818 Filed 9–8–20; 8:45 am]

BILLING CODE 7502–02–P

NATIONAL CAPITAL PLANNING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: National Capital Planning Commission.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Capital Planning Commission (NCPC or Commission) is providing notice of a new system of records (System of Records or Systems) titled, NCPC–5, General Information Technology Records System. This system consists of information collected in order to provide authorized individuals with access to NCPC information technology

resources. Upon adoption the new System of Records will be titled NCPC–5, General Information Technology Records System.

DATES: This document will become effective October 9, 2020. If no comments are received, the proposed System of Records will become effective on the stated date. If comments are received, they will be considered, and if adopted, the document will be republished in revised form.

ADDRESSES: You may submit written comments on this proposed System of Records Notice (Notice) by either of the methods listed below.

1. U.S. mail, courier, or hand delivery to Anne Schuyler, General Counsel/ Privacy Act Officer/National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

2. Electronically to *privacy@ncpc.gov*.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel/ Privacy Act Officer at 202–642–0591 or *privacy@ncpc.gov*.

SUPPLEMENTARY INFORMATION: The routine uses of the System of Records provide authorized individuals access to NCPC IT resources, and to allow NCPC to track use of NCPC IT resources. Upon adoption, the System of Records will be titled NCPC- 5, General Information Technology Records System.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in what is known as a System of Records. A System of Records is defined by the Privacy Act as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, NCPC extends administrative Privacy Act protection to all individuals for Systems of Records that contain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may access their own records contained in a System of Records in the possession or under the control of NCPC in the manner described by NCPC's Privacy Act Regulations found at 1 CFR part 603.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each System of Records that the agency maintains and the routine uses for the records contained in each system. This requirement renders agency recordkeeping practices transparent, notifies individuals of how and why their respective records are used, and assists individuals in locating records about themselves that are maintained by the agency. This notice complies with the requirements of the Privacy Act regarding Systems of Records and sets forth below the requisite information concerning NCPC's General Information Technology System of Records.

In accordance with guidance provided by the Office of Management and Budget (OMB), NCPC provided a report of this new Systems of Records to OMB, to the House Committee on Oversight and Government Reform, and the Senate Committee on Governmental Affairs.

SYSTEM NAME AND NUMBER:

NCPC–5, General Information Technology Records System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records containing general information technology information are located at NCPC, 401 9th Street NW, Suite 500 North, Washington, DC 20004.

SYSTEM MANAGERS:

For records indicated in the System Location above, information about the system manager can be obtained from NCPC's Director, Office of Administration, (202) 482–7200.

AUTHORITY FOR THE SYSTEM:

44 U.S.C. Chapter 3101.

PURPOSE OF THE SYSTEM:

The purpose of the system is to provide authorized individuals access to NCPC information technology resources and information systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include all current and former NCPC employees, contractors, and interns assigned government-owned assets (*e.g.,* laptop computers, communication equipment, and other assets).

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in this system include: Individual's name; Email address; Division; Office location; Office telephone number; Records on access to NCPC information systems including user ID and passwords; Logs of activity of NCPC IT resources; IP address of access; Logs of internet activity; and Email addresses of senders and recipients.

RECORD SOURCE CATEGORIES:

Records are generated from account request forms submitted by Division Directors on behalf of new employees, contractors, and interns. Records are also discovered automatically using IT asset management tools and audit log and monitoring tools.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

NCPC uses records in this system to assign unique electronic user accounts for employees, contractors, and interns to access NCPC information systems. The records are also used to track and monitor user activity and use of NCPC IT resources.

See, Appendix I for other ways the Privacy Act permits NCPC to disclose system records outside the agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

NCPC stores records electronically in its computer system or on paper in secure facilities such as a locked office or file cabinet. The records may be stored on magnetic disc, tape, digital media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name; general contact information, such as email addresses; office number; office division; unique user ID; or IP address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained until an individual separates from the agency; or as otherwise prescribed under record schedules and procedures issued or approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is restricted to NCPC IT administrators whose responsibilities include logical access and maintenance of the NCPC network and IT resources. Paper records are maintained in locked offices or file cabinets. Access to electronic records is controlled by use of a personal identity verification (PIV) ID card to the NCPC network and a ''user ID'' and password combination to the account management application.

NCPC's offices are located in a public building guarded and monitored by security personnel, cameras, ID check, and other physical security measures.

NCPC's office suite is accessed by means of an electronic key card system (employees) and clearance by an office receptionist (visitors). Visitors must sign-in, wear an identification badge, and be escorted by NCPC personnel during their visit to other than public portions of the office (public portions include the Commission chambers and adjacent meeting room). NCPC's suite entrances are also monitored by electronic surveillance.

Records processed, stored or transmitted and used by contractors are protected by controls implemented by the vendor pursuant to terms incorporated into its contract with NCPC.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record pertaining to them in the System of Records described herein shall follow the procedures in set forth in NCPC's Privacy Act Regulations contained in 1 CFR part 603. The request should be directed to: NCPC Privacy Act Officer, National Capital Planning Commission, 401 9th Street NW, Suite 500, Washington, DC 20004.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of a record contained in the System of Records described in this Notice shall follow the procedures set forth in Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the System of Records described in this Notice contains a record pertaining to him/her shall follow the procedures set forth in Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: September 2, 2020.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2020–19821 Filed 9–8–20; 8:45 am]

BILLING CODE 7502–02–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323; NRC–2020–0207]

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) approved a request by Pacific Gas and Electric Company (PG&E, the licensee) for amendments to Facility Operating License Nos. DPR–80 and DPR–82, issued to the licensee for operation of the Diablo Canyon Nuclear Power Plant (Diablo Canyon), Units 1 and 2, located in San Luis Obispo County, California. The amendments provide a new Technical Specification (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System,'' Condition G, to address a one-time planned Diablo Canyon, Unit 1, Cycle 22, AFW system alignment for which current TS 3.7.5 would require shutdown.

DATES: A request for a hearing or petition for leave to intervene must be filed by November 9, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0207 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0207. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

FOR FURTHER INFORMATION CONTACT: Samson S. Lee, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3168, email: *Samson.Lee@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC issued amendments to Facility Operating License Nos. DPR–80 and DPR–82, issued to PG&E for operation of Diablo Canyon, Units 1 and 2. The amendments avoid an unnecessary plant shutdown during the expected time needed to perform potential repairs to the Unit 1 AFW system piping that PG&E conservatively anticipates may be identified during the Diablo Canyon, Unit 1, Cycle 22, planned inspections to the AFW system. Specifically, the amendments provide a new TS 3.7.5, ''Auxiliary Feedwater (AFW) System,'' Condition G, to allow operation of Diablo Canyon, Unit 1, for up to 7 days when the AFW system is aligned in a manner for which current TS 3.7.5 would require shutdown. The amendments are only for Cycle 22 during repair of the AFW piping. The NRC staff finds that the application for the license amendments complies with the requirements of the Atomic Energy Act of 1954, as amended, and the NRC's regulations. The NRC staff's evaluation may be obtained and examined in ADAMS under Accession No. ML20235R635.

In its license amendment request dated August 12, 2020, the licensee requested that the proposed amendments be processed by the NRC on an exigent basis in accordance with the provisions in section 50.91(a)(6) of title 10 of the *Code of Federal Regulations* (10 CFR). The licensee provided the following information to explain the exigency of the amendments. Because of localized corrosion identified on Diablo Canyon, Unit 2, AFW piping during a recent Diablo Canyon, Unit 2, maintenance outage, the licensee intends to perform inspections of Diablo Canyon, Unit 1, AFW piping in the near term to ensure that Diablo Canyon, Unit 1, is not similarly affected. If similar below-minimum pipe wall thicknesses are found in the Unit 1 AFW system piping and elbows that were found in Unit 2, based on the estimated time-to-repair gained from the Unit 2 repair, it is likely that the current TS 3.7.5 Required Actions B.1 or D.1 would result in the required shutdown of Unit 1. The TS 3.7.5 change would avoid an unnecessary plant shutdown during the expected time needed to perform the potential repairs and associated post-maintenance inspections and testing to the Unit 1 AFW system piping. The licensee stated that it has assessed the potential extent of the Unit 1 AFW system piping repairs based on the required repairs for Unit 2 and is making its best efforts to make a timely

application and has not created the exigency.

The NRC staff considered the circumstances and found exigent circumstances exist in that a licensee and the Commission must act quickly because if they do not, the AFW inspection results could cause a plant shutdown, and that time did not permit the Commission to publish a **Federal Register** notice allowing 30 days for prior public comment. The NRC staff also determined that the amendments involved no significant hazards considerations. Under the provisions in 10 CFR 50.91(a)(6), the NRC notifies the public in one of two ways when exigent circumstances exist: (1) By issuing a **Federal Register** notice providing an opportunity for hearing and allowing at least 2 weeks from the date of the notice for prior public comments; or (2) by using local media to provide reasonable notice to the public in the area surrounding the licensee's facility. In this case, the NRC used local media and published a public notice in the *San Luis Obispo News Tribune,* located in San Luis Obispo, California (*https://www.sanluisobispo.com/*), a newspaper local to the licensee's facility, on August 16, 2020; August 17, 2020; and August 18, 2020.

The licensee's supplements dated August 16, 2020; August 18, 2020; and August 20, 2020, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the *San Luis Obispo News Tribune,* located in San Luis Obispo, California (*https://www.sanluisobispo.com/*), on August 16, 2020; August 17, 2020; and August 18, 2020. Public comments were received and addressed in the NRC staff's evaluation.

II. 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.

III. 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.

IV. Availability of Documents

The following table identifies the documents cited in this document and related to the issuance of the amendments. These documents are available for public inspection online through ADAMS at *https://www.nrc.gov/reading-rm/adams.html.*

Document	ADAMS accession No.
Diablo Canyon Nuclear Power Plant, Units 1 and 2 Issuance of Amendment Nos. 236 and 238 Re: Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater (AFW) System,' EXIGENT CIRCUMSTANCES (EPID L–2020–LLA–0176), dated August 31, 2020.	ML20235R635
Diablo Canyon Units 1 and 2, License Amendment Request 20–01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,' dated August 12, 2020.	ML20225A303
Diablo Canyon request for additional information: Exigent License Amendment Request for Application to provide a new Technical Specification 3.7.5, 'Auxiliary Feedwater System,' Condition G (EPID L–2020–LLA–0176), dated August 14, 2020.	ML20230A073
Response to NRC Request for Additional Information Regarding ''License Amendment Request 20–01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,'" dated August 16, 2020.	ML20229A016
Diablo Canyon additional request for additional information: Exigent License Amendment Request for application to provide a new Technical Specification 3.7.5, 'Auxiliary Feedwater System,' Condition G EPID L–2020–LLA–017, dated August 17, 2020.	ML20231A237
Diablo Canyon Units 1 and 2 Response to NRC Request for Additional Information Regarding ''License Amendment Request 20–01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,'" dated August 18, 2020.	ML20231A838
Diablo Canyon additional request for additional information: Exigent License Amendment Request for application to provide a new Technical Specification 3.7.5, 'Auxiliary Feedwater System,' Condition G EPID L–2020–LLA–017 request for additional information, dated August 20, 2020.	ML20234A242
Diablo Canyon, Units 1 and 2—Response to Additional NRC Request for Additional Information Regarding ''License Amendment Request 20–01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,' response to request for additional information,'' dated August 20, 2020.	ML20233B187

Dated: September 3, 2020.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–19899 Filed 9–8–20; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0237, Information and Instructions on Your Reconsideration Rights, RI 38–47

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request RI 38–47, Information and Instructions on Your Reconsideration Rights.

DATES: Comments are encouraged and will be accepted until October 9, 2020.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to: *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0237) was previously published in the **Federal Register** on March 23, 2020 at 85 FR 16393, allowing for a 60-day public comment period. The following comment was received: ''*(a) we recommend that OPM add a bullet stating that reconsideration of denied FEDVIP claims should be sent to the address shown in the brochure of the annuitant's plan and (b) we recommend that OPM include a telephone number for annuitants to call if they have questions about filing for reconsideration*''. Our response is as follows: ''*The rules for the Federal Employees Dental and Vision Insurance Program (FEDVIP) and the Federal Employees Health Benefits Program (FEHBP) are different. Therefore, the RI 38–47 does not apply to the FEDVIP and the recommended comment will not be added to the form. In addition, a person who has questions about filing for reconsideration should contact the sender on the initial denial letter.*'' The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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.

RI 38–47 outlines the procedures required to request reconsideration of an initial OPM decision about Civil Service or Federal Employees retirement, Federal or Retired Federal Employees Health Benefits requests to enroll or change enrollment or Federal Employees' Group Life Insurance coverage. This form lists the procedures and time periods required for requesting reconsideration.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Information and Instructions on Your Reconsideration Rights.

OMB Number: 3206–0237.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 3,100.

Estimated Time per Respondent: 45 minutes.

Total Burden Hours: 2,325 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–19877 Filed 9–8–20; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–237 and CP2020–267; MC2020–238 and CP2020–268; MC2020–239 and CP2020–269; MC2020–240 and CP2020–270]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 14, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[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 3030, and 39 CFR part 3040, 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 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–237 and CP2020–267; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 165 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Maya Moore; *Comments Due:* September 14, 2020.

2. *Docket No(s).:* MC2020–238 and CP2020–268; *Filing Title:* USPS Request to Add Priority Mail Contract 655 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Maya Moore; *Comments Due:* September 14, 2020.

3. *Docket No(s).:* MC2020–239 and CP2020–269; *Filing Title:* USPS Request to Add Priority Mail Contract 656 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 14, 2020.

4. *Docket No(s).:* MC2020–240 and CP2020–270; *Filing Title:* USPS Request to Add Priority Mail Contract 657 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 2, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 14, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–19869 Filed 9–8–20; 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).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89747; File No. SR–PEARL–2020–11]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 2613 Usage of Data Feeds

September 2, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 24, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 2613 to specify the Exchange's source of market data for MEMX, LLC (''MEMX'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Exchange Rule 2613, which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 2613(a) to specify that, with respect to MEMX, the Exchange will receive the SIP feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from MEMX.[3]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Exchange Rule 2613(a) to include the data feed source for MEMX will ensure that Rule 2613 correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2020–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2020–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2020–11 and should be submitted on or before September 30, 2020.

[3] MEMX announced that it intends to launch operations as an equities exchange on September 4, 2020. *See* MEMX Timeline Update—Launch Set for September 4th, *available at https://memx.com/memx-timeline-update-launch-set-for-september-4th/.*

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19845 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34001; 812–15147]

Resource Credit Income Fund and Sierra Crest Investment Management LLC

September 2, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c), and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees, and early withdrawal charges (''EWCs'').

APPLICANTS: Resource Credit Income Fund (the ''Initial Fund'') and Sierra Crest Investment Management LLC (the ''Adviser'').

FILING DATES: The application was filed on August 4, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on September 28, 2020, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: by email to *William.Bielefeld@dechert.com; Harry.Pangas@dechert.com; Ted.Gilpin@bcpartners.com; Henry.Wang@bcpartners.com;* and *JoAnn.Strasser@thompsonhine.com.*

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a diversified, closed-end management investment company. The Initial Fund operates as an ''interval fund'' pursuant to rule 23c–3 under the Act and continuously offers its shares.

2. The Adviser is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser will serve as investment adviser to the Initial Fund.

3. Applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution and/or service fees, and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser, respectively, and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (the ''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund makes a continuous public offering of its Shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their Shares.

6. The Initial Fund currently offers five classes of shares pursuant to exemptive relief granted by the Commission.[3] If the requested relief is granted, the Initial Fund may also offer additional classes of shares in the future, with each class having its own fee and expense structure.

7. Applicants state that, from time to time, the Funds may create additional classes of shares, the terms of which may differ from the initial class pursuant to and in compliance with rule 18f–3 under the Act.

8. Applicants state that shares of a Fund may be subject to a repurchase fee at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any repurchase fee will apply equally to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. Further, applicants represent that to the extent a Fund determines to waive, impose scheduled variations of, or eliminate any repurchase fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the repurchase fee were a CDSL (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such repurchase fee will apply uniformly to all shareholders of the Fund regardless of class.

9. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5% and not more

[8] 17 CFR 200.30–3(a)(12).

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] See Resource Real Estate Diversified Income Fund and Resource Real Estate, Inc., Investment Co. Act Rel. No. 31093 (June 23, 2014) (Notice) and Investment Co. Act Rel. No. 31162 (July 22, 2014) (Order) (the ''Resource Order''). The order would supersede the Resource Order with respect to the Initial Fund such that neither the Initial Fund nor the Adviser would rely on the Resource Order if the order is granted.

than 25%) at net asset value on a periodic basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act.[4] Each Future Fund will likewise adopt a fundamental investment policy in compliance with rule 23c–3 and make periodic repurchase offers to its shareholders, or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act. Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based service and/or distribution fees for each class of shares will comply with the provisions of FINRA Rule 2341 (''Sales Charge Rule'').[5] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses, and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[6] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[7]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to each Fund. In addition, each Fund will contractually require that any distributor of the Fund's Shares comply with such requirements in connection with the distribution of such Fund's Shares.

12. Applicants state that each Fund may impose an EWC on Shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their Shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act makes it unlawful for a closed-end investment company to issue a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a registered closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of a Fund proposed herein may result in Shares of a class having ''priority over [another] class as to . . . payment of dividends,'' and being deemed a ''senior security,'' because shareholders of different classes may pay different distribution fees, different shareholder services fees, and any other expense. Accordingly, applicants state that the creation of multiple classes of Shares of a Fund with different fees and expenses may be prohibited by section 18(c).

3. Section 18(i) of the Act provides, in relevant part, that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered

[4] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to rule 415 under the Securities Act of 1933.

[5] Any reference to the Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[6] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[7] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, *et seq.* of the Act.

closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an interval fund to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–0 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-Based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Funds to impose asset-based service and distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based service and distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based service and distribution fees is consistent with the provisions, policies, and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19918 Filed 9–8–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89739; File No. SR–NASDAQ–2020–028]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend IM–5101–1 (Use of Discretionary Authority) To Deny Listing or Continued Listing or To Apply Additional and More Stringent Criteria to an Applicant or Listed Company Based on Considerations Related to the Company's Auditor or When a Company's Business Is Principally Administered in a Jurisdiction That Is a Restrictive Market

September 2, 2020.

I. Introduction

On May 19, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend IM–5101–1 (Use of Discretionary Authority) to deny listing or continued listing or to apply additional and more stringent criteria to an applicant or listed company based on considerations related to the company's auditor or when a company's business is principally administered in a jurisdiction that has secrecy laws, blocking statutes, national security laws,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

or other laws or regulations restricting access to information by regulators of U.S.-listed companies in such jurisdiction. The proposed rule change was published for comment in the **Federal Register** on June 8, 2020.[3] On July 20, 2020, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission is publishing this order to solicit comments on the proposed rule change from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

II. Exchange's Description of the Proposed Rule Change

The Exchange states that its listing rules include requirements to provide transparent disclosure to investors as well as corporate governance requirements for listed companies.[7] In addition to these requirements, the Exchange further states that Rule 5101 describes the Exchange's broad discretionary authority over the initial and continued listing of securities on the Exchange in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Pursuant to this rule, the Exchange states that it may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange, even though the securities meet all enumerated criteria for initial or continued listing on the Exchange.[8]

The Exchange further states that, under Exchange rules and federal securities laws, a company's financial statements included in its initial registration statement or annual report must be audited by an independent public accountant that is registered with the Public Company Accounting Oversight Board (''PCAOB'').[9] According to the Exchange, company management is responsible for preparing the company's financial statements and for establishing and maintaining disclosure controls and procedures and internal control over financial reporting.[10] The Exchange states that the company's auditor, based on its independent audit of the evidence supporting the amounts and disclosures in the financial statements, expresses an opinion on whether the financial statements present fairly, in all material respects, the company's financial position, results of operations, and cash flows.[11] The Exchange further states that the auditor, in turn, is normally subject to inspection by the PCAOB, which assesses compliance with PCAOB and Commission rules and professional standards in connection with the auditor's performance of audits.[12] According to the Exchange, it relies on the work of auditors to provide reasonable assurances that the financial statements provided by a company are free of material misstatements, and further relies on the PCAOB's role in overseeing the quality of the auditor's work.[13] The Exchange believes that accurate financial statement disclosure is critical for investors to make informed investment decisions and is concerned that constraints on the PCAOB's ability to inspect auditor work in countries with national barriers on access to information may weaken assurances that the disclosures and financial information of companies with operations in such countries are not misleading.[14]

In light of the foregoing, the Exchange now proposes to amend IM–5101–1 to add a new subparagraph (b) to state that the Exchange may rely upon Rule 5101 to deny initial or continued listing or to apply additional and more stringent criteria to an applicant or listed company based on the following factors related to the qualifications of the company's auditor:

(1) Whether the auditor has been subject to a PCAOB inspection, such as where the auditor is newly formed and has therefore not yet undergone a PCAOB inspection or where the auditor, or an accounting firm engaged to assist with the audit, is located in a jurisdiction that limits the PCAOB's ability to inspect the auditor;

(2) if the company's auditor has been inspected by the PCAOB, whether the results of that inspection indicate that the auditor has failed to respond to any requests by the PCAOB or that the inspection has uncovered significant deficiencies in the auditor's conduct in other audits or in its system of quality controls;

(3) whether the auditor can demonstrate that it has adequate personnel in the offices participating in the audit with expertise in applying U.S. GAAP, GAAS, or IFRS, as applicable, in the company's industry;

(4) whether the auditor's training program for personnel participating in the company's audit is adequate;

(5) for non-U.S. auditors, whether the auditor is part of a global network or other affiliation of individual auditors where the auditors draw on globally common technologies, tools, methodologies, training, and quality assurance monitoring; and

(6) whether the auditor can demonstrate to the Exchange sufficient resources, geographic reach, or experience as it relates to the company's audit.[15]

The Exchange states that it would consider these factors holistically and may be satisfied with an auditor's qualifications notwithstanding the fact that the auditor raises concerns with respect to some of the factors set forth above.[16] The proposed rule further

[3] *See* Securities Exchange Act Release No. 88987 (June 2, 2020), 85 FR 34774. Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nasdaq-2020-028/srnasdaq2020028.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 89344, 85 FR 44951 (July 24, 2020). The Commission designated September 6, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3, at 35134. *See also* Rule 5000 Series.

[8] *See id. See also* Rule 5101.

[9] *See* Notice, *supra* note 3, at 35134 (citing Rules 5210(b) and 5250(c)(3), which reference Section 102 of the Sarbanes-Oxley Act of 2002, Pub. L. 107–204, 116 Stat. 745 (2002)).

[10] *See id.*

[11] *See id.* (quoting PCAOB Auditing Standard 1101.03—Audit Risk, *available at https://pcaobus.org/Standards/Auditing/Pages/AS1101.aspx* (''To form an appropriate basis for expressing an opinion on the financial statements, the auditor must plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement due to error or fraud.'')).

[12] *See id.*

[13] *See id.* at 35135.

[14] *See id.*

[15] The Exchange also proposes to identify certain existing paragraphs within IM–5101–1 as subparagraphs (a), (d), and (e); add descriptive headings to the subparagraphs within IM–5101–1; and relocate existing text describing the Exchange's review process to subparagraph (e). The Exchange also proposes to revise the term ''listing qualifications panel'' in subparagraph (e) to ''Hearings Panel (as defined in Rule 5805(d))'' for consistency within the rulebook.

[16] *See* Notice, *supra* note 3, at 35135. For example, the Exchange states that it may be satisfied that an auditor that is not subject to

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provides examples of additional and more stringent criteria that the Exchange may apply to an applicant or a listed company to obtain comfort that the company satisfies the financial listing requirements and is suitable for listing.[17] These criteria may include requiring: (i) Higher equity, assets, earnings, or liquidity measures than otherwise required under the Rule 5000 Series; (ii) that any offering be underwritten on a firm commitment basis, which typically involves more due diligence by the broker-dealer than would be done in connection with a best-efforts offering; or (iii) companies to impose lock-up restrictions on officers and directors to allow market mechanisms to determine an appropriate price for the company before such insiders can sell shares.[18] The Exchange states that it may impose each of these additional requirements separately or in combination, or may determine that listing is not appropriate and deny initial or continued listing to a company.[19]

The Exchange further states that risks to U.S. investors related to the accuracy of disclosures, accountability, and access to information are heightened when a company's business is principally administered in a jurisdiction that has secrecy laws, blocking statutes, national security laws, or other laws or regulations restricting access to information by regulators of U.S.-listed companies in such jurisdiction.[20] Accordingly, the Exchange also proposes to amend IM–5101–1 to add a new subparagraph (c) to state that the Exchange may use its discretionary authority to impose additional or more stringent criteria, including the criteria set forth in proposed IM–5101–1(b), in other circumstances, including when a company's business is principally administered in a jurisdiction that the Exchange determines to have secrecy laws, blocking statutes, national security laws, or other laws or regulations restricting access to information by regulators of U.S.-listed companies in such jurisdiction (a ''Restrictive Market''). In determining whether a company's business is principally administered in a Restrictive Market (''Restrictive Market Company''), proposed IM–5101–1(c)(4) provides that the Exchange may consider the geographic locations of the company's: (a) Principal business segments, operations, or assets; (b) board and shareholders' meetings; (c) headquarters or principal executive offices; (d) senior management and employees; and (e) books and records.[21] The Exchange states that this definition would capture both foreign private issuers based in Restrictive Markets and companies based in the U.S. or another jurisdiction that principally administer their businesses in Restrictive Markets.[22]

The Exchange represents that, in the event it relies on its discretionary authority pursuant to the proposed rule changes and determines to deny the initial or continued listing of a company, it would issue a denial or delisting letter to the company that will inform the company of the factual basis for the Exchange's determination and the company's right for review of the decision pursuant to the Rule 5800 Series.[23] The proposed rule changes would apply to all companies listed and seeking to list on the Exchange.[24]

III. Summary of the Comment Letters Received

One commenter stated that it supports the proposed rule change inasmuch as it seems reasonably tailored to help ensure full, complete, and transparent financial and other disclosure from Restrictive Market Companies.[25] Another commenter expressed its support for the proposed rule change and agreed with many of the concerns raised by the Exchange related to Restrictive Market Companies.[26] However, this commenter also suggested that the Exchange consider modifications to the proposed rule change, including narrowing the degree of discretion provided by the proposed rule change for situations where the applicant or listed company has an auditor or an accounting firm engaged to assist with the audit that is located in a jurisdiction that limits the PCAOB's ability to inspect the auditor, and where the applicant or listed company is a Restrictive Market Company.[27] Specifically, this commenter recommended that the Exchange modify the proposed rule change to replace proposed IM–5101–1(b)(1) and (c) with new rules that would require that applicants and listed companies from a Restrictive Market be prohibited from having an auditor or accounting firm engaged to assist with their company audit that is located in a jurisdiction that limits the PCAOB's ability to inspect the auditor.[28] This commenter further recommended that the Exchange also amend Rule 5810 to provide a Nasdaq Hearings Panel the discretion to grant a listed company an exception from such new rules for a period not to exceed 540 days from the date of the delisting letter issued by the Exchange.[29]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2020–028 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section

PCAOB inspection has mitigated the risk that it may have significant undetected deficiencies in its system of quality controls by being a part of a global network where the auditors draw on globally common technologies, tools, methodologies, training, and quality assurance monitoring. *See id.*

[17] The Exchange states that if a company's auditor does not satisfy the proposed criteria in IM–5101–1(b), the Exchange may still obtain comfort that the company truly satisfies the financial listing criteria by imposing a higher standard on such company. *See id.* at 35136.

[18] *See* proposed IM–5101–1(b). The Exchange states that it may also have concerns that a company listing on the Exchange through an initial public offering, business combination, direct listing, or issuing securities previously trading over-the-counter may not develop sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading, resulting in a security that is illiquid. *See* Notice, *supra* note 3, at 35136. In such cases, the Exchange states that it may impose additional liquidity measures on the company, such as requiring a higher public float percentage, market value of unrestricted publicly held shares, or average over-the-counter trading volume. *See id.* The Exchange further states that it may obtain additional comfort regarding the quality of a company's financial statements by requiring the offering to be underwritten, which the Exchange believes would help to ensure that third parties other than the auditor are conducting significant due diligence on the company, its registration statement, and its financial statements. *See id.* The Exchange also believes that, if material misstatements are detected by the company's auditors and have not been disclosed to investors, it may be appropriate to impose lock-up restrictions on officers and directors to allow market mechanisms to determine an appropriate price for the company before such insiders can sell shares. *See id.*

[19] *See* Notice, *supra* note 3, at 35136.

[20] *See id.*

[21] *See* proposed IM–5101–1(c)(4).

[22] *See* Notice, *supra* note 3, at 35136 n.11. The Exchange further provides the following example: a company's headquarters could be located in Country A, while the majority of its senior management, employees, assets, operations, and books and records are located in Country B, which is a Restrictive Market. In this case, the Exchange would consider the company's business to be principally administered in Country B, which is a Restrictive Market, and the Exchange may use its discretionary authority pursuant to proposed IM–5101–1(c) to apply additional or more stringent criteria to the company. *See id.* at 35136.

[23] *See id.* See also Rule 5815, which sets forth the review of staff determinations by a Hearings Panel, including the procedures for requesting and preparing for a hearing and the scope of the Hearing Panel's discretion.

[24] *See id.*

[25] *See* Letter from Annemarie Tierney, Founder and Principal, Liquid Advisors, Inc. (July 2, 2020), at 5.

[26] *See* Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors (June 18, 2020), at 5.

[27] *See id.* at 6.

[28] *See id.* at 6–7.

[29] *See id.* at 7.

19(b)(2)(B) of the Act [30] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[31] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[32]

The Exchange is proposing to adopt new rule text to specifically permit it to utilize its broad discretionary authority to deny initial or continued listing or to apply additional and more stringent criteria to an applicant or listed company based on certain factors, as described in more detail above, related to the qualifications of the company's auditor. However, the Exchange does not state how these broad factors would be considered in its determination of whether an applicant or listed company will be denied initial or continued listing, or subject to additional and more stringent criteria, other than to note that the factors will be considered ''holistically.'' In addition, the Exchange states that it may also find a particular auditor's qualifications sufficient despite the fact that the auditor raises concerns with respect to some of the specified factors. Further, the Exchange does not state what specific additional or more stringent criteria it would impose, if it decided to impose additional or more stringent criteria. Whether an applicant or listed company is denied listing or subject to additional criteria and what that additional criteria is, however determined, appears to be subject to wide discretion under the proposed rule.

Similarly, under the proposed rule, the Exchange may also use its broad discretionary authority to impose similar additional or more stringent criteria on a Restrictive Market Company. The Exchange does not provide any information in its filing regarding when it generally will or will not use its authority to subject a Restrictive Market Company to such additional criteria, but rather just provides that a Restrictive Market Company ''may'' be subject to additional or more stringent criteria. In addition, the Exchange does not state what specific additional or more stringent criteria it would impose, if it decided to impose additional or more stringent criteria. These provisions appear to be subject to wide discretion by the Exchange.

The Exchange stated that its proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the Exchange has identified additional concerns around companies with auditors that do not have sufficient PCAOB inspection history, quality controls, resources, geographic reach, and experience to adequately perform the company's audit and Restrictive Market Companies, and because applying additional and more stringent criteria may not be appropriate in all circumstances.[33] As discussed above, however, the Exchange's proposal provides it wide discretion to determine: (1) Whether to deny initial or continued listing or to apply additional and more stringent criteria to an applicant or listed company based on factors related to the qualifications of the company's auditor, and what specific additional or more stringent criteria it would impose, if it decided to impose additional or more stringent criteria; and (2) whether to apply additional or more stringent criteria to a Restrictive Market Company, and what specific additional or more stringent criteria it would impose, if it decided to impose additional or more stringent criteria. Accordingly, the Commission believes there are questions as to whether the proposal is consistent with Section 6(b)(5) of the Act and its requirement, among other things, that the rules of a national securities exchange not be designed to permit unfair discrimination.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.'' [34] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[35] and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[36]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposal is consistent with the Act.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) [37] of the Act or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[38] any request for an opportunity to make an oral presentation.[39]

[30] 15 U.S.C. 78s(b)(2)(B).

[31] *Id.*

[32] 15 U.S.C. 78f(b)(5).

[33] *See* Notice, *supra* note 3, at 35137–38.

[34] 17 CFR 201.700(b)(3).

[35] *See id.*

[36] *See id.*

[37] 15 U.S.C. 78f(b)(5).

[38] 17 CFR 240.19b–4.

[39] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of

Continued

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by September 30, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 14, 2020. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[40] in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–028 and should be submitted by September 30, 2020. Rebuttal comments should be submitted by October 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19841 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[40] *See* Notice, *supra* note 3.

[41] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89737; File No. SR–FINRA–2020–027]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Temporarily Amend FINRA Rules 1015, 9261, 9524 and 9830 To Permit Hearings Under Those Rules To Be Conducted by Video Conference

September 2, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 31, 2020, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. FINRA files the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to temporarily amend FINRA Rules 1015, 9261, 9524 and 9830 to grant FINRA's Office of Hearing Officers (''OHO'') and the National Adjudicatory Council (''NAC'') authority[5] to conduct hearings in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. As proposed, these temporary amendments would be in effect through December 31, 2020.[6]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The outbreak of COVID–19 has disrupted critical adjudicatory functions nationwide due to the serious public health risks it poses in connection with conducting traditional, in-person hearings. In order to comply with the guidance of public health authorities and to ensure the safety and well-being

[5] For OHO hearings under FINRA Rules 9261 and 9830, the proposed rule change temporarily grants authority to the Chief or Deputy Chief Hearing Officer to order that a hearing be conducted by video conference. For NAC hearings under FINRA Rules 1015 and 9524, this temporary authority is granted to the NAC or relevant Subcommittee.

[6] If FINRA requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020, FINRA may submit a separate rule filing to extend the expiration date of the temporary amendments under these rules. The amended FINRA rules will revert back to their current state at the conclusion of the temporary relief period and any extension thereof.

of parties, counsel, adjudicators and FINRA personnel, FINRA has administratively postponed in-person OHO and NAC hearings for over four months now—starting on March 16, 2020, with in-person hearings currently postponed through October 2, 2020. The result is an expanding backlog of cases, which if left unchecked, will compromise FINRA's ability to provide timely adjudicatory processes and fulfill its statutory obligations to protect investors and maintain fair and orderly markets.

In order to proactively address this backlog of cases, and mitigate the consequences of a stalled adjudicatory system, FINRA is proposing this temporary rule change to grant OHO and the NAC the authority to conduct hearings by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. This proposed rule change would allow OHO and the NAC to order that a hearing proceed by video conference over the objection of a party.[7] As discussed in further detail below, FINRA will evaluate whether current COVID–19-related public health risks warrant a hearing by video conference based on an assessment of critical data and criteria and guidance from its outside health and security consultant.[8]

FINRA's protocol for conducting hearings by video conference will ensure that such hearings maintain fair process for the parties. FINRA will, among other things, use a high quality, secure and user-friendly video conferencing service and provide thorough instructions, training and technical support to all hearing participants.[9] In addition, FINRA has experience conducting numerous hearings and oral arguments utilizing video conferencing technology in similar contexts.[10]

While FINRA's ultimate goal is to resume in-person hearings, doing so in a manner that is compliant with the current guidance of public health authorities is a complex, challenging and time-consuming process that presents numerous logistical challenges. Among other things, FINRA will need detailed procedures and related participant training on physical distancing and otherwise minimizing physical contact during in-person hearings, preparing spaces and providing protective equipment to protect the safety of hearing participants (including parties, counsel, adjudicators and FINRA personnel) and to address numerous other aspects of in-person hearings that pose a risk of COVID–19 transmission.[11] Even with the ability to put those protections in place, FINRA cannot conduct an in-person hearing where the hearing participants cannot safely travel to the hearing location. Furthermore, even if hearing participants are able to travel to a hearing location, state and local quarantining requirements may pose significant impediments to their ability to participate in person.

With the assistance of its outside health and security consultant, FINRA is actively working to develop such a protocol for in-person hearings that takes into consideration the various health and safety considerations at play. Settling on a protocol for in-person hearings, however, continues to be a moving target, with public health guidance being continually updated and local and state transmission rates, government public health orders and other localized considerations in a constant state of flux. FINRA believes that permitting the Chief or Deputy Chief Hearing Officer or the NAC or relevant Subcommittee to exercise their judgment to conduct OHO and NAC hearings, respectively, by video conference [12] on a temporary basis is a reasonable interim solution to allow FINRA's critical adjudicatory processes to continue to function in these extraordinary times—enabling FINRA to fulfill its statutory obligations to protect investors and maintain fair and orderly markets—while protecting the health and safety of hearing participants.[13]

(a) Background

FINRA's adjudicatory functions performed by OHO and the NAC are essential to investor protection and market integrity. This proposed rule change would provide OHO and the NAC with temporary authority to order that OHO hearings for disciplinary matters and temporary and permanent cease and desist orders and NAC hearings for appeals of Membership Application Program (''MAP'') decisions and eligibility proceedings, take place by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. As proposed, this temporary rule change would be in effect through December 31, 2020.

(1) OHO Hearings

OHO conducts disciplinary hearings in-person at venues across the country before three-person hearing panels composed of one hearing officer and two industry members.[14] Depending on the size and complexity of the case, OHO schedules the hearing for four to ten months after the filing of the complaint. OHO, on average, conducts 19 disciplinary cases a year.[15] FINRA Rule 9261(b) [16] states that if a disciplinary hearing is held, a party shall be entitled to be heard in-person, by counsel, or by the party's

[7] Currently, if the parties jointly agree, OHO and the NAC will proceed with a hearing by video conference. As of August 21, 2020, OHO has conducted three days of video conference hearings in connection with a disciplinary matter and scheduled hearings in 5 other disciplinary matters to proceed by video conference, per joint agreement of the parties.

[8] *See infra* Assessment of Public Health Risks—Data and Criteria Used.

[9] FINRA plans to conduct video conference hearings using Zoom, a program that has been vetted by FINRA's information technology staff. FINRA may consider alternate video conferencing services, if those services have features and capabilities analogous to those available through Zoom.

[10] From the postponement of in-person hearings starting on March 16, 2020, through August 21, 2020, 43 FINRA arbitration cases have proceeded with one or more video conference hearings conducted via Zoom. Of those 43 cases, 23 conducted one or more video conference hearings pursuant to the parties' joint motion. As of August 21, 2020, the NAC, through the relevant Subcommittee, has conducted 3 oral arguments by video conference using Zoom in connection with appeals of FINRA disciplinary proceedings pursuant to FINRA Rule 9341(d), as temporarily amended. *See infra* note 22.

[11] *See, e.g.,* Conducting Jury Trials and Convening Grand Juries During the Pandemic (June 4, 2020) (Outlining the ''multitude of issues'' courts need to consider before resuming jury selection and jury trials during the pandemic, including, among other things, reconfiguring courtrooms, the presentation and handling of evidence to reduce transmission risks, restricting access to physical spaces such as common areas and deciding when jurors will be permitted to leave the premises) available at *https://www.uscourts.gov/sites/default/files/combined_jury_trial_post_covid_doc_6.10.20.pdf.*

[12] FINRA currently conducts certain hearing and pre-hearing conferences by remote means. Pursuant to FINRA Rule 9241(b) (Pre-hearing Conference; Procedure), pre-hearing conferences conducted in connection with FINRA disciplinary proceedings can be conducted with one or more persons participating by telephone or ''other remote means.'' Pursuant to FINRA Rule 9559(d)(5) (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series), hearings in connection with expedited proceedings under the Rule 9550 Series are held by telephone conference, unless the Hearing Officer orders otherwise for good cause shown.

[13] FINRA notes that, in response to COVID-related risks, federal agencies such as the United States Patent and Trademark Office (USPTO) are also conducting a variety of meetings and hearings remotely, including trademark examining attorney interviews and oral hearings, until further notice. *See* USPTO Update on In-Person Meetings (March 13, 2020) available at *https://www.uspto.gov/about-us/news-updates/uspto-update-person-meetings.*

[14] In limited circumstances, a hearing may proceed with a Hearing Officer and one panelist, which is permitted under FINRA rules.

[15] This number is based on an average of the hearings from the three-year period from January 2017 to December 2019.

[16] FINRA Rule 9261(b) (Disciplinary Proceedings; Hearing and Decision; Evidence and Procedure in Hearing; Party's Right to be Heard).

representative. Absent an agreement by all parties to proceed in another manner, OHO conducts disciplinary hearings in-person.

OHO also conducts hearings for temporary and permanent cease and desist orders (''TCDOs'' and ''PCDOs''). Pursuant to FINRA Rule 9810,[17] FINRA's Department of Enforcement (''Enforcement'') initiates a TCDO or PCDO proceeding by filing a written notice with OHO and must simultaneously file a disciplinary complaint with the initiation of a TCDO or PCDO proceeding. These proceedings provide a mechanism to take necessary remedial action against a member or associated person where there is a significant risk that the alleged misconduct could cause continuing harm to the investing public, if not addressed expeditiously.[18]

After OHO receives a notice initiating a TCDO or PCDO, it must hold a full evidentiary hearing before a three-person hearing panel within 15 days.[19] As with standard disciplinary matters, OHO typically conducts these proceedings in person, absent consent by all parties to proceed otherwise, at various venues across the country. FINRA Rule 9830 outlines the requirements for a TCDO or PCDO hearing, however, it does not specify that a party shall be entitled to be heard in-person, by counsel, or by the party's representative.[20]

The proposed rule change would temporarily amend FINRA Rules 9261 and 9830 to grant OHO's Chief or Deputy Chief Hearing Officer temporary authority to order, upon consideration of the current COVID–19-related public health risks presented by an in-person hearing, that a hearing under those rules be conducted by video conference. This will allow OHO to make an assessment, based on critical COVID–19 data and criteria and the guidance of its outside health and security consultant, as to whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference.[21]

(2) NAC Hearings

The NAC is FINRA's appellate body, which reviews initial decisions issued by OHO and—through Subcommittees—holds evidentiary hearings for MAP decision appeals and eligibility proceedings.[22] The proposed rule change would grant the NAC or relevant Subcommittee temporary authority to order, upon consideration of the current COVID–19-related public health risks presented by an in-person hearing, that a hearing in connection with a MAP decision or eligibility proceeding under Rule 1015 or 9524 be conducted by video conference.

(a) Membership Proceedings

When a firm applies to become a FINRA member or seeks to make certain changes to its ownership, control or business operations, the firm files a membership application—a New Member Application (''Form NMA'') or Continuing Membership Application (''CMA'')—with FINRA's Department of Member Supervision (''Department''). The Department evaluates the application pursuant to FINRA Rule 1014 or 1017, depending on the type of application. FINRA Rule 1015 governs the process by which an applicant for new or continuing membership can appeal a decision rendered by the Department under FINRA Rule 1014 or 1017 and request a hearing.[23] If a hearing is requested, a Subcommittee of the NAC conducts the hearing. Rule 1015(f) does not require an in-person hearing, however, hearings are typically conducted in-person.[24]

(b) Eligibility Proceedings

Pursuant to FINRA's By-Laws, a member firm subject to a statutory disqualification that wishes to retain their membership must file a Form MC–400A (''MC–400A'') application. If an associated person is subject to a statutory disqualification, a firm can sponsor the association of the disqualified person by filing a Form MC–400 application (''MC–400''). The Department is responsible for evaluating MC–400A and MC–400 applications and making recommendations either to approve or deny the application to the NAC.[25]

FINRA Rule 9524 governs the process by which a statutorily disqualified member firm or associated person can appeal the Department's recommendation to deny a firm or sponsoring firm's MC–400A or MC–400 application to the NAC.[26] If the Department recommends denial of an application, the applicant can request an evidentiary hearing before a hearing panel, which routinely consists of two members of the NAC Statutory Disqualification Committee.[27] FINRA Rule 9524(a)(4) states that the parties are entitled to be heard in-person and represented by an attorney.

The proposed rule change would temporarily amend FINRA Rules 1015(f) and 9524(a)(4) to grant the NAC or Subcommittee (or Review Subcommittee) temporary authority to order, upon consideration of the current COVID–19-related public health risks presented by an in-person hearing, that a hearing under those rules be conducted by video conference. As with the OHO hearings discussed above, this temporary proposed rule change will allow the NAC or relevant Subcommittee to make an assessment, based on critical COVID–19 data and criteria and the guidance of its outside health and security consultant, as to

[17] FINRA Rule 9810 (Code of Procedure; Temporary and Permanent Cease and Desist Orders; Initiation of Proceeding).

[18] Pursuant to FINRA Rule 9810(a), Enforcement may initiate a TCDO proceeding based on alleged violations of (i) Section 10(b) of the Exchange Act and SEA Rule 10b–5 thereunder; (ii) SEA Rules 15g–1 through 15g–9; (iii) FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade), if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or based on violations of Section 17(a) of the Securities Act; (iv) FINRA Rule 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices); or (v) FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities), if the alleged violation is misuse or conversion of customer assets. Enforcement may initiate a PCDO proceeding pursuant to 9810(a) based on alleged violations of Supplemental Material .03 to FINRA Rule 5210 (Disruptive Quoting and Trading Activity Prohibited) for certain types of quoting and trading activity that are deemed to be disruptive and need to be resolved on an expedited basis.

[19] FINRA Rule 9830(a) (Code of Procedure; Temporary and Permanent Cease and Desist Orders; Hearing; When Held).

[20] *See supra* note 19.

[21] The SEC's Rules of Practice pertaining to temporary cease-and-desist orders provide that parties and witnesses may participate by telephone or, in the Commission's discretion, through the use of alternative technologies that allow remote access, such as a video link. *See* SEC Rule of Practice 511(d)(3); Comment (d).

[22] FINRA Rule 9341(d) (Oral Argument; Attendance Required) provides that oral arguments made in connection with the review of a FINRA disciplinary proceeding take place before a Subcommittee of the NAC and requires all members of the relevant Subcommittee to be present for the oral argument. FINRA has temporarily amended FINRA Rule 9341(d) such that oral arguments made in connection with the review of FINRA disciplinary proceedings can be conducted by video conference. *See* Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness File No. SR–FINRA–2020–015); Securities Exchange Act Release No. 89423 (July 29, 2020), 85 FR 47278 (August 4, 2020) (Notice of Filing and Immediate Effectiveness File No. SR–FINRA–2020–022) (Further extending the expiration date of the temporary amendments in SR–FINRA–2020–15 from July 31, 2020, to a date to be specified in a public notice issued by FINRA, which date will be at least two weeks from the date of the notice, and no later than December 31, 2020).

[23] *See* FINRA Rule 1015(a) (Review by National Adjudicatory Council; Initiation of Review by Applicant).

[24] *See* FINRA Rule 1015(f) (Review by National Adjudicatory Council; Hearing).

[25] *See* FINRA Rule 9522 (Initiation of Eligibility Proceeding; Member Regulation Consideration).

[26] *See* FINRA Rule 9524 (National Adjudicatory Council Consideration).

[27] *See* FINRA Rules 9522(e)(3) and 9524.

whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference.

(3) Assessment of Public Health Risks—Data and Criteria Used

In light of the COVID–19 outbreak, determining the health and safety risks of a given in-person activity requires a complex facts and circumstances analysis and is a moving target. Public health guidance on how to minimize the risk of transmission is continually updated and localized considerations evolve rapidly. In order to assist FINRA through this challenging process, FINRA has engaged a health and security consultant to provide guidance on the multitude of issues that will need to be addressed in order to safely resume in-person activities.

For purposes of this proposed temporary rule change, FINRA plans to rely on the guidance of its health and safety consultant, in conjunction with COVID–19 data and guidance issued by public health authorities, to determine whether the current public health risks presented by an in-person hearing may warrant a hearing by video conference. The following criteria, among others, will be considered in order to make this determination: (i) State and county virus trends and hospitalization rates at or around the hearing location; (ii) national, state and local orders addressing COVID–19; (iii) risks posed by requiring hearing participants to travel by air, use public transportation and stay in hotels; and (iv) the increased risk of exposure based on the length of the hearing or number of hearing participants. FINRA will also take into consideration any other relevant health, safety or similar concerns raised by the hearing participants.[28]

(4) Platform and Procedures for Conducting Video Conference Hearings

FINRA has adopted a detailed and thorough protocol to ensure that hearings conducted by video conference will maintain fair process for the parties.[29] As an initial matter, FINRA will use a high quality, secure and user-friendly video conferencing service.[30] FINRA has provided a step-by-step breakdown of the enhanced security features that will be provided for video conference hearings.[31] In addition, FINRA will use available video conferencing features to parallel an in-person hearing experience such as waiting rooms to ensure that no party has time alone with the hearing panel and breakout rooms to allow for confidential communications. FINRA has also developed comprehensive guidelines for how video conference hearings will be conducted, including how objections and the introduction of new documents will be handled.[32] These guidelines ensure that participants know what to expect during a video conference hearing and can prepare accordingly.

FINRA will also provide assistance to participants to ensure that they are adequately prepared to use the video conferencing software by conducting a mock hearing for the parties in advance of the hearing date. During the mock hearing, hearing participants will learn how to share documents and use other software features that allow participants to perform tasks typically done during in-person hearings, such as a highlighting feature that the parties can use to focus a witness on particular portions of a document during witness questioning. Further, FINRA will have a case administrator participate in each video conference hearing to ensure participants have adequate technical support during the hearing. These procedures and resources, among others, will provide fair process for all hearing participants.

FINRA has filed the temporary proposed rule change for immediate effectiveness. The implementation date will be 30 days after the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[33] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is also consistent with Section 15A(b)(8) of the Act,[34] which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members and the denial of membership of any person seeking membership.

The underpinning of FINRA's regulatory purpose is to protect investors and safeguard the integrity of the securities markets. FINRA cannot accomplish these objectives in an effective manner without the ability to timely conduct hearings in connection with its core adjudicatory functions. The temporary proposed rule change will allow FINRA's core adjudicatory functions to operate effectively without protracted delays. For example, the temporary proposed rule change allowing TCDO hearings to be conducted by video conference is vitally important, as it will enable FINRA to take immediate action to stop significant, ongoing customer harm.

With respect to eligibility proceedings, members and disqualified individuals who file an MC–400A or MC–400 application are permitted, in certain circumstances, to continue operations as a FINRA member and continue to work in the industry, respectively, while their application remains pending. Allowing hearings on these applications to proceed by video conference will prevent extended delays and allow members and disqualified individuals to receive an approval or denial of their applications. Accordingly, the proposed rule change, which would grant OHO and the NAC temporary authority to conduct hearings by video conference, is in the public interest and consistent with the Act's purpose.

[28] In addition to an assessment of the public health risks, OHO's Chief or Deputy Chief Hearing Officer, or the NAC or relevant Subcommittee, may consider other factors in determining whether to schedule a video conference hearing. A non-exhaustive list of these factors includes a hearing participant's individual health concerns and access to the connectivity and technology necessary to participate in a video conference hearing. Moreover, as discussed *infra,* OHO and the NAC will have several means of addressing a hearing participant's access issues, including providing a hearing participant with the technology or hardware necessary to participate in a video conference or permitting a witness, for example, to participate by telephone to address connectivity issues. A FINRA case administrator will also participate in each video conference hearing to ensure participants have adequate technical support.

[29] The temporary proposed rule change will not alter the Chief or Deputy Chief Hearing Officer's, or the NAC or relevant Subcommittee's, existing discretion to allow a party or witness to participate by telephone, if necessary to address, among other things, impediments to a hearing participant's use of video conferencing technology such as connectivity issues. FINRA also notes that, to the extent feasible, it may, among other things, lend hearing participants the hardware necessary to participate in a video conference hearing (*e.g.,* a video camera).

[30] As indicated above, FINRA has used video conferencing technology in other contexts to conduct hearings and oral arguments and take testimony. *See supra* notes 7 and 10.

[31] *See* Zoom Process for Disciplinary Hearings with the Office of Hearing Officers, available at *https://www.finra.org/rules-guidance/key-topics/covid-19/hearings/zoom-office-hearing-officers.* The enhanced securities features include randomly-generated meeting IDs and passwords for admittance, the use of a ''waiting room'' for all participants who join the hearing, the ability to ''lock'' the ''hearing room'' so that no one else can enter, even if they have a password, and FINRA's Zoom process is restricted to Zoom's U.S. data centers only.

[32] *See supra* note 31.

[33] 15 U.S.C. 78*o*–3(b)(6).

[34] 15 U.S.C. 78*o*–3(b)(8).

Further, the proposed rule change will continue to provide fair process in connection with OHO and NAC hearings.[35] Conducting hearings via video conference will give the parties and adjudicators simultaneous visual and oral communication,[36] but without the risks of individuals being physically close to one another. FINRA will use high quality, secure video conferencing technology with features that will allow the parties to reasonably approximate those tasks that are typically performed at an in-person hearing, such as sharing documents, marking documents, and utilizing breakout rooms. FINRA will also provide training for participants on how to use the video conferencing platform and detailed guidance on the procedures that will govern such hearings. Moreover, as noted above, the Chief or Deputy Chief Hearing Officer, or the NAC or relevant Subcommittee, may take into consideration, among other things, a hearing participant's access to connectivity and technology in scheduling a video conference hearing and can also, at their discretion, allow a party or witness to participate by telephone, if necessary, to address such access issues.

In addition, temporarily permitting the OHO and NAC hearings for FINRA disciplinary matters to proceed by video conference maintains fair process by providing respondents a timely opportunity to address and potentially resolve any allegations of misconduct. With respect to applicants who receive an adverse MAP decision, they will have a timely opportunity to challenge the denial of their application. The temporary proposed rule change strikes an appropriate balance, providing fair process and enabling FINRA to fulfill its statutory obligations to protect investors and maintain fair and orderly markets while taking into consideration the significant health and safety risks of in-person hearings stemming from the outbreak of COVID–19.

[35] FINRA notes that, in interpreting the fair procedure requirement under Section 15A(b)(8) of the Act, the Commission has emphasized that FINRA and its predecessor organization (NASD) have proceedings that are less formal than federal court proceedings. *See, e.g., Sumner B. Cotzin*, 45 SEC. 575, 579–80 (1974) (''When Congress provided for self-regulatory associations of securities dealers such as the NASD, it clearly did not intend to create formalistic tribunals akin to the courts or even to this Commission. Self-regulation or cooperative regulation necessarily calls for informality.''). *See also David A. Gingras,* 50 SEC. 1286, 1293 n.20 (1992) (''NASD's proceedings are informal and do not resemble those of law courts.'').

[36] *See* Jeremy Graboyes, Admin. Conf. of U.S., Legal Considerations for Remote Hearings in Agency Adjudications at 12 (June 16, 2020), available at *https://www.acus.gov/report/legal-considerations-remote-hearings-agency-adjudications.*

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the temporary proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended solely to provide temporary relief given the impacts of the COVID–19 outbreak. As a result of the temporary nature of the proposed relief, an abbreviated economic impact assessment is appropriate.

1. Economic Impact Assessment

(a) Regulatory Objective

FINRA is proposing this temporary relief to address the public health risks and corresponding challenges of in-person hearings during the COVID–19 crisis. Social distancing, quarantining and other similar requirements to promote the health and safety of citizens make it exceedingly difficult to conduct in-person hearings. In recognition of these extraordinary times, the proposed rule change would temporarily grant OHO's Chief or Deputy Chief Hearing Officer, or the NAC or relevant Subcommittee, discretion to conduct OHO and NAC hearings, respectively, by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing.

(b) Economic Baseline

The obligations under FINRA Rules 1015, 9261, 9524 and 9830 are described above. OHO conducts approximately 19 regular disciplinary hearings per year.[37] Since January 1, 2017, the NAC has held nine hearings. One hearing was conducted in connection with an appeal of a Membership Application Program decision and eight hearings related to eligibility proceedings. Under current FINRA rules, hearings conducted in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders are typically conducted in person. In order to comply with the guidance of public health authorities relating to the COVID–19 pandemic and to ensure the safety of all participants and stakeholders, FINRA has administratively postponed in-person OHO and NAC hearings since March 16, 2020. To date, at least eight hearings have been delayed as a result of the pandemic.

[37] OHO also conducts hearings for TCDO and PCDO proceedings. OHO has not conducted a TCDO or PCDO hearing in the last three calendar years.

(c) Economic Impact

The proposed rule change is intended solely to provide a temporary mechanism for FINRA to allow its critical adjudicatory functions to proceed while COVID–19 continues to pose health and safety risks for traditional, in-person hearings. The proposed rule change is necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rules 1015, 9261, 9524 and 9830 in response to the impacts of the COVID–19 pandemic.

(1) Anticipated Benefits

The benefits of the temporary proposed rule change will accrue to participants and stakeholders of hearings that are conducted by video conference rather than delayed until in-person hearings can be conducted safely. A benefit of the temporary proposed rule change will be reducing the potential costs associated with delayed proceedings resulting from the COVID–19 pandemic, as discussed in Item 3(b) above. The flexibility provided by this temporary proposed rule change—to conduct hearings by video conference as warranted by COVID-related public health risks—will also benefit hearing participants and other stakeholders by allowing them to avoid the health and safety risks associated with in-person hearings. In addition, hearing participants will benefit from the elimination of travel time and travel costs.

(2) Anticipated Costs

As previously stated, the public health risks stemming from the COVID–19 outbreak have increased the costs associated with in-person hearings. Conducting hearings by video conference, however, presents some potential drawbacks. These may include technological challenges such as bandwidth or connectivity issues for participants, cybersecurity concerns or concerns related to the ability of hearing participants to represent themselves in a manner equivalent to an in-person hearing.

FINRA's approach to video conference hearings, however, which includes, among other things, the use of high quality, secure technology that allows hearing participants to perform tasks typically done during in-person hearings should mitigate the potential costs. As noted above, FINRA is currently conducting hearings using video conferencing technology in similar contexts. Moreover, the

temporary proposed rule change permits, but does not mandate that hearings be conducted by video conference. Therefore, OHO and the NAC will use the discretion permitted under the temporary proposed rule change to balance the costs of delaying a hearing with the public health risks of requiring an in-person hearing, and the costs associated with conducting hearings by video conference. Furthermore, the temporary proposed rule change will not alter the Chief or Deputy Chief Hearing Officer's, or the NAC or relevant Subcommittee's, discretion to consider other factors affecting an individual's ability to participate or allow a party or witness to participate by telephone, if necessary to address, among other things, impediments to a hearing participant's ability to use video conferencing technology such as connectivity issues, reducing the potential costs. Additionally, the proposed rule change is limited in time, providing temporary relief through December 31, 2020, or until the conclusion of any extension thereof.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [38] and Rule 19b–4(f)(6) thereunder.[39]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[38] 15 U.S.C. 78s(b)(3)(A).

[39] 17 CFR 240.19b–4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2020–027 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19838 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89743; File No. SR–CBOE–2020–034]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Authorize for Trading Flexible Exchange Options on Full-Value Indexes With a Contract Multiplier of One

September 2, 2020.

On June 30, 2020, Cboe Exchange, Inc. filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to authorize for trading flexible exchange options on full-value indexes with a contract multiplier of one. The Commission published notice of the proposed rule change in the **Federal Register** on July 20, 2020.[3]

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 3, 2020. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has

[40] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–89308 (July 14, 2020), 85 FR 43923. Comments received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboe-2020-034/srcboe2020034.htm.*

[4] 15 U.S.C. 78s(b)(2).

sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 18, 2020, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–CBOE–2020–034).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19843 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89753; File No. SR–CboeBYX–2020–024]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Rule 11.26(a), Stating It Will Utilize MEMX Market Data From the CQS/UQDF for Purposes of Order Handling, Routing, Execution, and Related Compliance Processes

September 2, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 19, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') proposes to update Rule 11.26(a), stating it will utilize MEMX market data from the CQS/UQDF for purposes of order handling, routing, execution, and related compliance processes. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the MEMX as a registered national securities exchange.

On May 4, 2020, the Commission approved MEMX's application to register as a national securities exchange.[4] MEMX announced that it plans to launch trading on September 4, 2020.[5] The Exchange, therefore, proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of MEMX as a registered national securities exchange beginning on September 4, 2020. Specifically, the Exchange proposes to amend Rule 11.26(a) to include MEMX by stating it will utilize MEMX market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes. The Exchange will not have a secondary source for data from MEMX.

The Exchange proposes that this proposed rule change would be operative on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update Exchange Rule 11.26(a) to include MEMX will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act No. 88806 (May 4, 2020) 85 FR 27451 (May 8, 2020).

[5] *See supra* note 3 [sic].

[6] *Id.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may take effect immediately upon filing.

The Exchange states that waiver of the operative delay would allow the Exchange to implement the proposed rule change on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBYX–2020–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2020–024 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19850 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34002; 812–15055]

Federated Hermes Adviser Series, et al.; Notice of Application

September 2, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''), and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

APPLICANTS: Federated Hermes Adviser Series (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series (each a ''Fund''), Federated Global Investment Management Corp., a Delaware corporation, Federated MDTA, LLC, a Delaware limited liability company, and Federated Equity Management Company of Pennsylvania, Federated Investment Counseling, Federated Investment

Management Company, and Federated Advisory Services Company, each a Delaware statutory trust. Federated Global Investment Management Corp., Federated MDTA, LLC, Federated Equity Management Company of Pennsylvania, Federated Investment Counseling, Federated Investment Management Company, and Federated Advisory Services Company are each registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and are each an ''Adviser'' and collectively the ''Advisers'' and collectively with the Trust, the ''Applicants.''

SUMMARY OF APPLICATION: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

FILING DATES: The application was filed on August 7, 2019, and amended on October 24, 2019, June 25, 2020 and August 27, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving Applicants with a copy of the request email. Hearing requests should be received by the Commission by 5:30 p.m. on September 28, 2020, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: George F. Magera, Deputy General Counsel, Federated Hermes, Inc., at *gmagera@federatedinv.com.*

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number or an Applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Requested Exemptive Relief

1. Applicants request an order to permit the Advisers,[1] subject to the approval of the board of trustees of the Trust (the ''Board''),[2] including a majority of the trustees who are not ''interested persons'' of the Trust or the Advisers, as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), without obtaining shareholder approval, to: (i) Select investment subadvisers (''Subadvisers'') for all or a portion of the assets of one or more of the Funds pursuant to an investment subadvisory agreement with each Subadviser (each a ''Subadvisory Agreement''); and (ii) materially amend Subadvisory Agreements with the Subadvisers.

2. Applicants also request an order exempting the Subadvised Funds (as defined below) from the Disclosure Requirements, which require each Fund to disclose fees paid to a Subadviser. Applicants seek relief to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of the Fund's net assets): (i) The aggregate fees paid to the Advisers and any Wholly-Owned Subadvisers; and (ii) the aggregate fees paid to Affiliated and Non-Affiliated Subadvisers (''Aggregate Fee Disclosure'').[3] Applicants seek an exemption to permit a Subadvised Fund to include only the Aggregate Fee Disclosure.[4]

3. Applicants request that the relief apply to Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that: (i) Is advised by the Adviser; (ii) uses the multi-manager structure described in the application; and (iii) complies with the terms and conditions of the application (each, a ''Subadvised Fund'').[5]

II. Management of the Subadvised Funds

4. Certain Advisers serve as the investment adviser to each Fund pursuant to an investment advisory agreement with the Fund (each an ''Investment Advisory Agreement'').[6] Each Investment Advisory Agreement has been or will be approved by the Board, including a majority of the Independent Trustees, and by the shareholders of the relevant Fund in the manner required by sections 15(a) and 15(c) of the Act. The terms of the Investment Advisory Agreements comply or will comply with section 15(a) of the Act. Applicants are not seeking an exemption from the Act with respect to the Investment Advisory Agreements. Pursuant to the terms of each Investment Advisory Agreement, the Adviser, subject to the oversight of the Board, will provide continuous investment management for each Subadvised Fund. For its services to each Subadvised Fund, the Advisers receive or will receive an investment advisory fee from that Fund as specified in the applicable Investment Advisory Agreement.

5. Consistent with the terms of each Investment Advisory Agreement, the Advisers may, subject to the approval of the Board, including a majority of the Independent Trustees, and the

[1] The term ''Adviser'' means (i) an Adviser, (ii) its successors, and (iii) any entity controlling, controlled by or under common control with, an Adviser or its successors that serves as the primary adviser to a Subadvised Fund. For the purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. Any future Adviser also will be registered with the Commission as an investment adviser under the Advisers Act.

[2] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Fund (as defined below), if different from the board of trustees (''Trustees'') of the Trust.

[3] A ''Wholly-Owned Subadviser'' is any investment adviser that is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Adviser, (2) a ''sister company'' of the Adviser that is an indirect or direct ''wholly-owned subsidiary'' of the same company that indirectly or directly wholly owns the Adviser (the Adviser's ''parent company''), or (3) a parent company of the Adviser. An ''Affiliated Subadviser'' is any investment subadviser that is not a Wholly-Owned Subadviser, but is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of a Subadvised Fund or the Adviser for reasons other than serving as investment subadviser to one or more Funds. A ''Non-Affiliated Subadviser'' is any investment adviser that is not an ''affiliated person'' (as defined in the Act) of a Fund or the Adviser, except to the extent that an affiliation arises solely because the Subadviser serves as a subadviser to one or more Funds.

[4] Applicants note that all other items required by sections 6–07(2)(a), (b) and (c) of Regulation S–X will be disclosed.

[5] All registered open-end investment companies that currently intend to rely on the requested order are named as Applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application.

[6] Each Adviser also has a services agreement with Federated Advisory Services Company (''FASCO'') under which FASCO provides certain advisory services to the Advisers (*e.g.,* traders are employees). These agreements are approved each year with the Investment Advisory Agreements as part of the annual Section 15 advisory agreement approval. The Funds will not rely on the requested relief with respect to advisory services provided under these agreements, such that they will continue to be fully subject to Section 15(a) of the 1940 Act.

shareholders of the applicable Subadvised Fund (if required by applicable law), delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Fund to a Subadviser. The Advisers will retain overall responsibility for the management and investment of the assets of each Subadvised Fund. This responsibility includes recommending the removal or replacement of Subadvisers, allocating the portion of that Subadvised Fund's assets to any given Subadviser and reallocating those assets as necessary from time to time.[7] The Subadvisers will be ''investment advisers'' to the Subadvised Funds within the meaning of Section 2(a)(20) of the Act and will provide investment management services to the Funds subject to, without limitation, the requirements of Sections 15(c) and 36(b) of the Act.[8] The Subadvisers, subject to the oversight of the Advisers and the Board, will determine the securities and other investments to be purchased, sold or entered into by a Subadvised Fund's portfolio or a portion thereof, and will place orders with brokers or dealers that they select.[9]

6. The Subadvisory Agreements will be approved by the Board, including a majority of the Independent Trustees, in accordance with sections 15(a) and 15(c) of the Act. In addition, the terms of each Subadvisory Agreement will comply fully with the requirements of section 15(a) of the Act. The Advisers may compensate the Subadvisers or the Subadvised Funds may compensate the Subadvisers directly.

7. Subadvised Funds will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Subadvised Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;[10] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the website identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that website for at least 90 days.[11]

III. Applicable Law

8. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company ''except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.''

9. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the ''advisory fee payable'' by the investment company with respect to each investment adviser, including the total dollar amounts that the investment company ''paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years.''

10. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the 1934 Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

11. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statements information about investment advisory fees.

12. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

IV. Arguments in Support of the Requested Relief

13. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisers is substantially equivalent to the limited role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants also assert that the shareholders expect the Advisers, subject to review and approval of the Board, to select a Subadviser who is in the best position to achieve the Subadvised Fund's investment objective. Applicants believe that permitting the Advisers to perform the duties for which the shareholders of the Subadvised Fund are paying the Advisers—the selection, oversight and evaluation of the Subadviser—without incurring unnecessary delays or expenses of convening special meetings of shareholders is appropriate and in the interest of the Fund's shareholders, and will allow such Fund to operate more efficiently. Applicants state that each Investment Advisory Agreement will continue to be fully subject to section

[7] Applicants represent that if the name of any Subadvised Fund contains the name of a subadviser, the name of the Adviser that serves as the primary adviser to the Fund, or a trademark or trade name that is owned by or publicly used to identify the Adviser, will precede the name of the subadviser.

[8] The Subadvisers will be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration.

[9] A ''Subadviser'' also includes an investment subadviser that will provide the Advisers with a model portfolio reflecting a specific strategy, style or focus with respect to the investment of all or a portion of a Subadvised Fund's assets. The Advisers may use the model portfolio to determine the securities and other instruments to be purchased, sold or entered into by a Subadvised Fund's portfolio or a portion thereof, and place orders with brokers or dealers that it selects.

[10] A ''Multi-manager Notice'' will be modeled on a Notice of internet Availability as defined in Rule 14a–16 under the 1934 Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser (except as modified to permit Aggregate Fee Disclosure); (b) inform shareholders that the Multi-manager Information Statement is available on a website; (c) provide the website address; (d) state the time period during which the Multi-manager Information Statement will remain available on that website; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Fund. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

[11] In addition, Applicants represent that whenever a Subadviser is hired or terminated, or a Subadvisory Agreement is materially amended, the Subadvised Fund's prospectus and statement of additional information will be supplemented promptly pursuant to rule 497(e) under the Securities Act of 1933.

15(a) of the Act and approved by the relevant Board, including a majority of the Independent Trustees, in the manner required by section 15(a) and 15(c) of the Act.

14. Applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that the operation of the Subadvised Fund in the manner described in the Application must be approved by shareholders of that Fund before it may rely on the requested relief. Applicants also state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest or economic incentives, and provide that shareholders are informed when new Subadvisers are hired.

15. Applicants contend that, in the circumstances described in the application, a proxy solicitation to approve the appointment of new Subadvisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

16. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that disclosure of the individual fees paid to the Subadvisers does not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Subadvisers are to inform shareholders of expenses to be charged by a particular Subadvised Fund and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the Subadvised Fund's overall advisory fee will be fully disclosed and, therefore, shareholders will know what the Subadvised Fund's fees and expenses are and will be able to compare the advisory fees a Subadvised Fund is charged to those of other investment companies. In addition, Applicants assert that the requested relief would benefit shareholders of the Subadvised Fund because it would improve the Advisers' ability to negotiate the fees paid to Subadvisers. In particular, Applicants state that if the Advisers are not required to disclose the Subadvisers' fees to the public, the Advisers may be able to negotiate rates that are below a Subadviser's ''posted'' amounts. Applicants assert that the relief will also encourage Subadvisers to negotiate lower subadvisory fees with the Advisers if the lower fees are not required to be made public.

V. Relief for Affiliated Subadvisers

17. The Commission has granted the requested relief with respect to Wholly-Owned and Non-Affiliated Subadvisers through numerous exemptive orders. The Commission also has extended the requested relief to Affiliated Subadvisers.[12] Applicants state that although the Advisers' judgment in recommending a Subadviser can be affected by certain conflicts, they do not warrant denying the extension of the requested relief to Affiliated Subadvisers. Specifically, the Advisers face those conflicts in allocating fund assets between itself and a Subadviser, and across Subadvisers, as it has an interest in considering the benefit it will receive, directly or indirectly, from the fee the Subadvised Fund pays for the management of those assets. Applicants also state that to the extent the Advisers have a conflict of interest with respect to the selection of an Affiliated Subadviser, the proposed conditions are protective of shareholder interests by ensuring the Board's independence and providing the Board with the appropriate resources and information to monitor and address conflicts.

18. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that it is appropriate to disclose only aggregate fees paid to Affiliated Subadvisers for the same reasons that similar relief has been granted previously with respect to Wholly-Owned and Non-Affiliated Subadvisers.

VI. Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the order requested in the Application, the operation of the Subadvised Fund in the manner described in the Application will be, or has been, approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act, or, in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance and effect of any order granted pursuant to the Application. In addition, each Subadvised Fund will hold itself out to the public as employing the multi-manager structure described in the Application. The prospectus will prominently disclose that the Advisers have the ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. The Advisers will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets, and subject to review and oversight of the Board, will (i) set the Subadvised Fund's overall investment strategies, (ii) evaluate, select, and recommend Subadvisers for all or a portion of the Subadvised Fund's assets, (iii) allocate and, when appropriate, reallocate the Subadvised Fund's assets among Subadvisers, (iv) monitor and evaluate the Subadvisers' performance, and (v) implement procedures reasonably designed to ensure that Subadvisers comply with the Subadvised Fund's investment objective, policies and restrictions.

4. Subadvised Funds will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser pursuant to the Modified Notice and Access Procedures.

5. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Independent Legal Counsel, as defined in Rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

7. Whenever a Subadviser is hired or terminated, the Advisers will provide the Board with information showing the expected impact on the profitability of the Advisers.

8. The Board must evaluate any material conflicts that may be present in a subadvisory arrangement. Specifically, whenever a subadviser change is proposed for a Subadvised Fund (''Subadviser Change'') or the Board considers an existing Subadvisory Agreement as part of its annual review process (''Subadviser Review''):

[12] *Carillon Series Trust, et al.,* Investment Co. Act Rel. Nos. 33464 (May 2, 2019) (notice) and 33494 (May 29, 2019) (order).

(a) The Advisers will provide the Board, to the extent not already being provided pursuant to section 15(c) of the Act, with all relevant information concerning:

(i) any material interest in the proposed new Subadviser, in the case of a Subadviser Change, or the Subadviser in the case of a Subadviser Review, held directly or indirectly by the Advisers or a parent or sister company of the Advisers, and any material impact the proposed Subadvisory Agreement may have on that interest;

(ii) any arrangement or understanding in which the Advisers or any parent or sister company of the Advisers is a participant that (A) may have had a material effect on the proposed Subadviser Change or Subadviser Review, or (B) may be materially affected by the proposed Subadviser Change or Subadviser Review;

(iii) any material interest in a Subadviser held directly or indirectly by an officer or Trustee of the Subadvised Fund, or an officer or board member of the Advisers (other than through a pooled investment vehicle not controlled by such person); and

(iv) any other information that may be relevant to the Board in evaluating any potential material conflicts of interest in the proposed Subadviser Change or Subadviser Review.

(b) the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the Subadviser Change or continuation after Subadviser Review is in the best interests of the Subadvised Fund and its shareholders and, based on the information provided to the Board, does not involve a conflict of interest from which the Advisers, a Subadviser, any officer or Trustee of the Subadvised Fund, or any officer or board member of the Advisers derive an inappropriate advantage.

9. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

10. In the event that the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

11. Any new Subadvisory Agreement or any amendment to an existing Investment Advisory Agreement or Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Subadvised Fund will be submitted to the Subadvised Fund's shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19827 Filed 9–8–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89749; File No. SR–CBOE–2020–080]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Options That Overlie the S&P 500 ESG Index

September 2, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 27, 2020, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to list and trade options that overlie the S&P 500 ESG Index. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend certain rules in connection with the Exchange's plans to list and trade S&P 500 ESG Index options.[3] The S&P 500 ESG Index is a broad-based, market-capitalization-weighted index that is designed to measure the performance of securities meeting sustainability criteria, while maintaining similar overall industry group weights as the S&P 500. Each constituent of a S&P 500 ESG Index is a constituent of the S&P 500 Index. S&P Dow Jones Indices' (''S&P DJI'') assigns constituents to a S&P 500 ESG Index based on S&P DJI ESG Scores and other environmental, social and governance (''ESG'') data to select companies, targeting 75% of the market capitalization of each global industry classification standard (''GICS'') industry group within the S&P 500. In addition to the exclusion of companies with S&P DJI ESG Scores in the bottom 25% of companies globally within their GICS industry groups, the S&P 500 ESG Index excludes tobacco, controversial weapons and other companies not in compliance with the UN Global Compact.

Initial and Maintenance Listing Criteria

The S&P 500 ESG Index meets the definition of a broad-based index as set forth in Rule 4.11 (*i.e.,* an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries). Additionally, the S&P 500 ESG Index satisfies the initial listing criteria of a broad-based index, as set forth in Rule 4.10(f):

(1) The index is broad-based, as defined in Rule 4.11;

(2) options will be A.M.-settled;

(3) the index is capitalization-weighted, modified capitalization-weighted, price-weighted, or equal dollar-weighted (the S&P 500 ESG Index is capitalization-weighted);

(4) the index consists of 50 or more component securities;

(5) each component security that accounts for at least 95% of the weight of the index has a market capitalization of at least $75 million, except that for each component security that accounts for at least 65% of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19–4.

[3] The Exchange intends to file a Form 19b–4(e) with the Commission for S&P 500 ESG Index options pursuant to Rule 19b–4(e) of the Act.

weight of the index has a market capitalization of at least $100 million;

(6) Component securities that account for at least 80% of the weight of the index satisfy the requirements of Rule 4.3 applicable to individual underlying securities;

(7) Each component security that accounts for at least 1% of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six-month period;

(8) No single component security accounts for more than 10% of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than 33% of the weight of the index;

(9) Each component security is an NMS stock;

(10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than 20% of the weight of the index (S&P 500 ESG Index is comprised of only U.S. component securities);

(11) the current index value is widely disseminated at least once every 15 seconds by the Options Price Reporting Authority, CTA/CQ, NIDS or one or more major market data vendors during the time options on the index are traded on the Exchange;

(12) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor allocation and the number of new messages per second expected to be generated by options on such index;

(13) An equal dollar-weighted index is rebalanced at least once every calendar quarter (not applicable as S&P 500 ESG Index is a capitalization-weighted index);

(14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index (not applicable as S&P is not a broker-dealer);

(15) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The S&P 500 ESG Index options will also be subject to the maintenance listing standards set forth in Rule 4.10(g):

(1) the conditions stated in (1), (2), (3), (9), (10), (11), (12), (13), (14), and (15) above must continue to be satisfied and the conditions stated in (5), (6), (7), (8) above must be satisfied only as of the first day of January and July in each year;

(2) The total number of component securities in the index may not increase or decrease by more than 10% from the number of component securities in the index at the time of its initial listing.[4]

Expiration Months, Settlement, and Exercise Style

Consistent with existing rules for certain index options, the Exchange will allow up to twelve near-term expiration months for the S&P 500 ESG Index options[5] as well as LEAPS,[6] as these are the same amounts the Rules permit for options on the S&P 500 Index (''SPX options''). The S&P 500 ESG Index consists of components that are also included in the S&P 500, as discussed above. Because of the relation between the S&P 500 ESG Index and the S&P 500, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to permit the same number of monthly expirations for the S&P 500 ESG Index options as SPX options.

The S&P 500 ESG Index options will be A.M., cash-settled contracts with European-style exercise.[7] A.M.-settlement is consistent with the generic listing criteria for broad-based indexes,[8] and thus it is common for index options to be A.M.-settled. The Exchange proposes to amend Rule 4.13(a)(4) to add the S&P 500 ESG Index options to the list of other A.M.-settled options. Standard third-Friday SPX options are A.M.-settled. European-style exercise is consistent with many index options, as set forth in Rule 4.13(a)(3). Standard third-Friday SPX options are A.M.-settled with European-style exercise. The Exchange proposes to amend Rule 4.13(a)(3) to add the S&P 500 ESG Index options to the list of other European-style index options. Because of the relation between the S&P 500 ESG Index and the S&P 500 Index, which will likely result in market participants' investment and hedging strategies consisting of options over both, the Exchange believes it is appropriate to list the S&P 500 ESG Index options with the same settlement and exercise style as the other SPX options.

Appointment Weights

The Exchange proposes a Market-Maker appointment weight of .001 for the S&P ESG 500 Index options, and each will have a Market-Maker appointment weight of .001.[9] This is the same appointment weight as other options on options on S&P indexes (*e.g.,* S&P Select Sector Indexes). The Exchange determines appointment weights of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume. The Exchange believes the proposed initial appointment weight for the S&P 500 ESG Index options will foster competition by incentivizing Market-Makers to obtain an appointment in these newly listed options, which may increase liquidity in the new class.

Capacity

The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of the S&P 500 ESG Index options up to the proposed number of possible expirations. Because the proposal is limited to one class, the Exchange believes any additional traffic that would be generated from the introduction of the S&P 500 ESG Index options would be manageable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect

[4] As is the case with other index options authorized for listing and trading on Cboe Options, in the event the S&P 500 ESG Index fails to satisfy the maintenance listing standards, the Exchange will not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Securities and Exchange Commission (the ''Commission'') under Section 19(b)(2) of the Securities and Exchange Act (the ''Act'').

[5] *See* Rule 4.13(a).

[6] Pursuant to Rule 4.13(b), index LEAPS may expire from 12–180 months from the date of issuance.

[7] *See* Rule 4.13(a)(3).

[8] *See* Rule 4.10(f)(2).

[9] *See* Rule 5.1(g). S&P 500 ESG Index options will be in Tier AA (as are other S&P index options). While the appointment weights of Tier AA classes are not subject to quarterly rebalancing under Rule 5.1(g)(1), the Exchange regularly reviews the appointment weights of Tier AA classes to ensure that they continue to be appropriate. The Exchange determines appointment weights of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the S&P 500 ESG Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because the Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Additionally, the Exchange believes that the proposed rule change will protect investors, as the Exchange believes there is unmet market demand for exchange-listed security options listed on this new ESG index. ESG SPDRs and E-mini S&P ESG future products are listed and traded on other exchanges. As a result, the Exchange believes that the S&P 500 ESG Index options are designed to provide different and additional opportunities for investors to hedge or speculate on the market risk associated with this index by listing an option directly on this index. Because of the relation between the S&P 500 ESG Indexes, and the S&P 500 Index, the Exchange believes the proposed rule change will benefit investors, as it will provide market participants with additional investment and hedging strategies consisting of options over each of these indexes.

The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because the proposed rule change is consistent with current Rules, which were previously filed with approved as consistent with the Exchange Act by the Commission. Particularly, the S&P 500 ESG Index options satisfy the initial listing standards for broad-based indexes in the Exchange's current Rules, which the Commission previously deemed consistent with Act.[13] The proposed rule change merely adds the S&P 500 ESG Index to the table regarding reporting authorities for indexes, to the rule regarding number of permissible expirations, to the list of European-style exercise index options, and to the list of A.M.-settled index options, similar to SPX options. These changes are consistent with existing Rules and index options currently authorized and listed for trading on the Exchange. The Exchange notes, with respect to these changes, standard third-Friday SPX options (which overlie the S&P 500 Index, which consist of the same components as the S&P 500 ESG Index) currently has the same reporting authority, the same number of permissible expirations, the same settlement, and the same exercise style.[14] The Exchange has observed no trading or capacity issues in SPX trading given the number of permissible expirations, A.M. settlement, and European-style exercise. Because of the relation between the S&P 500 ESG Index and the S&P 500 Index, which will likely result in market participants' investment and hedging strategies consisting of options over each of these indexes, the Exchange believes it is appropriate to have the same number of expirations, settlement, and exercise style for options on each of these indexes.

The Exchange also represents that it has the necessary systems capacity to support the new option series given these proposed specifications. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on the S&P 500 ESG Index. The Exchange further notes that current Exchange Rules that apply to the trading of other index options traded on the Exchange, such as options on the S&P 500 Index, would also apply to the trading of options on the S&P 500 ESG Index, such as, for example, Exchange Rules governing customer accounts, margin requirements and trading halt procedures.

The Exchange lastly believes the proposed initial low appointment weight for the S&P 500 ESG Index options promotes competition and efficiency by incentivizing more Market-Makers to obtain an appointment in the newly listed class. The Exchange believes this may result in liquidity and competitive pricing in this class, which ultimately benefits investors. The proposed rule change does not result in unfair discrimination, as the appointment weight will apply to all Market-Makers in this class. Additionally, the proposed appointment weight is the same as the appointment weight for other S&P Index options (*e.g.,* S&P Select Sector Indexes).[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The S&P 500 ESG Index satisfies initial listing standards set forth in the Rules, and the proposed number of expirations, settlement, and exercise style are consistent with current rules applicable to index options, including standard third-Friday SPX options. Because of the relation between the S&P 500 ESG Index and the S&P 500 Index, which will likely result in market participants' investment and hedging strategies consisting of options over each of these indexes, the Exchange believes it is appropriate to have the same number of expirations, settlement, and exercise style for options on each index. The S&P 500 ESG Index options will provide investors with different and additional opportunities to hedge or speculate on the market associated with this index.

The Exchange believes the proposed initial low appointment cost for the S&P 500 ESG Index options promotes competition and efficiency by incentivizing more Market-Makers to obtain an appointment in the newly listed class. The Exchange believes this may result in liquidity and competitive pricing in this class, which ultimately benefits investors. The proposed rule change does not result in unfair discrimination, as the appointment weight will apply to all Market-Makers in this class. Additionally, the proposed appointment weight for the S&P 500 ESG Index options is the same as the appointment weight for the other S&P Index related options (*e.g.,* S&P Select Sector Indexes).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on

[12] *Id.*

[13] *See* Securities Exchange Act Release No. 34–53266 (February 9, 2006), 71 FR 8321 (February 16, 2006) (SR–CBOE–2005–59) (order approving generic listing standards for options on broad-based indexes).

[14] *See* Rules 4.12(c), 4.13(a)(2) through (4).

[15] *See* Rule 5.50(g).

which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission notes that the Exchange intends to launch the S&P 500 ESG Index options on September 21, 2020. The Commission notes that waiver of the operative delay will permit the Exchange to list these products on the Exchange on such date and thus provide market participants with the ability to trade these products on the Exchange. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues, as the S&P 500 ESG Index satisfies the initial listing criteria for broad-based indexes as set forth in Rule 4.10(f). Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–080 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–080. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–080 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

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[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89751; File No. SR–CboeEDGX–2020–042]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Rule 13.4(a), Stating It Will Utilize MEMX Market Data From the CQS/UQDF for Purposes of Order Handling, Routing, Execution, and Related Compliance Processes

September 2, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 19, 2020, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') proposes to update Rule 13.4(a), stating it will utilize MEMX market data from the CQS/UQDF for purposes of order handling, routing, execution, and related compliance processes. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the MEMX as a registered national securities exchange.

On May 4, 2020, the Commission approved MEMX's application to register as a national securities exchange.[4] MEMX announced that it plans to launch trading on September 4, 2020.[5] The Exchange, therefore, proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of MEMX as a registered national securities exchange beginning on September 4, 2020. Specifically, the Exchange proposes to amend Rule 13.4(a) to include MEMX by stating it will utilize MEMX market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes. The Exchange will not have a secondary source for data from MEMX.

The Exchange proposes that this proposed rule change would be operative on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update Exchange Rule 13.4(a) to include MEMX will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange states that waiver of the operative delay would allow the Exchange to implement the proposed rule change on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[4] *See* Securities Exchange Act No. 88806 (May 4, 2020) 85 FR 27451 (May 8, 2020).

[5] *See supra* note 4 [sic].

[6] *Id.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2020–042 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-CboeEDGX–2020–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying infoermation from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–042 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19848 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89745; File No. SR–NASDAQ–2020–002]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Procedures Governing the Introduction of Legal Arguments and Material Information by Companies in a Proceeding Before a Hearings Panel

September 2, 2020.

On July 2, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the procedures governing the introduction of legal arguments and material information by companies in a proceeding before a Hearings Panel. The proposed rule change was published for comment in the **Federal Register** on July 20, 2020.[3]

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 3, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 18, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2020–002).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19844 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89309 (July 14, 2020), 85 FR 43900. Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nasdaq-2020-002/srnasdaq2020002.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89750; File No. SR–CboeEDGA–2020–024]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Rule 13.4(a), Stating It Will Utilize MEMX Market Data From the CQS/UQDF for Purposes of Order Handling, Routing, Execution, and Related Compliance Processes

September 2, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 19, 2020, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (''EDGA'' or the ''Exchange'') proposes to update Rule 13.4(a), stating it will utilize MEMX market data from the CQS/UQDF for purposes of order handling, routing,

execution, and related compliance processes. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the MEMX as a registered national securities exchange.

On May 4, 2020, the Commission approved MEMX's application to register as a national securities exchange.[4] MEMX announced that it plans to launch trading on September 4, 2020.[5] The Exchange, therefore, proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of MEMX as a registered national securities exchange beginning on September 4, 2020. Specifically, the Exchange proposes to amend Rule 13.4(a) to include MEMX by stating it will utilize MEMX market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes. The Exchange will not have a secondary source for data from MEMX.

The Exchange proposes that this proposed rule change would be operative on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update Exchange Rule 13.4(a) to include MEMX will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange states that waiver of the operative delay would allow the Exchange to implement the proposed rule change on the day that MEMX launches operations as an equities exchange, which is currently expected on September 4, 2020, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of

[4] *See* Securities Exchange Act No. 88806 (May 4, 2020) 85 FR 27451 (May 8, 2020).

[5] *See supra* note 4 [sic].

[6] *Id.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2020–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGA–2020–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGA–2020–024 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19847 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89736; File No. SR–PEARL–2020–14]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Designation of Members for Mandatory Disaster Recovery Testing Pursuant to Regulation SCI for Calendar Year 2020

September 2, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 26, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend how the Exchange will designate certain Members[3] to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Miami International Securities Exchange, LLC (''MIAX'') Rule 321, which is incorporated by reference in the Exchange's Rules, for calendar year 2020.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend how the Exchange will designate certain Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI and MIAX Rule 321, which is incorporated by reference in Chapter III of the Exchange's Rules, for calendar year 2020. This proposed rule change is based on a recent proposed rule change by the Long Term Stock Exchange, Inc. (''LTSE'').[4]

Regulation SCI requires MIAX PEARL, as an SCI entity, to maintain business continuity and disaster recovery plans that provide for resilient and geographically diverse backup and recovery capabilities that are reasonably designed to achieve two-hour resumption of critical SCI systems and

[3] *See* MIAX and Exchange Rule 100.

[4] *See* Securities Exchange Act Release No. 89216 (July 2, 2020), 85 FR 41259 (July 9, 2020) (SR–LTSE–2020–10).

next business day resumption of other SCI systems following a wide-scale disruption.[5]

Regulation SCI and MIAX Rule 321 also require MIAX PEARL to designate certain members to participate in business continuity and disaster recovery testing in a manner specified by MIAX PEARL and at a frequency of not less than once every 12 months.[6] Such testing ordinarily is part of an annual industry-wide test, which is next scheduled for October 24, 2020.

MIAX Rule 321 governs mandatory participation in testing of MIAX PEARL's backup systems, and states that the Exchange will designate Members that account for a specified percentage of executed volume on the Exchange, measured on quarterly basis, as required to connect to the Exchange's backup systems and participate in functional and performance testing of such system.[7]

On August 14, 2020, the Commission approved the Exchange's proposal to adopt rules governing the trading of equity securities, referred to as MIAX PEARL Equities.[8] MIAX PEARL Equities currently is not operational and is not expecting to have two quarters of trading data on which to base its Member designation prior to the October 24, 2020 test. Thus, as currently written, MIAX Rule 321 would not permit the Exchange to designate any Equity Members [9] of MIAX PEARL Equities to participate in the industry-wide test for 2020 because no Equity Members will have the requisite trading volume on MIAX PEARL Equities upon which a designation can be made.

To address the unique circumstances for disaster recovery testing in 2020, the year in which MIAX PEARL Equities will become operational, the Exchange proposes to amend Chapter III of the Exchange's Rules to provide that for calendar year 2020, notwithstanding paragraph (b) and Interpretations and Policies .01 of MIAX Rule 321, which assigns the Exchange responsibility of ''identifying Members that account for a meaningful percentage of the Exchange's overall volume,'' the Exchange will instead designate at least three Equity Members on MIAX PEARL Equities who have a meaningful percentage of trading volume in NMS Stocks across the other equity exchanges. This would allow the Exchange to identify Equity Members for industry-wide disaster recovery testing in the absence of the metrics that will be used in the ordinary course to designate such firms.

The Exchange believes that designating at least three Equity Members who are likely already to be participating in the industry-wide test by virtue of their trading activities on other exchanges is likely to reduce the burdens associated with being designated for disaster recovery testing by MIAX PEARL in absence of significant trading volume on MIAX PEARL Equities. Moreover, to reduce the burdens on such Equity Members, the Exchange proposes, where possible, to designate firms that have already established connections to its backup systems. This is intended to address the ''notice'' requirements in the existing Rule 321.01 The Exchange believes that designating three or more such firms is reasonably designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans. The Exchange intends to notify Equity Members of their designation for disaster recovery testing no later than September 30, 2020. With respect to industry-wide disaster recovery testing in 2021 and beyond, the Exchange will issue one or more regulatory circulars establishing the standards to be used for determining which Equity Members contribute a meaningful percentage of the Exchange's overall volume and thus are required to participate in functional and performance testing. Such standards will be informed by the Exchange's actual market and trading data, in accordance with MIAX Rule 321(a)–(b).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5),[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that its proposed methodology of designating Equity Members who have meaningful levels of trading activity on other exchanges and who have established connectivity to the Exchange's backup systems is consistent with the protection of investors and the public interest. The Exchange believes that the proposed rule change will ensure that the Equity Members necessary to ensure the maintenance of fair and orderly markets in the event of the activation of the Exchange's disaster recovery plans have been designated consistent with MIAX Rule 321 and Rule 1004 of Regulation SCI. Specifically, the proposal will address the unique circumstances of industrywide testing taking place within a short time of when the Exchange commences operations. The Exchange believes that the proposed rule change balances the objectives of having Equity Members participate in industry-wide disaster recovery testing, including Exchange's backup systems, and the burdens on such Equity Members who, at the time of designation, will not have traded on MIAX PEARL Equities.

As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [12] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is designed to promote fair competition among brokers and dealers and exchanges by ensuring the Exchange can designate Equity Members to participate in mandatory disaster recovery testing pursuant to Regulation SCI for calendar year 2020. The Exchange believes that designating three or more such firms is reasonably

[5] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014).

[6] *See* MIAX Rule 321(a), (b).

[7] *See* MIAX Rule 321(b).

[8] *See* Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (''Equities Approval Order'').

[9] *See* Exchange Rule 1901.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* note 5, at 72350.

designed to provide the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans, thereby promoting intermarket competition between exchanges in furtherance of the principles of Section 11A(a)(1) of the Act.[13]

With respect to intramarket competition, the proposed rule change seeks to reduce the burdens on Equity Members by only designating Equity Members who are likely already participating in the industry-wide test by virtue of their trading activities on other exchanges. Under the proposed rule change, the Exchange will designate firms that have already established connections to the Exchange's backup systems. Consequently, the Exchange does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to notify Members of their designation earlier than would be possible without a waiver of the operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it would provide designated members additional time to receive notice of their designation, and thus prepare for disaster recovery testing with the Exchange's backup systems. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–PEARL–2020–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2020–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–PEARL–2020–14 and should be submitted on or before September 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–19839 Filed 9–8–20; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78k–1(a)(1).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Champlain Capital Partners III, L.P.; License No. 09/09–0490; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Champlain Capital Partners III, L.P., One Post Street, Suite 925, San Francisco, CA 94104, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concerns, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Champlain Capital Partners III, L.P. (''Champlain III'') is proposing to provide financing to Stewart-

MacDonald Manufacturing Company (''StewMac'') to support the Company's growth.

The proposed transaction is brought within the purview of § 107.730 of the Regulations because Champlain Capital Partners II, L.P., an Associates of Champlain III by virtue of Common Control as defined at § 107.50, holds 30% of equity interest in StewMac. Champlain II expects to receive $19 million from the proposed transaction.

Therefore, the proposed transaction is considered self-deal pursuant to 13 CFR 107.730 and requires a regulatory exemption. Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to Acting Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Christopher L. Weaver,

Acting Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2020–19882 Filed 9–8–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16633 and #16634; LOUISIANA Disaster Number LA–00103]

Presidential Declaration Amendment of a Major Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4559–DR), dated 08/28/2020.

Incident: Hurricane Laura.

Incident Period: 08/22/2020 through 08/27/2020.

DATES: Issued on 09/01/2020.

Physical Loan Application Deadline Date: 10/27/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 05/28/2021.

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 State of LOUISIANA, dated 08/28/2020, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes (Physical Damage and Economic Injury Loans): Grant, Jackson, Lincoln, Natchitoches, Rapides, Sabine, Winn.

Contiguous Parishes/Counties (Economic Injury Loans Only):

Louisiana: Avoyelles, Bienville, Claiborne, De Soto, La Salle, Red River.

Texas: Sabine, Shelby.

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. 2020–19873 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Notice of Public Meeting

AGENCY: National Women's Business Council, Small Business Administration.

ACTION: Notice of open public meeting and listening session.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, the National Women's Business Council (NWBC) announces its second public meeting of Fiscal Year 2020. The 1988 *Women's Business Ownership Act* established NWBC to serve as an independent source of advice and policy recommendations to the President, Congress, and the Administrator of the U.S. Small Business Administration (SBA) on issues of importance to women entrepreneurs. This meeting will allow the Council to recap its activity and engagement over the course of Fiscal Year 2020. Each of the Council's four subcommittees (Access to Capital & Opportunity, Women in STEM, Rural Women's Entrepreneurship, and Communications) will present their policy recommendations and current projects to the full body for deliberation. The public will have the opportunity to provide feedback.

DATES: The public meeting will be held on Tuesday, September 29, 2020, from 12:00 p.m. to 2:00 p.m. EDT. A subsequent listening session will be held from 2:00 p.m. to 3:00 p.m. EDT.

ADDRESSES: Due to the coronavirus pandemic, this meeting will be held via Microsoft Teams, a web conferencing platform. The access link will be provided to attendees upon registration.

FOR FURTHER INFORMATION CONTACT: For more information, please visit the NWBC website at *www.nwbc.gov,* email Ashley Judah at *ashley.judah@sba.gov,* or call 202–205–3850.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, advance notice of attendance is requested. To RSVP, please visit the NWBC website at *www.nwbc.gov*. The ''2020 Public Meetings'' section will feature a link to register on Eventbrite.

NWBC strongly encourages that public comments and questions be submitted in advance by September 25th. The Eventbrite registration page will include an opportunity to do so, but individuals may also email *info@nwbc.gov* with subject line—''[Name/Organization] Comment for 9/29/20 Public Meeting.'' NWBC staff will read the first five submitted statements during the final 20 minutes of the program.

During the live event, attendees will be in listen-only mode and may submit additional questions via the Q&A Chat feature. For technical assistance, please visit the Microsoft Teams Support Page. All public comments will be included in the meeting record, which will be made available on *www.nwbc.gov* under the ''2020 Public Meetings'' section.

Following the formal public meeting, NWBC will host a 'Listening Session.' This session will provide women business owners and entrepreneurs the opportunity to share their challenges and opportunities with NWBC as the Council prepares its policy priorities for Fiscal Year 2021. This session is also open to the public; however, advance notice of attendance is requested. The Eventbrite registration page for the public meeting will include a check box asking if you plan to join the follow-up session. A link to the session will be provided via email reminders and shared during the live public meeting.

Dated: September 2, 2020.

Nicole Nelson,

Committee Management Officer (Acting).

[FR Doc. 2020–19876 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0310]

Claritas Capital Specialty Debt Fund, L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small

Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/04–0310 issued to Claritas Capital Specialty Debt Fund, L.P. said license is hereby declared null and void.

U.S. Small Business Administration.

Christopher L. Weaver,

Acting Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2020–19880 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before November 9, 2020.

ADDRESSES: Send all comments to Amber Chaudhry, Customer Experience Lead, Business Technology Solutions Division, Office of the Chief Information Officer Small Business Administration, 409 3rd Street, 4th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Amber Chaudhry, Customer Experience Lead, *amber.chaudhry@sba.gov,* 202–657–9722 or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: *Abstract:* A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership.

This proposed information collection activity provides a means to garner customer and stakeholder feedback in an efficient, timely manner in accordance with Section 280 of OMB Circular A–11 at *https://www.whitehouse.gov/wp-content/uploads/2018/06/s280.pdf.*

The U.S. Small Business Administration will collect, analyze, and interpret information gathered through this generic clearance to identify services' accessibility, navigation, and use by customers, and make improvements in service delivery based on customer insights gathered through developing an understanding of the customer experience interacting with Government.

The results will be used to improve the delivery of Federal services and programs. It will also provide government-wide data on customer experience that can be displayed on *www.performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

SBA will only submit collections if they meet the following criteria:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes;
- Upon agreement between OMB and the agency collecting the information, all or a subset of information may be released only on *performance.gov.* Release of any other data must be discussed with OMB before release.

Public responses to these individual collections will provide insights in improving services offered to the public. If this information is not collected, vital feedback from customers and stakeholders on services will be unavailable.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Generic Clearance for SBA Customer Experience Data Collections.

Description of Respondents: Generic Customer Base.

Form Number: N/A.

Total Estimated Annual Responses: 501,550.

Total Estimated Annual Hour Burden: 251,125.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–19919 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16601 and #16602; IOWA Disaster Number IA–00092]

Presidential Declaration Amendment of a Major Disaster for the State of Iowa

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4557–DR), dated 08/20/2020.

Incident: Severe Storms.

Incident Period: 08/10/2020.

DATES: Issued on 09/01/2020.

Physical Loan Application Deadline Date: 10/19/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 05/20/2021.

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 State of Iowa, dated 08/20/2020, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Benton, Boone, Cedar, Jasper, Marshall, Polk, Poweshiek, Scott, Story, Tama.

Contiguous Counties (Economic Injury Loans Only):

Iowa: Black Hawk, Clinton, Dallas, Greene, Grundy, Hamilton, Hardin, Keokuk, Madison, Mahaska, Marion, Muscatine, Warren, Webster.

Illinois: Rock Island.

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. 2020–19874 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16605 and #16606; North Carolina Disaster Number NC–00118]

Administrative Declaration of a Disaster for the State of North Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 08/27/2020.

Incident: Earthquake.

Incident Period: 08/09/2020.

DATES: Issued on 08/27/2020.

Physical Loan Application Deadline Date: 10/26/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 05/27/2021.

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: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Alleghany

Contiguous Counties:

North Carolina: Ashe, Surry, Wilkes

Virginia: Grayson

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	2.375
Homeowners Without Credit Available Elsewhere	1.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	3.000
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16605 2 and for economic injury is 16606 0.

The States which received an EIDL Declaration # are North Carolina, Virginia.

(Catalog of Federal Domestic Assistance Number 59008)

Jovita Carranza,

Administrator.

[FR Doc. 2020–19871 Filed 9–8–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11194]

Privacy Act of 1974; System of Records

AGENCY: Department of State.

ACTION: Rescindment of a system of records notice.

SUMMARY: The ''Skills Catalogue Records, State-49'', which is being rescinded, contains information which the Family Liaison Office in the Department of State uses to assist family members of U.S. Government employees in acquiring employment and other services.

DATES: On October 5, 2018, the Department of State published a notice in the **Federal Register** (83 FR 50432) that records in State-49 were being consolidated with ''Family Liaison Office Centralized Data Bank of Family Member Skills and Direct Communication Network Records, State-50'' into a single modified State-50 because the records and system purposes are substantially similar. Furthermore, the system name for State-50 was changed to ''Family Liaison Office Records''.

ADDRESSES: Questions can be submitted by mail, email, or by calling Eric F. Stein, the Senior Agency Official for Privacy, on (202) 485–2051. If mail, please write to: U.S. Department of State; Office of Global Information Systems, A/GIS; Room 1417, 2201 C St. NW; Washington, DC 20520. If email, please address the email to the Senior Agency Official for Privacy, Eric F. Stein, at *Privacy@state.gov.* Please write ''Skills Catalogue Records, State-49'' on the envelope or the subject line of your email.

FOR FURTHER INFORMATION CONTACT: Eric F. Stein, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 1417, 2201 C St. NW; Washington, DC 20520 or by calling (202) 485–2051.

SUPPLEMENTARY INFORMATION: The records in ''Skills Catalogue Records, State-49'' (previously published at 43 FR 45957) were consolidated with ''Family Liaison Office Centralized Data Bank of Family Member Skills and Direct Communication Network Records, State-50'' (previously published at 43 FR 45958) and renamed ''Family Liaison Office Records''. The new SORN reflecting the consolidated systems of records ''Family Liaison Office Records, State-50'' was published at 83 FR 50432 on October 5, 2018.

SYSTEM NAME AND NUMBER:

Skills Catalogue Records, State-49.

HISTORY:

''Skills Catalogue Records, State-49'' was previously published at 43 FR 45957 and ''Family Liaison Office Centralized Data Bank of Family Member Skills and Direct Communication Network Records, State-50'' was previously published at 43 FR 45958 before being modified, merged, and re-published at 83 FR 50432 as ''Family Liaison Office Records, State-50''.

Dated August 26, 2020.

Eric F. Stein,

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

[FR Doc. 2020–19865 Filed 9–8–20; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0847]

Aircraft Pilots Workforce Development Grant Program AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA announces a Period of Public Comment for Aircraft Pilots Workforce Development Grant Program and previews a forthcoming notice of funding opportunity.

DATES: Period of Public Comment for the FAA Aircraft Pilots Workforce Development Grant Program is open for 15 Days.

Period of Public Comment: Written comments should be submitted by September 24, 2020.

ADDRESSES: Please send written comments: By Electronic Docket: *www.regulations.gov* (Enter docket number into search field). Assistance Listing Number: 20.111, *www.beta.sam.gov.*

Note: This is not a request for proposals or offers.

FOR FURTHER INFORMATION CONTACT: Patricia Watts, 609–485–5043 (office), or 609–793–3063 (cell). Please visit our website at: *www.faa.gov/go/awd* or *https://www.faa.gov/about/office_org/headquarters_offices/ang/grants/awd/.*

SUPPLEMENTARY INFORMATION:

Background

On October 5, 2018, the President signed the FAA Reauthorization Act of 2018 (the Act) (Pub. L. 115–254). Section 625 of the Act addresses the projected shortages of aircraft pilots in the aviation industry by directing the establishment of an Aviation Workforce Development Grant Program to expand the aircraft pilot workforce and provide meaningful aviation education designed to prepare students to become aircraft pilots, aerospace engineers, or unmanned aircraft systems operators, and support the related professional development of teachers. Congress authorized the program through the end of Fiscal Year 2023.

Authorizing Legislation

FAA Reauthorization Act of 2018 (Pub. L. 115–254, Section 625)
National Defense Authorization Act of 2020 (Pub. L. 116–92, Section 1743)

Funding

Congress appropriated $5,000,000 of funding for the program in Fiscal Year 2020 budget and capped each approved project to be not more than $500,000 for any one grant in any one fiscal year.

Types of Projects

The types of projects supported under the new Aircraft Pilots Workforce Development Grant Program are those that:

(a) Create and deliver curriculum designed to provide high school students with meaningful aviation education that is designed to prepare the students to become aircraft pilots, aerospace engineers, or unmanned aircraft systems operators. This grant project eligibility includes delivery of existing training curriculum.

(b) Support the professional development of teachers using the above curriculum.

Section 625 also directed the FAA to ensure that the applications selected for projects established under this program allow for participation from a diverse collection of public and private schools in rural, suburban, and urban areas.

Eligible Applicants

Section 625 of the FAA Reauthorization Act of 2018 and Section 1743 of the National Defense Authorization Act of 2020 identify the following types of entities as eligible to apply for the Aircraft Pilots Workforce Development Grants:

(a) Air carriers (as defined in 49 U.S.C. 40102) or labor rganizations representing aircraft pilots;

(b) flight schools that provide flight training (as defined in 14 CFR part 61) or hold a pilot school certificate (as defined in 14 CFR part 141);

(c) accredited institutions of higher education (as defined in 20 U.S.C. 1001), or secondary schools or high schools (as defined in 20 U.S.C. 7801);

(d) state or local government entities; or

(e) an organization representing aircraft users, aircraft owners, or aircraft pilots.

Notice of Funding Opportunity (NOFO) Information

Targeted Release Date

The FAA anticipates releasing an initial Notice of Funding Opportunity (NOFO) on *www.grants.gov* on or about November 13, 2020. The FAA envisions thereafter releasing NOFOs each year for which funding has been appropriated. The FAA anticipates all NOFOs will remain open for 60 days.

Notice of Intent To Apply

NOFOs may ask for applicants to email the FAA with their Intent to Apply for a grant within ten days of NOFO release. Submission of Intent to Apply will not be mandatory.

Unexpended Funds

If all funds are not expended in an award cycle for each fiscal year, the FAA may make additional awards from a previous pool of applications.

Grants.Gov

The FAA will release NOFOs on *www.grants.gov* and intends to accept only electronic applications. Potential applicants are encouraged to create accounts on *www.grants.gov* and can review samples of forms by following this link: *https://www.grants.gov/web/grants/forms/sf-424-family.html*

Application Package

Application packages will be accepted electronically on *www.grants.gov* up to 11:59 p.m. prevailing Eastern Time of the closing date. Late submissions will not be accepted or reviewed. The application package may consist of completing standard government Financial Assistance Application forms such as those listed below:

- Application for Federal Assistance (SF–424)
- Budget Information for Non-Construction Programs (SF–424A)
- Assurances for Non-Construction Programs (SF–424B—Mandatory)
- SF–425 Federal Financial Report 4040–0014 and SF–425A Federal Financial Report Attachment
- Disclosure of Lobbying Activities and Certification (SF–LLL)
- Project/Performance Site Location(s), Key Contacts, and Project Abstract
- Project Abstract Summary
- ACH Vendor Payment Enrollment (SF–3881)

Proof of Eligibility

Applicants will be required to upload proof of eligibility to apply for the grants such as copies of accreditations and certifications. The FAA reserves the right to validate proof of eligibility.

Award Floor and Ceiling

The FAA may issue awards of between $25,000 and not more than $500,000 (the ceiling established in the Act) for any one grant in any one fiscal year.

Number of Awards

This grant program is competitive. The FAA reserves the right to make grant awards depending on the quantity and quality of proposals received in response to the NOFO. The expectation is to fund a minimum of 10 proposals.

Period of Performance

The FAA anticipates that the period of performance of each grant will be 12 to 18 months from the effective date of the grant award.

Funding Restrictions

- The FAA will not reimburse any pre-award costs or application preparation costs under the proposed award.
- The FAA will not reimburse for facility construction or research activities.
- The FAA may cap the use of the grant funds for Indirect and Administrative Costs to 5% of the total award.

Matching Requirements

The FAA Aviation Workforce Development Grant Programs enabling legislation does not require matching contributions in this program.

Partnerships

Individual entities, teams, and new providers are eligible to apply for a grant. The FAA encourages applicants to partner with others as appropriate to: Satisfy Congressional intent and meet the requirements of this selection criteria; reach and include students and educators in various geographic and economic areas; and to help the applicant provide additional opportunities, assistance, and resources to ensure success and sustainability.

Application Review Information

FAA Subject Matter Experts will serve on teams to provide a Technical, and a Management and Fiscal Evaluation. The Technical Evaluation Team review applications and rank proposals based upon Merit Criteria similar to the examples below. The Management and Fiscal Reviewers will review financial aspects of the proposal including the budget and supporting narrative, plans to administer and oversee activities, assessment processes and tools. Incorrect, missing documents/items, or incomplete applications will be grounds for rejecting the application. Applications should address each criterion. Late submissions will not be considered.

Examples of Potential Merit Criteria

Criterion 1

The extent to which the applicant can encourage, recruit and/or deliver pilot education and aviation training to a diverse high school population in public and private schools in rural, suburban, and urban areas. The applicant should demonstrate the following:

- Outreach and recruitment efforts to encourage careers in the aircraft pilot industry and a plan to target a diverse community of high school students.
- Plans to use a proposed curriculum and activities to support the professional development of teachers.
- Plans to provide related activities using multiple methods which may include virtual learning, in-class room, home schooling, etc.
- The role of individuals, entities or organizations participating in the proposed activities; provide letters of commitment by each participant.
- The extent to which the applicant is prepared to create, adapt or improve and deliver curriculum designed to generate and increase interest in aviation careers and provide students with meaningful educational experiences. Provide sample curriculum designs and activities students will undertake to gain a better understanding of and prepare to pursue careers as aircraft pilots, aerospace engineers, and/unmanned aircraft systems operators.
- Ability to provide education and training in Science, Technology, Engineering, and Mathematics (STEM) fields and activities related to aircraft pilots, aerospace engineers, and unmanned aircraft systems operators.

Criterion 2

Resources available to carry out this project for high school students. The applicant should demonstrate the following:

- Access to instructors in areas related to STEM, familiar with aircraft pilot training requirements.
- Ability to recruit educators and provide the professional development to those teaching the curriculum and conducting related activities.
- Plans to provide career preparation and related activities using multiple methods.
- Other resources.

Criterion 3

Ability to design and disseminate program information pertinent to aviation workforce development that encourages participation from a diverse population of students from public and private high schools in rural, suburban, and urban areas and has a continuing education component for students and educators to ensure sustainability. The applicant should demonstrate the following:

- Continuing education and distance learning opportunities with a focus on pilot and aviation workforce development needs.
- Ability to conduct courses, seminars, workshops and other activities.
- Ability to disseminate information and educational materials. Provide examples of past results from such activities and programs.
- Facilities, equipment, and resources available to provide for program delivery, student and teacher recruitment, academic and career counseling, and information dissemination activities.

Criterion 4

Ability to effectively administer the proposed activities. The FAA is interested in a disciplined administrative and strategic project plan. Include an approach to efficiently control administrative expenses while effectively allocating resources between projects designed to optimize aviation and STEM career awareness, prepare students to enter related fields, and deliver curriculum. The applicant should demonstrate the following:

- Provide a plan describing how the applicant will organize and manage the various tasks.
- Describe how the applicant will meet performance goals: Develop, adapt, or expand and conduct, evaluate, and manage the initiatives within the task(s).
- Indicate the entity prepared to serve as the lead for administrative purposes and describe the responsibilities to be undertaken, should a team propose.
- Provide a proposed budget to achieve program goals with a supporting narrative.
- Describe how the recipient plans to ensure that projects established under this program encourage participation from a diverse population of students from public and private high schools in rural, suburban, and urban areas.

Industry Consultation

Prior to selecting among competing applications, the *Secretary shall consult* with representatives from aircraft repair stations, design and production approval holders, air carriers, labor organizations, business aviation, general aviation, educational institutions, and other relevant aviation sectors. Therefore, the FAA is assuming this responsibility by providing stakeholders and the public an opportunity to review this preliminary plan to establish the Aviation Workforce Development Grant Programs.

Financial Review

The FAA will perform an assessment of risk posed by the applicant prior to issuing awards. The assessment includes evaluating previous Federal grant experiences, financial stability, and potential for conflicts of interest. The applicant will be asked to submit a

copy of its most recent Cognizant Auditing Agency Report and remedies to all findings. Any potential applicants with previous disbarments or suspensions will be disqualified.

Unique Identifier or System of Award

The applicant is required to: (i) Be registered in *www.SAM.Gov* before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable unique identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time of the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not sufficiently prepared or is not qualified to receive a Federal award.

Degree of Federal Involvement

The FAA may conduct site visits of applicant institutions and facilities to observe curriculum delivery, and review relevant materials including books, records, activity plans, relevant documents, accounting procedures, processes, and related activities and resources. The FAA will require semi-annual progress reports and final reports.

Federal Assistance Program Law

The FAA will adhere to all Guidelines for Federal Assistance Programs outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. To review the 2 CFR 200, please visit: *https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.*

Note: This is not a request for proposals or offers.

Issued in Washington, D.C., on September 2, 2020.

Patricia A. Watts,

Grants Officer, Aviation Workforce Development Grant Programs, NextGen Grants Management Branch (ANG–A19).

[FR Doc. 2020–19813 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2020–0077]

Pipeline Safety: Request for Special Permit; Tennessee Gas Pipeline Company, L.L.C.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); Transportation (DOT).

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from the Tennessee Gas Pipeline Company, L.L.C. (TGP). The special permit request is seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by October 9, 2020.

ADDRESSES: Comments should reference the docket number for this specific special permit request and may be submitted in the following ways:

- *E-Gov website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from TGP seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, and § 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment of 1.02 miles on the TGP pipeline system. The proposed special permit segment is located in Ouachita Parish, Louisiana. The TGP pipeline class location in the special

permit segment has changed from a Class 1 to a Class 3 location. The TGP pipeline special permit segment is a 24-inch diameter pipeline with an existing maximum allowable operating pressure of 632 pounds per square inch gauge (psig). The installation of the special permit segment occurred in 1944.

The special permit request, proposed special permit with conditions, and Draft Environmental Assessment (DEA) for the TGP pipeline are available for review and public comment in Docket No. PHMSA–2020–0077. We invite interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–19889 Filed 9–8–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Senior Executive Service Performance Review Board

AGENCY: Internal Revenue Service (IRS), Department of the Treasury.

ACTION: Notice.

SUMMARY: To announce a list of senior executives who comprise a standing roster that will serve on IRS's Fiscal Year 2020 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective September 1, 2020.

FOR FURTHER INFORMATION CONTACT: Sharnetta A. Walton, Director, Office of Executive Services at (202) 317–3817 or Candice I. Jones, Assistant Director, Office of Executive Services at (202) 317–6284, IRS, 1111 Constitution Avenue NW, Washington, DC 20224.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this board shall review and evaluate the initial appraisals of career senior executives' performance and provide recommendations to the appointing authority on performance ratings, pay adjustments and performance awards. The senior executives are as follows:

Sunita B. Lough, Chair
Justin L. Abold-LaBreche
David P. Alito
William H. Ankrum
Robin D. Bailey, Jr.
Scott A. Ballint
Lisa J. Beard-Niemann
Robert J. Bedoya
Michael C. Beebe
Jennifer L. Best
Thomas A. Brandt
Carol A. Campbell
John V. Cardone
Anthony S. Chavez
Robert Choi
James P. Clifford
Amalia C. Colbert
Erin M. Collins
Kenneth C. Corbin
Robert S. Cox
Tracy L. Deleon
Brenda A. Dial
Joseph Dianto
Donald C. Drake
John C. Duder
Elizabeth A. Dugger
James L. Fish
Sharyn M. Fisk
Nikole C. Flax
John D. Fort
Jeff D. Gill
Ursula S. Gillis
Linda K. Gilpin
Dagoberto Gonzalez
Dietra D. Grant
Darren J. Guillot
Valerie A. Gunter
Todd L. Harber
Barbara Harris
Gearl D. Harris
Nancy E. Hauth
Keith A. Henley
Anita M. Hill
John E. Hinding
Carrie Y. Holland
Karen S. Howard
Teresa R. Hunter
Eric C. Hylton
John H. Imhoff, Jr.
Scott E. Irick
Gabrielle Y. James
Barry W. Johnson
William H. Kea, Jr.
Tracy A. Keeter
Andrew J. Keyso, Jr.
Edward T. Killen
Adina H. Leach
James C. Lee
Terry Lemons
Paul J. Mamo
Lee D. Martin
Kevin Q. McIver
Karen A. Michaels
Kevin M. Morehead
Frank A. Nolden
Douglas W. O'Donnell
Deborah T. Palacheck
Kaschit D. Pandya
Holly O. Paz
Robert A. Ragano
Scott D. Reisher
Tamera L. Ripperda
Bridget T. Roberts
Richard L. Rodriguez
Frederick W. Schindler
Verline A. Shepherd
Nancy A. Sieger
Susan A. Simon
Sudhanshu K. Sinha
Eric D. Slack
Harrison Smith
Tommy A. Smith
Donald J. Sniezek
Gloria C. Sullivan
Sylana A. Tramble
Jeffrey J. Tribiano
Kathryn D. Vaughan
Margaret A. Vonlienen
Keith A. Walker
Shanna R. Webbers
Lavena B. Williams
Lisa S. Wilson

This document does not meet the Treasury's criteria for significant regulations.

Jeffrey J. Tribiano,

Deputy Commissioner for Operations Support, Internal Revenue Service.

[FR Doc. 2020–19859 Filed 9–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4952

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 4952, Investment Interest Expense Deduction.

DATES: Written comments should be received on or before November 9, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Adams, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (737) 800–6149 or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Investment Interest Expense Deduction.

OMB Number: 1545–0191.

Form Number: Form 4952.

Abstract: Interest expense paid by an individual, estate, or trust on a loan allocable to property held for investment may not be fully deductible in the current year. Form 4952 is used to compute the amount of investment interest expense deductible for the current year and the amount, if any, to carry forward to future years.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 137,064.

Estimated Time per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 205,596.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 2, 2020.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2020–19857 Filed 9–8–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held virtually by WebEx.

DATES: The meeting will be held September 23, 2020.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held virtually by WebEx.

FOR FURTHER INFORMATION CONTACT: Maricarmen Cuello, AP:SEPR:AAS, 51 SW 1st Avenue, Room 1014, Miami, FL 33130. Telephone (305) 982–5364 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held virtually by WebEx.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

Andrew J. Keyso,

Chief, Appeals.

[FR Doc. 2020–19867 Filed 9–8–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Disabled Access Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the disabled access credit.

DATES: Written comments should be received on or before November 9, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Adams, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (737) 800–6149, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disabled Access Credit.

OMB Number: 1545–1205.

Form Number: Form 8826.

Abstract: Internal Revenue Code section 44. allows eligible small businesses to claim a credit of 50% of the eligible access expenditures that exceeds $250 but do not exceed $10,000. Form 8826, Disabled Access Credit, is used by eligible small businesses to claim the 50 percent credit eligible access expenditures to comply with the requirements under the Americans with Disabilities Act of 1990. The credit is part of the general business credit. Form 8826 is used to figure the credit and the tax liability limit.

Current Actions: There are no changes being made to the form at this time. This request is for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms.

Estimated Number of Respondents: 4,759.

Estimated Time per Respondent: 5 hrs., 7 minutes.

Estimated Total Annual Burden Hours: 24,366.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection

of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 2, 2020.

Sara L. Covington,

IRS, Tax Analyst.

[FR Doc. 2020–19858 Filed 9–8–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0342]

Agency Information Collection Activity Under OMB Review: Application and Training Agreement For Apprenticeship and On-the-Job Training Programs

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0342.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov.* Please refer to ''OMB Control No. 2900–0342'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 10 U.S.C. 16131(d), 16136, and section 510 of chapter 31. 38 U.S.C. 3034(a)(1), 3241(a)(1), 3323(a), 3534(a), 3671, 3672, 3687(a); 38 CFR 21.4150(c), 21.4261(b) and (c), 21.5250(a), 21.7220(a), and 21.7720.

Title: Application and Training Agreement For Apprenticeship and On-the-Job Training Programs.

OMB Control Number: 2900–0342.

Type of Review: Revision of a currently approved collection.

Abstract: Each on-the-job trainee must receive a training agreement in accordance with statutory and regulatory requirements. VA form 22–8864 (or the training agreement provided by the SAA) is used to meet these requirements. VA Form 22–8865 (or the equivalent tool provided by the SAAs) is used to ensure that training programs meet the statutory and regulatory requirements for approval.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 119 on June 19, 2020, at pages 37156 and 37157.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,744 hours.

Estimated Average Burden per Respondent: 120 minutes.

Frequency of Response: Once on occasion.

Actual Number of Respondents: 5,872.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–19823 Filed 9–8–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Wednesday,
No. 175 September 9, 2020

Part II

Environmental Protection Agency

40 CFR Part 63
Mercury and Air Toxics Standards for Power Plants Electronic Reporting Revisions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0794; FRL–10011–53–OAR]

RIN 2060–AU70

Mercury and Air Toxics Standards for Power Plants Electronic Reporting Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S Environmental Protection Agency (EPA) is finalizing amendments to the electronic reporting requirements for the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards (MATS)). This action revises and streamlines the electronic data reporting requirements of MATS, increases data transparency by requiring use of one electronic reporting system instead of two separate systems, and provides enhanced access to MATS data. No new monitoring requirements are imposed by this final action; instead, this action reduces reporting burden, increases MATS data flow and usage, makes it easier for inspectors and auditors to assess compliance, and encourages wider use of continuous emissions monitoring systems (CEMS) for MATS compliance. In addition, this final action extends the current deadline for alternative electronic data submission via portable document format (PDF) files through December 31, 2023.

DATES: This final rule is effective on September 9, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0794. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; email address: *parker.barrett@epa.gov.* For general information concerning MATS, contact Ms. Mary Johnson, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5025; email address: *johnson.mary@epa.gov.* For questions concerning the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and its implementation, contact Mr. Christopher Worley, Clean Air Markets Division, Mail Code 6204M, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9531; email address: *worley.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

Table of Contents

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units (EGUs).
Federal government	[2] 221122	Fossil fuel-fired EGUs owned by the federal government.
State/local/tribal government	[2] 221122	Fossil fuel-fired EGUs owned by municipalities.
	921150	Fossil fuel-fired EGUs in Indian country.

[1] North American Industry Classification System.
[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your

entity is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 63.9981 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

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

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/mats/regulatory-actions-final-mercury-and-air-toxics-standards-mats-power-plants.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by November 9, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

D. What action is the Agency taking?

The EPA is finalizing this rule to streamline the electronic data reporting requirements of MATS; to increase data transparency by making more of the MATS data available in Extensible Markup Language (XML) format; and to amend the reporting and recordkeeping requirements associated with performance stack tests, particulate matter (PM) and hydrogen chloride (HCl) CEMS, and PM continuous parameter monitoring systems (CPMS).

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

The Agency's authority for taking this action is found at 42 U.S.C. 7401 *et seq.*

F. What are the incremental costs and benefits of this action?

As discussed in section VI.C of this preamble, this action is expected to reduce overall annual source burden by 11,000 hours per year, which when monetized is $15,079,000.

II. Background

These amendments revise the recordkeeping and reporting requirements of the MATS rule, in response to concerns raised by the regulated community. The MATS rule originally required affected EGU owners or operators to report MATS rule emissions and compliance information electronically using two data systems. See 40 CFR 63.10031 (77 FR 9304, February 16, 2012). Paragraph (a) of 40 CFR 63.10031 required EGU owners or operators that demonstrate compliance by continuously monitoring mercury (Hg) and/or HCl and/or hydrogen fluoride (HF) emissions to use the ECMPS Client Tool to submit monitoring plan information, quality assurance (QA) test results, and hourly emissions data in accordance with appendices A and B to subpart UUUUU of 40 CFR part 63. Paragraph (f) of 40 CFR 63.10031 required performance stack test results, performance evaluations of Hg, HCl, HF, sulfur dioxide (SO_2), and PM CEMS, 30-boiler operating day rolling average values for certain parameters, Notifications of Compliance Status, and semiannual compliance reports to be submitted to the EPA's WebFIRE database via the Compliance and Emissions Data Reporting Interface (CEDRI).

Subsequent to the publication of the MATS rule, stakeholders suggested to the EPA that the MATS rule electronic reporting burden could be significantly reduced if all of the required information were reported to one data system instead of two. The stakeholders also suggested that using one data system would benefit the EPA and the public in their review of MATS rule data, because the information would be reported in a consistent format. In view of these considerations, the stakeholders urged the EPA to consider amending the MATS rule to require all of the data to be reported through the ECMPS, a familiar data system that most EGU owners or operators have been using since 2009, to meet the electronic reporting requirements of the Acid Rain Program.

After careful consideration of the stakeholders' recommendations, the EPA concluded that the increased transparency of the emissions data and the reduction in reporting burden that could be achieved through the use of a single data system are consistent with Agency priorities. As a result, late in 2014, the EPA decided to take the necessary steps to require all of the electronic reports required by the MATS rule to be submitted through the ECMPS Client Tool. Those steps would include revising the MATS rule, modifying the ECMPS Client Tool, creating a detailed set of reporting instructions, and beta testing the modified software. Recognizing that insufficient time was available to complete these tasks before the initial compliance date for the MATS rule (April 16, 2015), the Agency embarked on a two-phased approach to complete them.

The first phase was completed when the EPA published a final rule requiring EGU owners or operators to suspend temporarily (until April 16, 2017) the use of the CEDRI interface as the means of submitting the reports described in 40 CFR 63.10031(f), (f)(1), (2), and (4), and to use the ECMPS Client Tool to submit PDF versions of these reports on an interim basis (see 80 FR 15510, March 24, 2015). The specific reports required to be submitted as PDF files included: Performance stack test reports containing enough information to assess compliance and to demonstrate that the testing was done properly; relative accuracy test audit (RATA) reports for SO_2, HCl, HF, and Hg CEMS; RATA reports for Hg sorbent trap monitoring systems; response correlation audit (RCA) and relative response audit (RRA) reports for PM CEMS; 30-boiler operating day rolling average reports for PM CEMS, PM CPMS, and approved hazardous air pollutants (HAP) metals CEMS; Notifications of Compliance Status; and semiannual compliance

reports. Section 63.10031(f)(6) of the March 24, 2015, final rule required each PDF version of a submitted interim report to include information that identifies the facility (name and address), the EGU(s) to which the report applies, the applicable rule citations, and other information. The rule further specified that in the event that implementation of the single data system initiative was not completed by April 16, 2017, the electronic reporting of MATS data would revert to the original two systems approach on and after that date.

In the preamble to the March 24, 2015, final rule, the EPA outlined the second phase of the single data system initiative, to be executed during the interim PDF reporting period. In phase two: (1) The Agency would publish a direct final rule, requiring MATS-affected sources to use the ECMPS Client Tool to submit all required reports; and (2) a detailed set of reporting instructions would be developed and ECMPS would be modified to receive and process the data.

Considering the magnitude of the rule changes that would be required to execute phase two, coupled with the need to specify data elements to be reported electronically for PM CEMS, PM CPMS, and HCl CEMS, the Agency decided to provide stakeholders an opportunity to review and comment on the proposed changes. The EPA issued the proposed rule on September 29, 2016.[1] The comment period for the 2016 proposal (or ''previous proposal'') was scheduled to close on October 31, 2016, but it was subsequently extended until November 15, 2016, in response to requests from several stakeholders for an extension.

Commenters were generally supportive of the initiative to simplify and streamline the MATS reporting requirements and to use the ECMPS Client Tool as the single MATS rule reporting system. However, they expressed serious concerns about the proposal to extend the interim PDF reporting process from April 16, 2017, to December 31, 2017. Although they favored an extension of the PDF reporting, they were unanimous in asserting that the proposed end date of December 31, 2017, would not allow enough time to finalize the rule, develop the necessary XML reporting formats and reporting instructions, and reprogram the ECMPS Client Tool. In addition, two data acquisition and handling system vendors stated that more time would be needed for them to adapt to the proposed changes and to develop the reporting software for their customers. Some of the commenters recommended that the EPA should extend the interim PDF reporting process through calendar year 2019; others suggested that the process should be extended for 6 to 8 calendar quarters after finalization of the rule.

In view of these considerations, on April 6, 2017, the EPA published a final rule extending the interim PDF file reporting process through June 30, 2018 (82 FR 16736). Technical corrections to appendix A were also included in the rule package. The rule went into effect on April 6, 2017. As the Agency was unable to complete the e-reporting provisions, another extension to the interim PDF file reporting process—through June 30, 2020—was promulgated on July 2, 2018 (83 FR 30879).

The Agency continued to develop the remaining electronic reporting and recordkeeping requirements, considering the comments received on the September 29, 2016 (81 FR 67062) proposal. When that effort was complete, rather than finalizing those requirements, the Agency decided to again provide stakeholders with an opportunity to review and comment on the requirements, so the Agency issued a proposal with those requirements on April 10, 2020 (85 FR 20342).

Thirty-five comment letters were received, and they are available in the docket. Many of those comments were similar to comments submitted before in other proposals and have been addressed previously. Responses for the comments on this action are included in the Response to Comments document which is also available in the docket. Significant comments can be sorted into eight groups; their general descriptions and responses follow.

1. Comments received on other MATS regulatory actions, *e.g.,* removal of the appropriate and necessary determination, are not relevant for this action and were not addressed. Likewise, comments regarding other regulatory actions, *e.g.,* insecticides and pesticides, are not relevant for this action and were not addressed.

2. A majority of commenters supported extending the use of PDF reporting until January 2024. Many industry commenters suggested splitting the package so the extension could be finalized, and more time could be spent on reviewing the other portions of the package. The Agency is not splitting the package and appreciates the support for the extension until the ECMPS Client Tool is reprogrammed and ready for use. The Agency sees no need for additional time to comment on the proposed revisions, as those revisions have been available for review and comment for over 3 years—since the September 29, 2016, proposal.

3. Commenters sought clarification on the conditions that would cause monitoring downtime to be considered a deviation, and the regulation provides that clarification.

4. Industry commenters sought to have consistent application of grace periods and ongoing QA check periods (based on operating quarters only) for PM CEMS and PM CPMS; however, these instruments differ from other CEMS because except for the annual testing, there is no other time when the monitoring system is compared to a certified reference method value to determine accuracy. This difference means that techniques allowing for additional periods before testing is required puts EGU owners or operators, as well as the environment, at additional risk of elevated emissions during such periods. Due to this difference, and its potential effects, the regulation will not provide grace periods beyond 1 calendar quarter or ongoing QA checks based on operating quarters only.

5. Commenters sought clarification on Hg low-emitting EGU (LEE) testing calculations, and the regulation provides such clarification in 40 CFR 63.10005(h)(3)(iii).

6. Some commenters continue to assert that data elements in appendix E are duplicative, but as described before, those data elements are already required and represent the minimum bits of information needed to ensure smooth operation of an electronic reporting system. Even so, clarifications from already-mentioned deviation and monitoring downtime circumstances, as well as for reporting span values and fuel usage, have been provided in appendix E.

7. One commenter asked the Agency to reconsider allowing the use of alternate semi-annual reporting submission dates established by operating permit programs, at least until the ECMPS Client Tool is operational; the Agency agrees that this flexibility should be maintained during the extension period, and the rule has been revised to allow use of such alternate semi-annual reporting dates.

8. Finally, some commenters requested continued engagement with stakeholders as the new ECMPS Client Tool software is developed and tested. Consistent with previous ECMPS reporting instructions changes and the implementation of previous MATS reporting changes, the Agency will

[1] 81 FR 67062, September 29, 2016.

provide draft reporting instructions and XML schema documentation prior to implementation and engage stakeholders during the development and testing of software.

This action finalizes an extension of the interim PDF reporting process through December 31, 2023, and finalizes the remaining needed amendments to the MATS rule on electronic reporting. Note that these amendments were developed after consideration of the comments received on the September 29, 2016, and April 10, 2020, proposals. III. What is the scope of these amendments?

This action amends the reporting requirements in 40 CFR 63.10031 of the MATS regulation, and, for consistency with those changes, amends related text in 40 CFR part 63, subpart UUUUU; specifically, 40 CFR 63.10000, 63.10005, 63.10009, 63.10010, 63.10011, 63.10020, 63.10021, 63.10030, 63.10032, 63.10042, and Tables 3, 8, and 9. In addition, the recordkeeping and reporting sections of appendices A and B are amended [2] and three new appendices are added to the rule, *i.e.,* appendices C, D, and E. Instead of using the electronic reporting tool (ERT) to submit some of the MATS data via CEDRI and submitting the remainder through the ECMPS Client Tool, as was required by the original MATS rule, this action allows EGU owners or operators to use the ECMPS Client Tool to report all of the required information in XML and PDF files.

IV. What are the specific amendments to 40 CFR part 63, subpart UUUUU as a result of this action?

The amendments to 40 CFR part 63, subpart UUUUU are discussed in detail in the paragraphs below.

A. Revisions to the Reporting Requirements of MATS

The reporting requirements of MATS are amended as follows:

(1) The ECMPS Client Tool is the exclusive data system for MATS reporting, in lieu of using both ECMPS and the CEDRI.

(2) The interim PDF reporting process described in 40 CFR 63.10031(f) is extended through December 31, 2023, to allow sufficient time for software development, programming, and testing. Until then, compliance with the emissions and operating limits will continue to be assessed based on the various PDF report submittals described in 40 CFR 63.10031(f) and data from Hg, HCl, HF, and SO_2 CEMS and sorbent trap monitoring systems, as reported through the ECMPS Client Tool. On and after January 1, 2024, compliance with the emissions and operating limits is assessed based on: (1) Quarterly compliance reports; (2) hourly data from all continuous monitoring systems (CMS) (including PM CEMS and PM CPMS) in XML format; (3) detailed reference method information for stack tests and CMS performance evaluations in XML format and PDF files; (4) Notifications of Compliance Status (if any) in PDF files; and (5) if applicable, supplementary data in PDF files for EGUs using paragraph 2 of the definition of startup in 40 CFR 63.10042. The ECMPS Client Tool is required to submit all of these reports and notifications.

(3) In order to properly close out the interim PDF reporting process, 40 CFR 63.10031(f)(6) states that PDF submittals are still accepted as necessary for the reports required under paragraph (f) introductory text, (f)(1), (2), or (4) if the deadlines for submitting those reports extend beyond December 31, 2023. As an example, the last semiannual compliance report under the interim PDF reporting process covers the period from July 1, 2023, through December 31, 2023; the deadline for submitting this report is January 30, 2024, and the report is submitted using the interim PDF reporting process.

(4) Revised paragraph (f)(2) of 40 CFR 63.10031 expands the quarterly reporting of 30- or 90-boiler operating day rolling average emission rates to include units monitoring Hg, HCl, HF, and/or SO_2 emissions, and units using emissions averaging. This change is consistent with 40 CFR 63.10031(f)(2) of the current rule, which requires quarterly reporting of 30-boiler operating day rolling averages for EGUs using PM CEMS, PM CPMS, and approved HAP metals CEMS. Therefore, starting with the first quarter of 2024, the 30- or 90-boiler operating day rolling averages (or, if applicable, rolling weighted average emission rates (WAERs) if emissions averaging is used) are reported quarterly in XML format for all parameters (including Hg, HF, HCl, and SO_2). However, instead of providing these rolling averages in separate, stand-alone reports, they are incorporated into the quarterly compliance reports required under 40 CFR 63.10031(g) (see section IV.A.(9) of this preamble, below).

(5) Revised paragraphs (a)(1), (2), and (5) of 40 CFR 63.10031 clarify the electronic reporting requirements for the Hg, HCl, HF, SO_2, and additional CMS. Specifically:

(i) Paragraph (a)(1) requires the electronic reporting requirements of appendix A to be met if Hg CEMS or sorbent trap monitoring systems are used.

(ii) Paragraph (a)(2) requires the electronic reporting requirements of appendix B to be met, with one important qualification, if HCl or HF monitoring systems are used. Until December 31, 2023, if PS 18 in part 60, appendix B is used to certify an HCl monitor and Procedure 6 in part 60, appendix F is used for on-going QA of the monitor, EGU owners or operators will temporarily report only data that the existing programming of ECMPS is able to accommodate, *i.e.,* hourly HCl emissions data and the results of daily calibration drift tests and RATAs; records are to be kept of all of the other required certification and QA tests and supporting data. The reason for this temporary, limited reporting is that PS 18 and Procedure 6 were not published until July 7, 2015; therefore, it was not possible to specify recordkeeping and reporting requirements for them in the original version of appendix B. Now that PS 18 and Procedure 6 have been finalized, this rule adds the necessary recordkeeping and reporting requirements, and the interim reporting for HCl will be discontinued as of January 1, 2024 (for further discussion, see section IV.C of this preamble).

(iii) Paragraph (a)(5) clarifies the electronic reporting requirements for the SO_2 CEMS and the additional monitoring systems under MATS. Sources currently reporting SO_2 mass emissions under the Acid Rain Program or Cross-State Air Pollution Rule already meet these requirements, except for paragraphs (a)(5)(iii)(C) and (E), which require, respectively, quarterly reporting of an hourly SO_2 emission rate data stream in units of the applicable MATS standard (*i.e.,* pounds per British thermal units (lb/MMBtu) or pounds per megawatt hours (lb/MWh)) and certification statements from the responsible official. Separate certification statements are required for the 40 CFR part 75 programs and MATS. (*Note:* For consistency with the changes described in items (i) through (iii), immediately above, 40 CFR 63.10031(f)(3) is removed and reserved).

(6) Paragraphs (b)(1) and (2) of 40 CFR 63.10031 are amended to recognize that some EGUs may have received extensions of their compliance date under 40 CFR 63.6(i)(4). References to

[2] In 2015, the EPA published a technology-neutral performance specification and associated QA test procedures for HCl monitors (see Performance Specification 18 (PS 18) and Procedure 6 in 80 FR 38628, July 7, 2015). That rule added certification and QA test requirements for sources electing to monitor HCl according to PS 18 and Procedure 6. This action requires the results of the appendix B certification and QA tests to be reported electronically for periods beginning on January 1, 2024.

postmark dates for submittal of semiannual compliance reports paragraphs are removed from paragraphs (b)(2) and (4); these reports currently are, and continue to be, submitted electronically through ECMPS as PDF files, until they are superseded by quarterly compliance reports, starting in the first quarter of 2024.

(7) The provision in 40 CFR 63.10031(b)(5), which allows affected EGU owners or operators to follow alternate submission schedules for semiannual compliance reports are discontinued when the interim PDF reporting period ends. When that interim PDF reporting period ends, the uniform submission schedule described in 40 CFR 63.10031(b)(1) through (4) is required for all affected EGUs, so that compliance with this reporting requirement can easily be tracked.

(8) New 40 CFR 63.10031(b)(6) will require EGU owners or operators to discontinue submission of semiannual compliance reports when the interim PDF reporting period ends. The final semiannual compliance report covers the period from July 1, 2023, through December 31, 2023.

(9) EGU owners or operators submit quarterly compliance reports in lieu of the semiannual compliance reports, starting with reports covering the first quarter of 2024 (see 40 CFR 63.10031(g)). The quarterly compliance reports retain many features of the semiannual reports and consolidate them with other reports that were originally required to be submitted separately on different schedules. These compliance reports will be due within 60 days after the end of each calendar quarter, which allows sufficient time to receive the results of stack tests (particularly PM, HCl, and HF tests) performed at or near the end of a calendar quarter. Each quarterly compliance report includes the applicable data elements listed in sections 2 through 13 of appendix E.

The owner or operator's MATS compliance strategy determines which of the data elements in sections 2–13 of appendix E are included in the quarterly compliance reports. If continuous emission monitoring were used to demonstrate compliance on a 30- or 90-boiler operating day rolling average basis, the quarterly compliance reports include all of the 30- or 90-day averages calculated during the quarter. If emissions averaging were used, EGU owners or operators report all of the 30- or 90-group boiler operating day WAERs calculated during the quarter. If periodic stack testing for compliance were performed (including Hg LEE tests and PM tests to set operating limits for PM CPMS), the EGU owner or operator reports a summary of each test completed during the calendar quarter and indicate whether the test has a special purpose (*i.e.,* if it were to be used to establish LEE status or for emissions averaging).

The quarterly compliance reports retain and incorporate the following features of the semiannual compliance reports: (1) Boiler tune-up dates; (2) monthly fuel usage data; (3) process and control equipment malfunction information; (4) reporting of deviations; and (5) emergency bypass information, for certain EGUs that qualify for and elect to use the LEE compliance option for Hg. However, for EGU owners or operators who elect to (or are required to) use CMS to demonstrate compliance, these quarterly reports, to some extent, move away from traditional ''exception only'' reporting. Currently, reporting of the excess emissions and monitor downtime information described in 40 CFR 63.10(e)(3)(v) and (vi) in PDF files has been required as part of the semiannual compliance reports. That information includes, among other things, identification of excess emissions periods, identification of periods when the monitoring system was inoperative or out of control, the reasons for the excess emission and monitor downtime periods, corrective actions or preventative measures taken, description of repairs or adjustments to inoperative or out-of-control CMS, the total amount of source operating time in the reporting period, and the excess emissions and monitor downtime, expressed as percentages of the source operating time. As explained above, rather than this traditional exception-only reporting, these amendments require all of the 30- (or 90-) boiler operating day rolling averages or WAERs for all parameters to be included in the quarterly compliance reports. In addition, the following elements of the excess emissions summary, with slight modifications, are included in the quarterly compliance reports: (1) The total number of source operating hours in the quarter and (2) the total number of hours of monitoring system downtime for various causes (known and unknown).

As previously noted, the requirement to report deviations is retained in the quarterly compliance reports. Specifically, the revisions to 40 CFR 63.10031(d) require the applicable data elements in section 13 of appendix E to be reported, which include the nature of the deviation (section 13.2), a description of the deviation (section 13.3), and any corrective actions taken (section 13.4). Section 13.3 further specifies the minimum amount of information reported in the description of certain deviations or monitoring downtime (*i.e.,* unmonitored bypass stack usage, emissions or operating limit exceedances, monitoring system outages, and missed or late performance stack tests).

We believe that consolidating information in quarterly compliance reports, as described above, rather than requiring separate submittals of 30- (or 90-) boiler operating day rolling average reports, excess emissions reports, and semiannual compliance reports that come in separately at different times during the year, greatly simplifies reporting and makes it easier for inspectors and auditors to assess compliance with the standards. Also, quarterly, as opposed to semiannual, reporting is advantageous because it shortens significantly the interval between the time that deviation or exceedance reporting on a term longer than quarterly occurs. Draft reporting instructions for the quarterly compliance reports are provided in the rule docket. In response to comments received, these instructions have been modified from a previous draft version.

(10) A new paragraph (c)(10) is added to section 63.10031 and requires malfunction information to be included in the semiannual compliance reports. This is not a new requirement; it was previously found in paragraph (g). However, as explained above, revised paragraph (g) requires quarterly compliance reports to be submitted, starting in 2024. Therefore, to avoid losing the requirement to report malfunction information in the semiannual compliance reports, the former paragraph (g) has been renamed as paragraph (c)(10) and is added to the list of information that must be included in the semiannual reports. The introductory text of paragraph (c) is also amended, to recognize the addition of paragraph (c)(10).

(11) For consistency with the reporting requirements for the other CMS, the regulation does not require source owners or operators using PM CPMS to submit separate quarterly excess emission summary reports in addition to the quarterly compliance reports. After careful consideration of comments on the previous proposal, we are persuaded that sufficient information to assess compliance with the operating limits of a PM CPMS will be provided by: (1) The hourly PM CPMS response data reported in appendix D; (2) the quarterly compliance reports, which specify the operating limit of the PM CPMS, require

deviations from the operating limit and monitoring requirements to be reported, and include summarized results of the PM tests used to develop the operating limits; and (3) the applicable reference method data for the PM tests required to be reported under sections 17–30 of appendix E.

Table 9 to 40 CFR part 63, subpart UUUUU is amended to reflect the transition away from exception-only reporting. The applicability of the recordkeeping and reporting requirements for excess emission and monitor downtime summary reporting in 40 CFR 63.7(c)(8), 63.10(c)(7), and 63.10(e)(3) ends on December 31, 2023, with the phase-out of the semiannual compliance reports.

(12) One commenter on the previous proposal brought to light some inconsistencies in the rule; regarding the way in which periods of monitor downtime should be regarded and reported, *i.e.,* whether or not they are reportable deviations. We thought the April proposal addressed this concern, but other commenters asked for clarification during the current comment period. As the Agency meant to exempt periods of routine QA or quality control (QC) and routine maintenance from deviation reporting but not from monitoring downtime reporting, language in 40 CFR 63.10010(h)(5), (i)(4), and (j)(4) has been clarified, along with the clarifications to 40 CFR 63.10020(b) and (d), 40 CFR 63.10010(h)(6)(i) and (ii), (i)(5)(i) and (ii), and (j)(4)(i)(A) and (B) that were proposed in April. We also clarified the corresponding data elements in section 13 of Appendix E.

In response to comments for clarification concerning reporting of QA test results, which the Agency maintains is mandatory for all CMS, the regulation has been amended at 40 CFR 63.10010 to remove the last sentence in paragraphs (h)(6)(i), (j)(4)(i)(A) and (B); to require the monitoring system performance evaluations of PM CPMS and HAP metals CEMS be reported in paragraphs (h)(7) and (j)(4)(ii), respectively; to require the QA/QC activities for PM CPMS and HAP metals CEMS be reported quarterly in PDF files in 40 CFR 63.10031(k); and to cross-reference the appropriate sections of appendix C, regarding the certification, operation, maintenance, on-going QA, recordkeeping, and reporting requirements for PM CEMS in 40 CFR 63.10010(i).

(13) In all cases in which periodic stack tests (including Hg LEE tests and PM tests that are used to develop PM CPMS operating limits) are performed to demonstrate compliance, the rule retains the requirement for the EGU owner or operator to provide the applicable reference method data in appendix E (*i.e.,* sections 17 *et. seq.*) for each stack test that is performed to demonstrate compliance. Each of these submittals is required to accompany the quarterly compliance report that covers the calendar quarter in which the test was completed. For PM tests that are used to develop PM CPMS operating limits, EGU owners or operators will be required to include the information in 40 CFR 63.10023(b)(2)(vi) as part of the Test Comment data element found in section 17.25 of appendix E.

(14) The applicable reference method data in sections 17 through 30 of appendix E will be required to be provided in XML format, starting with tests completed on or after January 1, 2024, for each RATA of an Hg, SO_2, HCl, or HF monitoring system, and for each RRA, RCA, or correlation test of a PM CEMS. The information in section 31 of appendix E is provided in a PDF file for each test. The appendix E information is submitted concurrently with the summarized electronic test results submitted to ECMPS under appendix A, B, or C, or 40 CFR part 75 (for SO_2 RATAs).

(15) The ECMPS Client Tool is also used to make the following submittals in PDF files:

(i) a detailed report of the current, active PS 11 correlation test, if the EGU owner or operator is using a certified PM CEMS to demonstrate compliance. For correlation tests completed prior to November 9, 2020, the report is due no later than 60 days after that date. For correlation tests completed on or after November 9, 2020, but prior to January 1, 2024, the report is due within 60 days after the date on which the test is completed. (*Note:* For correlations completed on and after January 1, 2024, in lieu of a PDF report, the test results are submitted electronically according to section 7.2.4 of appendix C, together with the applicable reference method data required under sections 17 through 31 of appendix E);

(ii) any initial Notification of Compliance Status issued on or after January 1, 2024; and

(iii) the information specified in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) for startup and shutdown incidents, if an EGU owner or operator is relying on paragraph (2) of the definition of startup in 40 CFR 63.10042. Starting with a report covering the first calendar quarter of 2024, this information is submitted along with the quarterly compliance report. Note that 40 CFR 63.10031(c)(5)(iii) through (v), which require the semiannual compliance reports to include the hourly CEMS and operating parameter data recorded during startup and shutdown events have not been carried over to this PDF report because this information is duplicative of the hourly data reported electronically in the quarterly emissions reports. Startup and shutdown hours are flagged in the emissions reports and are identifiable for auditing purposes.

(16) To accommodate the required PDF reports, the applicable data elements in 40 CFR 63.10031(f)(6)(i) through (xii) are entered into the ECMPS Client Tool at the time of submission of each PDF file. Note that the amendment to data element (xii) replaces the word ''conducted'' with the word ''completed.''

(17) Although the ECMPS Client Tool is used to submit the required reports and notifications described in revised 40 CFR 63.10031 and Table 8, ECMPS does not evaluate any of the PDF submittals or any of the XML-formatted reference method data from sections 17 through 31 of appendix E. Instead, these reports and notifications are transmitted directly through the EPA's Central Data Exchange using CEDRI unaltered. ECMPS does, however, perform electronic checking of the hourly PM CEMS data and the summarized RATAs, PM CEMS correlation tests, RRAs, and RCAs that are submitted in XML format, in a manner that is consistent with the way that certification and QA test results are evaluated under the Acid Rain and Cross-State Air Pollution Rule programs. ECMPS uses the results of these evaluations to assess the quality-assured status of the Hg, HCl, HF, SO_2, or PM emissions data. In addition, ECMPS performs basic checks of the information in the quarterly compliance reports, *e.g.,* checking for completeness and proper formatting, but leaves compliance assessment to those who review the reports. The EPA intends for all of these various data submissions to work together in a complementary fashion to enable meaningful compliance determinations. It is essential that any problems with the data identified by the reviewers are communicated to all involved and resolved appropriately. For example, if, for a particular Hg RATA, a review of the reference method data shows that the method was not done properly, the RATA would be invalidated. If, at the time of this discovery, the deadline for performing the RATA has passed and the allowable grace period has also expired, this improper RATA results in invalidation of hourly emissions data, from the expiration of the grace period until a valid RATA is performed and

passed. Consequently, resubmission of quarterly emissions reports, recalculation of 30-day compliance averages, and resubmission of quarterly compliance reports may become necessary.

B. Revisions to Appendix A

Based on comments received, six sections of appendix A, *i.e.,* sections 5.1.1, 7.1.1.2.1, 7.1.3.3, 7.1.4.3, 7.1.8.2 and 7.2.3.1 are amended and described, here. The requirement in section 5.1.1 regarding required QA testing is clarified to allow daily calibrations to be performed offline and to specify that ongoing QA testing other than RATAs can be performed at no particular load levels.

The requirement in section 7.1.1.2.1 for electronic reporting is expanded to include emission controls. As part of the re-examination of the list of data elements that compose a complete test report, suggested by commenters, this data element was found to be missing in this section. The requirement in sections 7.1.3.3, 7.1.4.3, and 7.1.8.2 to report Hg concentrations and emission rates to three significant figures is revised so that Hg concentrations in micrograms per standard cubic meter (µg/scm) and Hg emission rates in pounds per trillion British Thermal Units or pounds per gigawatt-hour are reported with one leading non-zero digit and one decimal place, in scientific notation. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged.

The requirement in section 7.2.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 is revised. For new EGUs or EGUs that install Hg monitoring systems in order to switch from another MATS-compliant methodology to Hg monitoring, the monitoring plan information is submitted at least 21 days prior to the date on which certification testing begins. However, for EGUs implementing Hg monitoring with a previously-certified Hg monitoring system, the monitoring plan may be submitted prior to or concurrent with the first quarterly emissions report—provided that the monitoring plan is in place when the first emissions report is submitted so that the ECMPS Client Tool is able to evaluate the data.

C. Revisions to Appendix B

For affected source owners or operators desiring to continuously monitor HCl emissions, the original version of appendix B required the monitoring system to be certified according to PS 15 in appendix B to 40 CFR part 60. However, PS 15 applies only to Fourier Transform Infrared (FTIR) Spectroscopy monitoring systems; therefore, the use of other viable HCl monitoring technologies was excluded. In view of this, the EPA regarded the requirement to use PS 15 exclusively as a temporary measure, until a technology-neutral PS for HCl monitors could be developed and published. In section 3.1 of appendix B, the Agency stated its intention to publish such a PS in the near future together with appropriate on-going QA requirements and to amend appendix B to accommodate their use. This additional PS, (PS 18 in 40 CFR part 60, appendix B), and the on-going QA test requirements (Procedure 6 in 40 CFR part 60, appendix F) were published on July 7, 2015 (80 FR 38628, July 7, 2015).

Now that technology-neutral certification and QA test requirements for HCl monitors are promulgated, EGU owners or operators may use any viable HCl monitoring technology that can meet PS 18. However, in order for ECMPS to accommodate all of the tests required under PS 18 and Procedure 6, additional time must be allotted for software development. In view of this, 40 CFR 63.10031(a)(2) is revised, as previously noted, to require only information that is compatible with the existing programming of ECMPS to be reported electronically through December 31, 2023; this includes hourly HCl emissions data and the results of daily calibration drift tests and RATAs. In the interim, EGU owners or operators are required to keep records of all of the other certification and QA tests, which would be reported starting in 2024.

The title to section 2.3 of appendix B is revised by deleting the reference to FTIR-only monitoring systems. In addition, the recordkeeping and reporting sections of appendix B (*i.e.,* sections 10 and 11) are amended. Based on comments received, sections 10.1.3.3 and 10.1.7.2, HCl and HF concentrations (µg/scm) and emission rates (lb/MMBtu or lb/MWh) are reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the concentrations and rates to three significant figures. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged. Sections 10 and 11 also specify the data elements that are recorded and reported for each of the tests required by PS 18 and Procedure 6. The revisions make a clear distinction between the tests required for FTIR monitors that are following PS 15 and the test requirements of PS 18 and Procedure 6. Some of the tests in PS 18 and Procedure 6 are similar to tests for which ECMPS programming exists. For example, the ''measurement error test'' required for initial certification of the HCl monitor is structurally the same as a 40 CFR part 75 linearity check. Other tests have no counterpart in 40 CFR part 75 and require special software development and reporting instructions. Note that electronic reporting of these tests through ECMPS would have been required if PS 18 and Procedure 6 had been in place when the original MATS rule was published. In view of this, for source owners or operators electing to use HCl CEMS, the amendments to section 11 of appendix B introduce no unnecessary reporting burden. The results of certification and on-going QA tests are reported electronically for all CEMS required under this rule in order for ECMPS to assess the quality-assured status of the emissions data. The Agency also notes that not all of the tests described in section 11 of appendix B are required for all HCl monitors. For example, some of the tests (*i.e.,* beam intensity, temperature, and pressure verifications) are specific to integrated path-CEMS, and Procedure 6 would offer a choice among three different types of audits (*i.e.,* cylinder gas audits, relative accuracy audits, or dynamic spiking audits) for the required quarterly QA tests. In addition, based on comments received, the reporting requirements for the interference check (which is not necessarily performed on each individual analyzer) are reduced.

For each RATA of HCl CEMS that are completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E are submitted along with the electronic summary of results required under section 11 of appendix B. To the extent practicable, these data are submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, as previously noted, this may not always be possible, particularly when the RATA is done near the end of a calendar quarter. The EPA test Methods 26 and 26A, unlike instrumental test methods, require

laboratory analyses of the collected samples and cannot provide test results while the test team is on-site. In view of this, section 11.4 of appendix B allows the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status may be claimed for the emissions data affected by the test, starting from the date and hour in which the test is completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period change from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data are invalidated, and resubmission of the affected emissions report(s) is required.

Because a technology-neutral PS for HCl CEMS was not available prior to April 16, 2015 (which was the compliance date for many of the existing EGUs), EGU owners or operators interested in monitoring HCl either had to use an FTIR system and follow PS 15 or implement another compliance option (*e.g.,* quarterly emission testing) while awaiting publication of PS 18 and Procedure 6. In light of this, section 11.5.1 of appendix B now clarifies when electronic reporting of hourly HCl emissions data begins. There are two possibilities. In the first case, the monitor is used for the initial compliance demonstration. This could either apply to a certified FTIR monitor following PS 15 or to a certified monitor following PS 18, if the owner or operator of the EGU received an extension of the compliance date. In this case, EGU owners or operators begin reporting hourly HCl emissions through ECMPS with the first operating hour of the initial compliance demonstration. In the second case, another option, such as stack testing, is used for the initial compliance demonstration and continuous monitoring is implemented at a later time. In that case, EGU owners or operators begin reporting hourly HCl emissions reporting through ECMPS with the first operating hour after successfully completing all required certification tests of the CEMS. In either case, the first quarterly emissions report submittal is for the calendar quarter in which emissions reporting begins.

The requirement in section 11.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 is revised. For new units or units that install HCl and/or HF monitoring systems in order to switch from another MATS-compliant methodology to HCl and/or HF monitoring, the monitoring plan information must be submitted at least 21 days prior to the date on which certification testing begins. However, for units implementing HCl and/or HF monitoring with a previously-certified monitoring system, the monitoring plan may be submitted prior to or concurrent with the first quarterly emissions report.

Section 11.4.13 clarifies the reporting requirements for stack gas flow rate, moisture, and diluent gas monitoring systems that are used for certification, recertification, diagnostic, and QA tests are from section 10.1.8.2 of this appendix; such systems are also certified and quality-assured according to 40 CFR part 75 of this chapter.

D. Addition of Appendix C

A new appendix, *i.e.,* appendix C, is added to subpart UUUUU of 40 CFR part 63. Appendix C sets forth the continuous monitoring and reporting requirements for filterable PM. Appendix C is structurally similar to appendices A and B, but there is one notable difference. Appendix C includes provisions for installation and certification of the PM CEMS, and for on-going QA of the data from the CEMS. The monitoring system is certified according to PS 11 in 40 CFR part 60, appendix B, and for the on-going QA tests, Procedure 2 to 40 CFR part 60, appendix F is being required.

After consideration of comments received, the EPA has concluded that all PM concentrations will be reported in units of measure that are consistent with the PM CEMS correlation. For example, if the PM CEMS measures in units of milligrams per actual cubic meter (mg/acm) and the concentrations used to derive the correlation curve are in those same units, then the hourly PM concentrations are recorded and reported in mg/acm. Section 7.1.9.5 of appendix C also requires the reference method readings and the PM CEMS responses obtained in the RRAs and RCAs to be reported in the same units of measure as the PM CEMS correlation curve.

Sections 7.1.3.3 and 7.1.7.2 require PM concentrations and emission rates (lb/MMBtu or lb/MWh) to be reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the concentrations and rates to three significant figures. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged.

The frequencies for the on-going QA tests and the rules for data validation are presented in section 5 of appendix C. In response to numerous requests from commenters, the frequency and data validation rules for the RCAs and RRAs are similar, but not identical to, provisions of 40 CFR part 75. The frequency of these tests follows the familiar calendar quarter and grace period reporting plan. An RRA is required once every 4 calendar quarters and an RCA is required once every 12 calendar quarters. A grace period is provided (*i.e.,* 720 operating hours or 1 calendar quarter, whichever comes first), to cover cases where circumstances beyond the control of the owner or operator prevent the required test from being completed on schedule. In addition, as explained in detail below, section 7.2.4 of appendix C allows the use of provisional data for up to 60 days after completion of an RRA, RCA, or PM CEMS correlation test.

The procedures for calculating the PM emission rates in units of the emission standard are found in section 6. These calculation methods are basically the same as those used for Hg monitoring systems and for HCl and HF CEMS in appendices A and B. The recordkeeping and reporting requirements are found in section 7. Section 7.1 requires monitoring plan records and hourly records of operating parameters, PM concentration, diluent gas concentration, stack gas flow rate and moisture content, and PM emission rates are kept. Sections 7.2.3 and 7.2.4, respectively, require monitoring plan information and the results of certification, recertification, and QA tests are reported electronically. For consistency with these revisions to appendices A and B, section 7.2.3.1 specifies that for new units or units installing PM CEMS in order to switch from another MATS-compliant methodology to PM monitoring, the electronic monitoring plan information is submitted at least 21 days prior to the commencement of certification testing. However, for EGUs with previously-certified PM CEMS that elect to implement PM monitoring, the monitoring plan information may be submitted prior to or concurrent with the first quarterly emissions report. Section 7.2.5 requires quarterly electronic emissions reports are submitted within 30 days after the end of each calendar quarter. All electronic reports are submitted using the ECMPS Client Tool. However, for EGUs that began using the PM CEMS compliance option prior to January 1, 2024, electronic reporting of monitoring plan information, certification and on-going QA test results, hourly PM emissions

data, and the applicable reference method data in appendix E does not begin until January 1, 2024, to allow time for software development and beta testing. Until then, records of the required information and tests are kept. For EGUs that certify and begin using PM CEMS on or after January 1, 2024, reporting of hourly PM emissions data begin with the first operating hour after successful completion of the initial PM CEMS correlation test.

For PM CEMS correlations, RRAs, and RCAs completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E are submitted along with the electronic test summary required under section 7.2.4 of appendix C. To the extent practicable, the electronic test results and the appendix E reference method data are submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, the EPA recognizes that this is not always possible, particularly when an RRA or RCA is done near the end of a calendar quarter. The EPA test Methods 5 and 5D, unlike instrumental test methods, require laboratory analyses of the collected samples and generally cannot provide test results while the test team is on-site. In view of this, section 7.2.4 of appendix C allows the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status may be claimed for the emissions data affected by the test, starting from the date and hour in which the test is completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period changes from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data would be invalidated, and resubmission of the affected emission report(s) is required.

E. Addition of Appendix D

A new appendix, *i.e.,* appendix D, is added to subpart UUUUU of 40 CFR part 63. Appendix D sets forth the monitoring and reporting requirements for EGU owners or operators who elect to use a PM CPMS to demonstrate continuous compliance. Structurally, appendix D is similar to appendices A, B, and C. However, the criteria for system design and performance, the procedures for determining operating limits, data reduction, and compliance assessment, and certain recordkeeping requirements are not detailed in the appendix; rather, the applicable sections of the MATS rule are cross-referenced (see sections 2.1 through 2.4, 3.1 introductory text, and section 3.1.1.1 of the appendix).

Section 3.1.1.2 requires the ECMPS Client Tool to be used to create and maintain an electronic monitoring plan. The PM CPMS is defined as a monitoring system with a unique system ID number. The monitoring plan also includes the current operating limit (with units of measure), the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

The rule requires operating parameter records for each hour of operation of the affected EGUs, including the date and hour, the EGU or stack operating time, and a flag to identify exempt startup and shutdown hours. Hourly average PM CPMS output values are reported for each hour in which a valid value of the output parameter is obtained, in units of milliamps, PM concentration, or other units of measure, including the instrument's digital signal output equivalent. A special code is required to indicate operating hours in which valid data are not obtained. The percent monitor data availability is calculated in the manner established for SO_2, carbon dioxide (CO_2), oxygen (O_2), or moisture monitoring systems in 40 CFR 75.32.

Sections 3.2.2 and 3.2.3, respectively, require notifications (provided in accordance with 40 CFR 63.10030) and electronic monitoring plan submittals at specified times. For EGUs using the PM CPMS compliance option prior to January 1, 2024, the electronic monitoring plan information is submitted prior to or concurrent with the first quarterly report. For EGUs switching to the PM CPMS compliance option on or after January 1, 2024, the electronic monitoring plan is submitted no later than 21 days prior to the PM test that establishes the initial operating limit. Section 3.2.4 requires the electronic quarterly reports to be submitted within 30 days after the end of each calendar quarter. Reporting of hourly responses from the PM CPMS begins either with the first operating hour of 2024 or the first operating hour after completion of the stack test that establishes the initial operating limit, whichever is later. Each quarterly report includes a compliance certification with a statement by a responsible official that to the best of his or her knowledge, the report is true, accurate, and complete.

In addition to the electronic quarterly reports, the rule requires reporting of deviations from the operating limit in the quarterly compliance reports required under 40 CFR 63.10031(g). Further, section 3.2.5 of appendix D requires the results of each performance stack test for PM that is used to establish an operating limit are reported electronically in the relevant quarterly compliance report. For PM tests completed on and after January 1, 2024, the applicable appendix E reference method data are also submitted along with the relevant quarterly compliance report.

F. Addition of Appendix E

A new appendix, *i.e.,* appendix E, is added to subpart UUUUU of 40 CFR part 63. Sections 2 through 13 of appendix E list the data elements that are reported in XML format in the quarterly compliance reports required under 40 CFR 63.10031(g), starting with reports covering the first quarter of 2024.

The MATS compliance strategy (*e.g.,* whether the EGU owner or operator elects to perform periodic stack testing, continuous monitoring, or to use emissions averaging) and the events that occur during each calendar quarter determine which data elements in sections 2 through 13 are included in the quarterly compliance reports. As noted in section V.A.(9) of this preamble, updated reporting instructions for these compliance reports are found in the rule docket.

For reasons stated in the previous proposal's Response to Comments document (which is available in the rule docket [3]), the basic provisions of sections 14 through 21 of appendix E, requiring details of the reference methods used for performance stack tests and CMS performance evaluations are reported in XML format are retained. The rule also retains the requirement in section 22 of appendix E to provide reference method test information that is incompatible with electronic reporting as PDF files, although it has been renumbered as section 31 and modified to include a cross-reference to 40 CFR 63.7(g), which describes the contents of a performance test report. The applicable reference method information in appendix E is provided for each stack test; each RATA of a Hg, HCl, HF, or SO_2 monitoring system; and each RRA, RCA, or correlation test of a PM CEMS that is completed on and after January 1, 2024.

To address concerns raised by the commenters about portions of the 2016 proposed rule [4] (the previous proposal), specifically, the reporting requirements in sections 17 through 21 of proposed appendix E, the data element lists are

[3] See EPA–HQ–OAR–2018–0794 at *https://www.regulations.gov/.*

[4] As mentioned in footnote 1, see 81 FR 67062, September 29, 2016.

revised and reformatted to correspond to the compliance options described in section 16 of appendix E. Explicitly, sections 17 through 30 replace previously proposed sections 17 through 21. Commenters pointed out, and the Agency concurs, that some of the previously proposed data elements are either unnecessary, inapplicable to MATS, or duplicative of information in other MATS reports; these elements have been removed from the lists and include:

- Previously proposed 7.1.3.3.1 of appendix C to this subpart;
- Previously proposed 7.1.3.3.2 of appendix C to this subpart;
- Previously proposed 7.1.3.3.3 of appendix C to this subpart;
- Previously proposed 7.1.3.4 of appendix C to this subpart;
- Previously proposed 10.4 of appendix E to this subpart;
- Previously proposed 10.5.1 of appendix E to this subpart;
- Previously proposed 10.5.2 of appendix E to this subpart;
- Previously proposed 10.5.7 of appendix E to this subpart;
- Previously proposed 17.28 of appendix E to this subpart;
- Previously proposed 17.30 of appendix E to this subpart;
- Previously proposed 17.37 of appendix E to this subpart;
- Previously proposed 18.21 of appendix E to this subpart;
- Previously proposed 19.29 of appendix E to this subpart;
- Previously proposed 20.4 of appendix E to this subpart;
- Previously proposed 20.15 of appendix E to this subpart;
- Previously proposed 20.17 of appendix E to this subpart;
- Previously proposed 20.21 of appendix E to this subpart;
- Previously proposed 20.25 of appendix E to this subpart;
- Previously proposed 20.30 of appendix E to this subpart;
- Previously proposed 20.36 of appendix E to this subpart;
- Previously proposed 20.37 of appendix E to this subpart;
- Previously proposed 20.41 of appendix E to this subpart;
- Previously proposed 20.42 of appendix E to this subpart;
- Previously proposed 20.44 of appendix E to this subpart;
- Previously proposed 20.46 of appendix E to this subpart;
- Previously proposed 20.52 of appendix E to this subpart;
- Previously proposed 21.14 of appendix E to this subpart; and
- Previously proposed 21.28 of appendix E to this subpart.

Reporting instructions for sections 17 through 30 have been developed. These draft example instructions are included in the rule docket.

The reorganized data element lists and corresponding instructions clarify which data elements are reported for each compliance option and explain how the data are reported. Several new data elements are in the lists, to enable the ECMPS Client Tool to be used, to enhance the quality of the data, and to facilitate compliance. As mentioned in VI.C of this preamble, this action is expected to reduce overall annual source burden. The Agency believes that the addition of these data elements is offset by the removal of others, the change to a consistent submission frequency, and the merger of separate electronic reporting systems into just one electronic reporting system such that overall annual source reporting burden is reduced by 11,000 hours. The new data elements to be reported are as follows:

- ''Part.'' The previous proposal would only have required the ''Subpart'' to be reported. To avoid any possible confusion with other EPA regulations, both the CFR part (63) and subpart (UUUUU) need to be included in the reports.
- ''APS Flags.'' For 3-level pre-test calibrations, system bias, and drift checks, instrumental EPA test Methods 3A and 6C require certain acceptance criteria to be met. For each of these tests, there is a main PS and an alternative specification. The main PS is expressed as a percentage of span, while the alternative specification is the absolute difference between a reference value and the measured value. In view of this, it is important to know which specification has been applied to ascertain whether the test was successful or not. Therefore, alternative performance specification (APS) flags are to be added for the pre- and post-test calibrations, bias checks, and drift checks. An APS flag of ''0'' indicates that the reported test result is based on the main PS, whereas an APS flag of ''1'' means that the reported result is based on the APS.
- ''Test Comment.'' This text field is added to allow the affected sources to provide additional, pertinent information about a particular test.
- ''Run Begin Date'' and ''Run End Date.'' These two data elements replace the previous proposed element, ''Run Date,'' to cover cases where a test run begins on one day and ends on another (*e.g.,* if a run begins late at night and ends early the next morning).
- ''Converted Concentration and Units of Measure.'' These data elements apply to correlation tests and performance audits (RRAs and RCAs) of PM CEMS. The reference method used for these tests is EPA test Method 5 (or, if applicable, 5D). The PM concentrations obtained from EPA test Method 5 or 5D are expressed in units of grams per dry standard cubic meter (g/dscm). However, consistent with section 8.6 of PS 11, appendix C of MATS requires all PM concentrations to be reported in units of measure that are consistent with the PM CEMS correlation curve. Most PM CEMS measure concentration in units of milligrams per actual cubic meter (mg/acm); others may measure at a certain temperature (*e.g.,* mg/acm at 160 degrees Celsius), and still others may measure on a dry basis. Therefore, in addition to reporting the EPA test Method 5 test results in units of g/dscm, the converted PM concentrations must be reported in units consistent with the PM CEMS correlation curve.
- ''Average Sampling Rate and Units of Measure.'' These data elements are specific to EPA test Method 30B. That EPA test Method 30B requires a post-test leak check of each sampling train. The leakage rate must not exceed 4 percent of the average sampling rate. Therefore, to assess compliance with this specification, both the leakage rate and the average sampling rate must be reported. The previous proposed rule only required the leakage rate to be reported.
- ''Control Device Code.'' This data element refers to the control device code or control technology National Emission Inventory code associated with the EGU (or group of EGUs sharing a common stack). Providing this data element helps in EGU categorization and emission factor development.
- ''Corresponding Reference Method(s), if applicable.'' This data element allows pollutant reference method run data to be associated with concurrent measurements of the stack gas flow rate using EPA test Method 2, and/or CO_2 or O_2 concentration using EPA test Method 3A, and/or stack gas moisture content using EPA test Method 4. Reporting this data element is necessary to ensure test methods were conducted properly so that emission rates can be calculated.
- ''Corresponding Reference Method(s) Run Number, if applicable.'' This data element provides the run number of concurrent reference method tests. The assigned run number of the EPA test Method 1 through 4 or EPA test Method 3A tests conducted at the same time as a reference method test needs to be reported in order to ensure the

methods were conducted properly so that emission rates can be calculated.

• ''Pollutant Concentration Units of Measure.'' This data element provides the appropriate units of measure code for the pollutant or analyte concentration, and reporting it is necessary for comparison to the standard.

• ''Pollutant Emission Rate.'' This data element is the pollutant emission rate expressed in the units of the standard, and reporting it is necessary for comparison with the standard.

• ''Pollutant Emission Rate Units of Measure (in units of the standard).'' This data element is the units of the standard specified in Table 1 or 2 of this subpart. Reporting it is necessary for comparison to the standard.

• ''Process Parameter Units of Measure.'' This data element identifies the process rate parameter unit of measure: GWh/h, MWh/h, TBtu/h, or MMBTU/h, and reporting it is necessary to ensure accurate comparisons between runs and for emission factor development purposes.

• ''Total Pollutant Mass Trap A'' and ''Total Pollutant Mass Trap B.'' These data elements refer to the total Hg mass measured by Train A and Train B, respectively, in the appropriate units of measure. Reporting these values is necessary for QA purposes and for comparison with the standard.

• ''Method Detection Limit (MDL).'' This data element refers to the minimum amount of analyte that can be detected and reported. Reporting it is necessary for calculation checks and for emissions factor development purposes.

• ''Percent Spike Recovery.'' This data element refers to the spike recovery in percent, which is required to be reported by section 8.2.6.2 in EPA test Method 30B using Equation 30B–1.

• ''F-Factor (F_c).'' This data element expands the current F-factor choices to include the carbon F-Factor, which is based on the ratio of CO_2 to heat content of fuel. Reporting it allows conversion from mass per volume to mass per heat input for those who choose to use emissions testing.

• ''Compliance Limit Basis (Heat Input or Electrical Output).'' This data element identifies the denominator of the compliance units selected for an existing EGU by its owner or operator. Reporting this decision is necessary for comparison of results with the standard.

• ''Heat Input or Electrical Output Unit of Measure.'' This data element specifies the denominator of the compliance unit that corresponds to the means of compliance selected for an existing EGU by its owner or operator. Reporting this unit is necessary for comparison of results with the standard and for emission factor development purposes.

• ''Pollutant Concentration.'' This data element expands the already-existing ''Emissions Concentration'' data element to include pollutants. Reporting this data element is necessary for comparison of results with the standard and for emission factor development purposes.

• ''Stack Gas Flow Rate—dscfm.'' This data element clarifies the already-existing ''Volumetric Flow Rate—scfm'' data element so that reporters will know to report their EGU's dry stack gas flow rate. Reporting this data element is necessary for calculation purposes.

Several commenters [5] on the September 29, 2016, proposed rule (*i.e.,* the previous proposal) suggested that those proposed revisions included a significant amount of duplicative reporting, which should be eliminated. In response to the concerns expressed by the commenters, the Agency examined the XML data element lists twice—once in 2016 and recently after closure of the current comment period—for stack tests and CMS performance evaluations, in order to identify duplicative reporting and eliminate it where possible. The following evaluations were made:

First, the data elements in sections 2 through 13 of appendix E (for the quarterly compliance reports) were compared against the data elements in sections 17 through 30 of appendix E (corresponding to the detailed reference method data for stack tests and CMS performance evaluations). The two lists were found to have 20 data elements in common, but at least nine of these elements (*i.e.,* Source ID (Sampling Location), Test Number, Run Number, Run Begin Date, and a few others) are to be included in both XML schemas to properly link the individual stack test summaries in the compliance report with the corresponding reference method data.

Second, the data elements listed in the reporting sections of appendices A, B, and C of MATS, requiring the results of CMS performance evaluations (*i.e.,* RATAs, RRAs, and RCAs) to be reported using the ECMPS Client Tool, were compared against the corresponding reference method data elements in sections 17 through 30 of appendix E. Only 12 data elements common to the appendix E and ECMPS Client Tool schemas were found. This is not surprising because appendices A, B, and C require only summarized results of CMS performance evaluations—details of the Reference Method tests are not reported. Of the 12 data elements common to the appendix E and ECMPS lists, 10 of them are to be included in both schemas to properly link the CMS test summaries with the corresponding reference method data.

In view of these two evaluations, the EPA concludes that most of the duplicative reporting found among the various data element lists is necessary to ensure that the results of stack tests and CMS performance evaluations summarized in the quarterly compliance reports and the QA test submittals to the ECMPS Client Tool can be matched with the corresponding reference method data. Further, the remainder of the duplicative reporting is minimal, rather than ''significant'' as asserted by some commenters. The Agency believes that it is best not to modify the data element lists to eliminate this small amount of duplicate reporting. Although the deadlines for submitting the quarterly compliance reports and the corresponding reference method data are the same (*i.e.,* within 60 days after the end of the quarter), the two XML reports might not be submitted concurrently. So, if, for instance, the compliance report is submitted prior to the reference method data, and certain data elements are found only in the reference method report, a thorough assessment of compliance may not be possible until the reference method report is received. Similar considerations apply to the summarized CMS performance evaluations in the ECMPS Client Tool and the corresponding reference method data, if the two XML reports are not submitted concurrently.

V. Revisions to Other Rule Text

The revisions to 40 CFR 63.10031 necessitate changes to other sections of the rule to ensure that the rule is internally consistent. Based on comments received, revisions were made to clarify certain reporting requirements, to rectify inadvertent omissions, and to correct inconsistencies. The affected rule sections are as follows:

(a) The introductory text of paragraphs (a)(2), (b), and (h)(3)(iii) of 40 CFR 63.10005 is revised. The amendment to paragraph (a)(2) clarifies that Hg compliance may either be determined on either a 30- or 90-boiler operating day rolling average basis. For consistency with appendix E, revised paragraph (b) notes that when auxiliary stack gas flow rate or moisture data are needed to supplement a performance stack test conducted with an isokinetic

[5] Commenters 20612, 20597, and 20609 on Docket ID No. EPA–HQ–OAR–2009–0234.

method such as EPA test Method 5 or EPA test Method 26A, separate EPA test Method 2 or EPA Method 4 tests are not needed to satisfy the requirements of 40 CFR 63.10007 and Table 5. Data from the isokinetic method may be used to determine the stack gas flow rate and moisture content. Revised section (h)(3)(iii) addresses a commenter's request for clarification on how to calculate a 30-day Hg LEE test average.

(b) Section 40 CFR 63.10009 is amended as follows. The second and third sentences in paragraph (a)(2) are revised to clarify the types of data that may be used to determine WAERs. Data from Hg CEMS, sorbent trap monitoring systems, but not LEE tests, may be used for Hg emissions averaging. For other pollutants, both CEMS data and stack test data may be used. The last sentence of paragraph (a)(2) is amended to clarify that if any EGU in an averaging group operates on *any* of the days in a 30- or 90-group boiler operating day compliance period (regardless of how many or how few), the emissions data from that EGU on those days must be included in the weighted average. Since averaging of Hg emissions is permitted on a 30-group boiler operating day basis, Equations 2a and 2b in 40 CFR 63.10009 apply to Hg as well as other pollutants. Therefore, the words ''for pollutants other than Hg'' are removed from the introductory text of paragraph (b)(2), and in the nomenclature of Equation 2a, the words ''or sorbent trap monitoring'' are added after the words ''unit i's CEMS'' in the definition of the term ''Her_i.'' Finally, for completeness, Equations 3a and 3b are amended by removing the terms that pertain to quarterly stack testing. Equations 3a and 3b apply *only* to the 90-group boiler operating day Hg WAER limit for coal-fired units. Coal-fired EGUs do not have the option to use quarterly stack testing to demonstrate compliance; if a coal unit does not qualify as a LEE, Hg emissions must be continuously monitored.

(c) As explained in section IV.A(11) above, paragraphs (h)(6) and (7), (i), (j)(4)(i), and (j)(4)(ii) of 40 CFR 63.10010 are revised to resolve inconsistencies in the text.

(d) Section 40 CFR 63.10011(e) is revised to require Notifications of Compliance Status for initial compliance demonstrations include the information specified in 40 CFR 63.10030(e), and are submitted in accordance with 40 CFR 63.10031(f)(4) or 40 CFR 63.10031(h), as applicable. This change is necessary to cover initial Notifications of Compliance Status for both new and existing EGUs. The interim reporting process described in 40 CFR 63.10031(f)(4) and the on-going reporting process in 40 CFR 63.10031(h) require these Notifications to be submitted as PDF files, through ECMPS.

(e) Sections 40 CFR 63.10011(g)(3), 40 CFR 63.10021(i), and two sentences in Items 3 and 4 of Table 3 are revised to be consistent with 40 CFR 63.10031(i) and Table 8. For EGU owners or operators relying on paragraph (2) of the definition of startup in 40 CFR 63.10042, 40 CFR 63.10031(i) retains the requirement for the parametric data and other information in 40 CFR 63.10031(c)(5) be included in the semiannual compliance reports, for startup and shutdown incidents that occur during the interim reporting period. However, in view of the phase-out of the semiannual compliance reports, for startup and shutdown incidents that occur during each subsequent calendar quarter, starting with the first quarter of 2024, the supplementary information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) is required to be provided as a separate PDF submittal, along with the quarterly compliance report. As previously noted, the requirements in 40 CFR 63.10031(c)(5)(iii), (iv), and (v) to report hourly average CEMS and operating parameter values for startup and shutdown events are not incorporated into this PDF report because they are duplicative of the hourly values reported under appendices A through D. Startup and shutdown hours are flagged in the quarterly emissions reports and can be identified for auditing purposes.

(f) Paragraphs (e)(9), (f), and (h)(3) of 40 CFR 63.10021 are revised as follows. Paragraph (e)(9) is unchanged from the previous proposal, except that the December 31, 2017, and January 1, 2018, transition dates are replaced with December 31, 2023, and January 1, 2024, respectively. References to the EPA's ERT and the CEDRI interface from paragraph (f) are removed and replaced with a general statement requiring all applicable notifications and reports be submitted through the ECMPS Client Tool. Three statements are added at the end of paragraph (f). The first statement, regarding a submission deadline that occurs on a weekend or Federal holiday, extends the deadline to the next business day. The second statement addresses a submission deadline that occurs when the ECMPS system is offline for maintenance; in that case, the deadline is extended until the first business day after the system outage. The third statement clarifies that using the ECMPS Client Tool to submit a required MATS report or notification satisfies the requirement in 40 CFR 63.13 of the General Provisions to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional office or state agency whose delegation request has been approved. Finally, we are removing paragraph (h)(3) because it is redundant with paragraph (i) and, therefore, unnecessary.

(g) Previous section 40 CFR 63.10030(e)(7)(i) is removed for the following reasons. The requirement in the current rule for an initial Notification of Compliance Status to include summarized results of annual and triennial performance tests which have not been done yet is in an incorrect location. The requirement to submit these test summaries belongs in 40 CFR 63.10031, not 40 CFR 63.10030. Text similar to 40 CFR 63.10030(e)(7)(i) does, in fact, exist in 40 CFR 63.10031. Specifically, 40 CFR 63.10031(c)(7) requires the annual and triennial test results be summarized in the semiannual compliance reports. Note, however, that when the semiannual compliance reports are phased out in 2024, the requirement to provide summarized results of these tests does not end; the test summaries must be included in the quarterly compliance reports under 40 CFR 63.10031(g).

The requirements of section 40 CFR 63.10030(e)(7)(iii) are amended to rectify an inadvertent oversight. In the 2016 Technical Corrections rule package, the EPA proposed a set of conditions that would allow an EGU owner or operator to submit a request for permission to switch from a heat input-based standard to an output-based standard. One of the proposed conditions in paragraph (e)(7)(iii)(A)(*3*) required a demonstration of compliance with both emission limits based on ''performance stack test results completed within 30 days prior to'' the request. A commenter objected to limiting this demonstration to ''stack test'' data and asked the EPA to allow any data collected up to 45 days prior to the request, including CEMS data, be used. In the Response to Comments document, the EPA agreed with these commenters, but did not make the necessary changes to paragraph (e)(7)(iii)(A)(*3*) in the final rule. This rule corrects this oversight. In addition, a note is added to paragraph (e)(7)(iii) to clarify that requests to switch from one standard to the other are made subsequent to, and are not part of, the initial Notification of Compliance Status.

(h) The requirements of 40 CFR 63.10032(a) are amended to include references to the recordkeeping required under new appendices C (for PM

CEMS), D (for PM CPMS), and E (for quarterly compliance reports and reference method test data). Also, in view of the move away from semiannual compliance reporting to quarterly reporting, the term ''semiannual compliance report'' is replaced with references to both semiannual and quarterly compliance reports in paragraph (a)(1).

(i) The words ''or out of control period'' are removed from the definition of ''monitoring system malfunction or out of control period'' in 40 CFR 63.10042 because that definition does not describe an out of control period. A separate definition of ''out-of-control period'' is added, and that definition is similar with the definition provided in the Acid Rain Program definitions at 40 CFR 72.2.

(j) Table 8 to subpart UUUUU of 40 CFR part 63 is revised to be consistent with the amendments to 40 CFR 63.10031 and the proposed addition of appendices C, D, and E.

(k) Finally, the recordkeeping and reporting requirements in Table 9 to 40 CFR part 63, subpart UUUUU are revised as follows. First, the requirement to provide the information in 40 CFR 63.10030(e)(1) through (8) is clarified, *i.e.,* it only applies to *initial* Notifications of Compliance Status; subsequent notifications are not required. Second, in keeping with the earlier discussion provided in section IV.A of this preamble, a statement clarifying that the excess emissions recordkeeping and reporting requirements of 40 CFR 63.10(c)(7) and (8) and 63.10(e)(3)(v) and (vi) apply through December 31, 2023, when the semiannual compliance reports are phased out, is added. On and after January 1, 2024, all relevant information is provided in quarterly, as opposed to semiannual, reports.

VI. Statutory and Executive Order Reviews

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

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

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

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

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2137.10. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

This rule continues to require collection, recording, and submission of data pertinent to demonstrating compliance with rule requirements. This action consolidates separate reporting systems into one reporting system by 2024; maintains the information already required to be collected, recorded, and submitted; and changes the submission frequency from semiannual to quarterly while consolidating the number and type of reports to be submitted.

Respondents/affected entities: The respondents are owners or operators of fossil fuel-fired EGUs. The United States Standard Industrial Classification code for respondents affected by the rule is 4911 (Electric Services). The corresponding NAICS code is 2211100 (Electric Power Generation, Transmission, and Distribution).

Respondent's obligation to respond: Mandatory per 42 U.S.C. 7414 *et seq.*

Estimated number of respondents: 1,414.

Frequency of response: Quarterly for compliance reports.

Total estimated burden: 273,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Savings of $15,079,000 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. For purposes of assessing the impacts of this rule on small entities, the EPA considered small entities to be defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. As required by the RFA, the EPA proposed using this alternative definition in the **Federal Register** of May 3, 2011, 76 FR 25083, sought public comment, consulted with the Small Business Administration and finalized the alternative definition in the **Federal Register** of February 16, 2012, 77 FR 9433. As stated in that document, the alternative definition would apply to this regulation. This action reduces annual burden on small and large entities. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As described earlier, this action reduces annual burden on governments already subject to MATS; as a result, we have determined that this action will not result in any ''significant'' adverse economic impact for small governments.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. As described earlier, this action has no substantial direct effect on Indian tribes already subject to MATS, since this action reduces their annual burden. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action revises the way in which information is reported to the Agency, increasing submission frequency and making adaptions so that just one reporting system can be used, but reducing overall burden; this regulatory action does not have any impact on human health or the environment.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

§ 63.10000 [Amended]

■ 2. In § 63.10000, paragraph (d)(5)(vi) is amended by adding the words ''where appropriate,'' immediately after the words ''CMS that is out of control consistent with section 63.8(c)(7)(i).''

■ 3. Section 63.10005 is amended by:

■ a. Revising the first sentence in paragraph (a)(2) introductory text;

■ b. Revising paragraph (b) introductory text; and

■ c. Revising paragraph (h)(3)(iii).

The revisions read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

(a) * * *

(2) To demonstrate initial compliance using either a CMS that measures HAP concentrations directly (*i.e.,* an Hg, HCl, or HF CEMS, or a sorbent trap monitoring system) or an SO_2 or PM CEMS, the initial performance test shall consist of 30- or, if applicable for Hg, 90-boiler operating days. * * *

* * * * *

(b) *Performance testing requirements.* If you choose to use performance testing to demonstrate initial compliance with the applicable emissions limits in Tables 1 and 2 to this subpart for your EGUs, you must conduct the tests according to 40 CFR 63.10007 and Table 5 to this subpart. Notwithstanding these requirements, when Table 5 specifies the use of isokinetic EPA test Method 5, 5D, 26A, or 29 for a stack test, if concurrent measurement of the stack gas flow rate or moisture content is needed to convert the pollutant concentrations to units of the standard, separate determination of these parameters using EPA test Method 2 or EPA test Method 4 is not necessary. Instead, the stack gas flow rate and moisture content can be determined from data that are collected during the EPA test Method 5, 5D, 6, 26A, or 29 test (*e.g.,* pitot tube (delta P) readings, moisture collected in the impingers, etc.). For the purposes of the initial compliance demonstration, you may use test data and results from a performance test conducted prior to the date on which compliance is required as specified in 40 CFR 63.9984, provided that the following conditions are fully met:

* * * * *

(h) * * *

(3) * * *

(iii) Calculate the average Hg concentration, in $\mu g/m^3$ (dry basis), for each of LEE test runs comprising the 30- (or 90-) boiler operating day performance test, as the arithmetic average of all Method 30B sorbent trap results from the LEE test period. Also calculate, as applicable, the average values of CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, and gross output for the LEE test period. Then:

* * * * *

■ 4. Section 63.10009 is amended by:

■ a. Revising in paragraph (a)(2) the second, third, and last sentences;

■ b. In paragraph (b)(2):

■ i. In the introductory text, removing the words ''for pollutants other than Hg'';

■ ii. In the definition for ''Her_i'' adding the words ''or sorbent trap monitoring system'' after the words ''unit i's CEMS''; and

■ c. In paragraph (b)(3) revising ''Equation 3a'' and ''Equation 3b.''

The revisions read as follows:

§ 63.10009 May I use emissions averaging to comply with this subpart?

(a) * * *

(2) * * * Note that except for the alternate Hg emissions limit from EGUs in the ''unit designed for coal ≥ 8,300 Btu/lb'' subcategory, the averaging time for emissions averaging for pollutants is 30-group boiler operating days (rolling

daily) using data from CEMS and sorbent trap monitoring (for Hg), or a combination of data from CEMS and emissions testing (for other pollutants). The averaging time for emissions averaging for the alternate Hg limit (equal to or less than 1.0 lb/TBtu or 1.1E–2 lb/GWh) from EGUs in the ''unit designed for coal ≥ 8,300 Btu/lb'' subcategory is 90-group boiler operating days (rolling daily) using data from CEMS, sorbent trap monitoring, or a combination of data from CEMS and sorbent trap monitoring.

* * * You must calculate the weighted average emissions rate for the group in accordance with the procedures in this paragraph using the data from all units in the group including any that operate fewer than 30 (or 90) of the preceding 30- (or 90-) group boiler operating days.

* * * * *

(b) * * *

(3) * * *

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \; x \; Rm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Rm_i\right)\right]_p} \qquad \text{(Eq. 3a)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

Rm_i = Hourly heat input or gross output from unit i for the preceding 90-group boiler operating days,

p = Number of EGUs in the emissions averaging group,

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \; x \; Sm_i \; x \; Cfm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Sm_i \; x \; Cfm_i\right)\right]_p} \qquad \text{(Eq. 3b)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

Sm_i = Steam generation in units of pounds from unit i that uses Hg CEMS or Hg sorbent trap monitoring for the preceding 90-group boiler operating days,

Cfm_i = Conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses Hg CEMS or sorbent trap monitoring from the preceding 90-group boiler operating days,

p = Number of EGUs in the emissions averaging group,

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

* * * * *

■ 5. Section 63.10010 is amended by revising paragraphs (h)(5), (6), (7), (i), and (j)(4) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(h) * * *

(5) You must collect data using the PM CPMS at all times the process unit is operating and at the intervals specified in paragraph (h)(1)(ii) of this section, except for required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in your site-specific monitoring plan.

(6) You must use all the data collected during all boiler operating hours in assessing the compliance with your operating limit except:

(i) Any data recorded during periods of monitoring system malfunctions or repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in your site-specific monitoring plan), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of output data from the PM CPMS; and

(iv) Any data recorded during periods of startup or shutdown.

(7) You must record and report the results of PM CPMS system performance audits, in accordance with 40 CFR 63.10031(k). You must also record and make available upon request the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with your site-specific monitoring plan.

(i) If you choose to comply with the PM filterable emissions limit in lieu of metal HAP limits, you may choose to install, certify, operate, and maintain a PM CEMS and record and report the output of the PM CEMS as specified in paragraphs (i)(1) through (8) of this section. Compliance with the applicable PM emissions limit in Table 1 or 2 to this subpart is determined on a 30-boiler operating day rolling average basis.

(1) You must install and certify your PM CEMS according to section 4 of appendix C to this subpart.

(2) You must operate, maintain, and quality-assure the data from your PM

CEMS according to section 5 of appendix C to this subpart.

(3) You must reduce the data from your PM CEMS to hourly averages in accordance with section 6.1 of appendix C to this subpart.

(4) You must collect data using the PM CEMS at all times the process unit is operating and at the intervals specified in paragraph (a) of this section, except for required monitoring system quality assurance or quality control activities and any scheduled maintenance as defined in your site-specific monitoring plan.

(5) You must use all the data collected during all boiler operating hours in assessing the compliance with your operating limit except:

(i) Any data recorded during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in appendix C to this subpart), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance, quality control, or maintenance activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(iv) Any data recorded during periods of startup or shutdown.

(6) You must keep records and report data from your PM CEMS in accordance with section 7 of appendix C to this subpart.

(7) You must record and make available upon request the dates and duration of periods when the PM CEMS is out-of-control to completion of the corrective actions necessary to return the PM CEMS to operation consistent with your site-specific monitoring plan.

(8) You must calculate each 30-boiler operating day rolling average PM emission rate in units of the applicable emissions limit in Table 1 or 2 to this subpart, in accordance with section 6.2.4 of appendix C to this subpart.

(j) * * *

(4) You must collect data using the HAP metals CEMS at all times the process unit is operating and at the intervals specified in paragraph (a) of this section, except for required monitoring system quality assurance or quality control activities, and any scheduled maintenance as defined in your site-specific monitoring plan.

(i) You must use all the data collected during all boiler operating hours in assessing the compliance with your emission limit except:

(A) Any data collected during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(B) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any out of control periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(C) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(D) Any data recorded during periods of startup or shutdown.

(ii) You must record and report the results of HAP metals CEMS system performance audits, in accordance with 40 CFR 63.10031(k). You must also record and make available upon request the dates and duration of periods when the HAP metals CEMS is out of control to completion of the corrective actions necessary to return the HAP metals CEMS to operation consistent with your site-specific performance evaluation and quality control program plan.

* * * * *

■ 6. Section 63.10011 is amended by revising paragraphs (e) and (g)(3) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emissions limits and work practice standards?

* * * * *

(e) You must submit a Notification of Compliance Status in accordance with 40 CFR 63.10031(f)(4) or (h), as applicable, containing the results of the initial compliance demonstration, as specified in 40 CFR 63.10030(e).

* * * * *

(g) * * *

(3) You must report the emissions data recorded during startup and shutdown. If you are relying on paragraph (2) of the definition of startup in 40 CFR 63.10042, then for startup and shutdown incidents that occur on or prior to December 31, 2023, you must also report the applicable supplementary information in 40 CFR 63.10031(c)(5) in the semiannual compliance report. For startup and shutdown incidents that occur on or after January 1, 2024, you must provide the applicable information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) quarterly, in PDF files, in accordance with 40 CFR 63.10031(i).

* * * * *

■ 7. Section 63.10020 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 63.10020 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section and the site-specific monitoring plan required by § 63.10000(d).

(b) You must operate the monitoring system and collect data at all required intervals at all times that the affected EGU is operating, except for required monitoring system quality assurance or quality control activities, including, as applicable, calibration checks and required zero and span adjustments, and any scheduled maintenance as defined in your site-specific monitoring plan. You are required to affect monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

* * * * *

(d) Periods of monitoring system malfunctions or monitoring system out-of-control periods, repairs associated with monitoring system malfunctions or monitoring system out-of-control periods, and required monitoring system quality assurance or quality control activities excluding zero and span checks must be reported as time the monitor was inoperative (downtime) under 63.10(c). Failure to collect required quality-assured data during monitoring system malfunctions, monitoring system out-of-control periods, or repairs associated with monitoring system malfunctions or monitoring system out-of-control periods is a deviation from the monitoring requirements.

* * * * *

■ 8. Section 63.10021 is amended by:

■ a. Revising paragraphs (e)(9) and (f);

■ b. Removing and reserving paragraph (h)(3); and

■ c. Revising paragraph (i).

The revisions read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(e) * * *

(9) Prior to January 1, 2024, report the tune-up date electronically, in a PDF file, in your semiannual compliance report, as specified in 40 CFR 63.10031(f)(4) and (6) and, if requested by the Administrator, in hard copy, as specified in 40 CFR 63.10031(f)(5). On and after January 1, 2024, report the tune-up date electronically in your quarterly compliance report, in accordance with 40 CFR 63.10031(g) and section 10.2 of appendix E to this subpart. The tune-up report date is the date when tune-up requirements in paragraphs (e)(6) and (7) of this section are completed.

* * * * *

(f) You must submit the applicable reports and notifications required under 40 CFR 63.10031(a) through (k) to the Administrator electronically, using EPA's Emissions Collection and Monitoring Plan System (ECMPS) Client Tool. If the final date of any time period (or any deadline) for any of these submissions falls on a weekend or a Federal holiday, the time period shall be extended to the next business day. Moreover, if the EPA Host System supporting the ECMPS Client Tool is offline and unavailable for submission of reports for any part of a day when a report would otherwise be due, the deadline for reporting is automatically extended until the first business day on which the system becomes available following the outage. Use of the ECMPS Client Tool to submit a report or notification required under this subpart satisfies any requirement under subpart A of this part to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional office or state agency whose delegation request has been approved.

* * * * *

(i) If you are relying on paragraph 2 of the definition of startup in 40 CFR 63.10042, you must provide reports concerning activities and periods of startup and shutdown that occur on or prior to January 1, 2024, in accordance with 40 CFR 63.10031(c)(5), in your semiannual compliance report. For startup and shutdown incidents that occur on and after January 1, 2024, you must provide the applicable information referenced in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) quarterly, in PDF files, in accordance with 40 CFR 63.10031(i).

■ 9. Section 63.10030 is amended by:

■ a. In paragraph (e) introductory text revising the last sentence;

■ b. Revising paragraph (e)(7) introductory text;

■ c. Removing and reserving paragraph (e)(7)(i);

■ d. Revising paragraph (e)(7)(iii) introductory text;

■ e. Revising paragraph (e)(7)(iii)(A)(*3*);

■ f. Adding in paragraph (e)(7)(iii)(B) the word ''must'' after the word ''You''; and

■ g. Adding in paragraph (e)(7)(iii)(C) the word ''must'' after the word ''you''.

The revisions and additions read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(e) * * * The Notification of Compliance Status report must contain all of the information specified in paragraphs (e)(1) through (8) of this section, that applies to your initial compliance strategy.

* * * * *

(7) Except for requests to switch from one emission limit to another, as provided in paragraph (e)(7)(iii) of this section, your initial notification of compliance status shall also include the following information:

* * * * *

(iii) For each of your existing EGUs, identification of each emissions limit specified in Table 2 to this subpart with which you plan to comply initially. (*Note:* If, at some future date, you wish to switch from the limit specified in your initial notification of compliance status, you must follow the procedures and meet the conditions of paragraphs (e)(7)(iii)(A) through (C) of this section).

(A) * * *

(*3*) Your request includes performance stack test results or valid CMS data, obtained within 45 days prior to the date of your submission, demonstrating that each EGU or EGU emissions averaging group is in compliance with both the mass per heat input limit and the mass per gross output limit;

* * * * *

■ 10. Section 63.10031 is amended by:

■ a. Revising paragraphs (a), (b) introductory text, (b)(1), (2), (4), (5);

■ b. Adding paragraph (b)(6);

■ c. Revising paragraph (c) introductory text;

■ d. Removing and reserving paragraphs (c)(5)(iii), (c)(5)(iv), and (c)(5)(v);

■ e. Adding paragraph (c)(10);

■ f. Revising paragraphs (d), (e), (f) introductory text, (f)(1), and (2);

■ g. Removing and reserving paragraph (f)(3);

■ h. Revising paragraphs (f)(4), (f)(6) introductory text, (f)(6)(vii), (f)(6)(xi), and (g); and

■ i. Adding paragraphs (h), (i), (j) and (k), to read as follows:

§ 63.10031 What reports must I submit and when?

(a) You must submit each report in this section that applies to you.

(1) If you are required to (or elect to) monitor Hg emissions continuously, you must meet the electronic reporting requirements of appendix A to this subpart.

(2) If you elect to monitor HCl and/or HF emissions continuously, you must meet the electronic reporting requirements of appendix B to this subpart. Notwithstanding this requirement, if you opt to certify your HCl monitor according to Performance Specification 18 in appendix B to part 60 of this chapter and to use Procedure 6 in appendix F to part 60 of this chapter for on-going QA of the monitor, then, on and prior to December 31, 2023, report only hourly HCl emissions data and the results of daily calibration drift tests and relative accuracy test audits (RATAs) performed on or prior to that date; keep records of all of the other required certification and QA tests and report them, starting in 2024.

(3) If you elect to monitor filterable PM emissions continuously, you must meet the electronic reporting requirements of appendix C to this subpart. Electronic reporting of hourly PM emissions data shall begin with the later of the first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial PM CEMS correlation test.

(4) If you elect to demonstrate continuous compliance using a PM CPMS, you must meet the electronic reporting requirements of appendix D to this subpart. Electronic reporting of the hourly PM CPMS output shall begin with the later of the first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS.

(5) If you elect to monitor SO_2 emission rate continuously as a surrogate for HCl, you must use the ECMPS Client Tool to submit the following information to EPA (except where it is already required to be reported or has been previously provided under the Acid Rain Program or another emissions reduction program that requires the use of part 75 of this chapter):

(i) Monitoring plan information for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with sections 75.62 and 75.64(a)(4) of this chapter;

(ii) Certification, recertification, quality-assurance, and diagnostic test results for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with section 75.64(a)(5); and

(iii) Quarterly electronic emissions reports. You must submit an electronic quarterly report within 30 days after the end of each calendar quarter, starting with a report for the calendar quarter in which the initial 30 boiler operating day performance test begins. Each report must include the following information:

(A) The applicable operating data specified in section 75.57(b) of this chapter;

(B) An hourly data stream for the unadjusted SO_2 concentration (in ppm, rounded to one decimal place), and separate unadjusted hourly data streams for the other parameters needed to convert the SO_2 concentrations to units of the standard. (*Note:* If a default moisture value is used in the emission rate calculations, an hourly data stream is not required for moisture; rather, the default value must be reported in the electronic monitoring plan.);

(C) An hourly SO_2 emission rate data stream, in units of the standard (*i.e.,* lb/MMBtu or lb/MWh, as applicable), calculated according to 40 CFR 63.10007(e) and (f)(1), rounded to the same precision as the emission standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

(D) The results of all required daily quality-assurance tests of the SO_2 monitor and the additional monitors used to convert SO_2 concentration to units of the standard, as specified in appendix B to part 75 of this chapter; and

(E) A compliance certification, which includes a statement, based on reasonable inquiry of those persons with primary responsibility for ensuring that all SO_2 emissions from the affected EGUs under this subpart have been correctly and fully monitored, by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete. You must submit such a compliance certification statement in support of each quarterly report.

(b) You must submit semiannual compliance reports according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)) and ending on June 30 or December 31, whichever date is the first date that occurs at least 180 days after the compliance date that is specified for your source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)).

(2) The first compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)).

* * * * *

(4) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to part 70 or part 71 of this chapter, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), through the reporting period that ends December 31, 2023, you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(6) The final semiannual compliance report shall cover the reporting period from July 1, 2023, through December 31, 2023. Quarterly compliance reports shall be submitted thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

(c) The semiannual compliance report must contain the information required in paragraphs (c)(1) through (10) of this section.

* * * * *

(10) If you had any process or control equipment malfunction(s) during the reporting period, you must include the number, duration, and a brief description for each type of malfunction which occurred during the semiannual reporting period which caused or may have caused any applicable emission limitation to be exceeded.

(d) Excess emissions and deviation reporting. For EGUs whose owners or operators rely on a CMS to comply with an emissions or operating limit, the semiannual compliance reports described in paragraph (c) of this section must include the excess emissions and monitor downtime summary report described in 40 CFR 63.10(e)(3)(vi). However, starting with the first calendar quarter of 2024, reporting of the information under 40 CFR 63.10(e)(3)(vi) (and under paragraph (e)(3)(v), if the applicable excess emissions and/or monitor downtime threshold is exceeded) is discontinued for all CMS, and you must, instead, include in the quarterly compliance reports described in paragraph (g) of this section the applicable data elements in section 13 of appendix E to this subpart for any ''deviation'' (as defined in 40 CFR 63.10042 and elsewhere in this subpart) that occurred during the calendar quarter. If there were no deviations, you must include a statement to that effect in the quarterly compliance report.

(e) Each affected source that has obtained a title V operating permit pursuant to part 70 or part 71 of this chapter must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to paragraphs (c) and (d) of this section, or two quarterly compliance reports covering the appropriate calendar half pursuant to paragraph (g) of this section, along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report(s) includes all required information concerning deviations from any emission limit, operating limit, or work practice requirement in this subpart, submission of the compliance report(s) satisfies any obligation to report the same deviations in the semiannual monitoring report. Submission of the compliance report(s) does not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each performance stack test completed prior to January 1, 2024, (including 30- (or 90-) boiler operating

day Hg LEE demonstration tests and PM tests to establish operating limits for PM CPMS), you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the testing is completed. For each test completed on or after January 1, 2024, in accordance with 40 CFR 63.10031(g), submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart along with the quarterly compliance report for the calendar quarter in which the test was completed.

(1) For each RATA of an Hg, HCl, HF, or SO_2 monitoring system completed prior to January 1, 2024, and for each PM CEMS correlation test, each relative response audit (RRA) and each response correlation audit (RCA) of a PM CEMS completed prior to that date, you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the test is completed. For each SO_2 or Hg RATA completed on or after January 1, 2024, you must submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart prior to or concurrent with the relevant quarterly emissions report. For HCl or HF RATAs, and for correlation tests, RRAs, and RCAs of PM CEMS that are completed on or after January 1, 2024, submit the appendix E reference method information together with the summarized electronic test results, in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable.

(2) If, for a particular EGU or a group of EGUs serving a common stack, you have elected to demonstrate compliance using a PM CEMS, an approved HAP metals CEMS, or a PM CPMS, you must submit quarterly PDF reports in accordance with paragraph (f)(6) of this section, which include all of the 30-boiler operating day rolling average emission rates derived from the CEMS data or the 30-boiler operating day rolling average responses derived from the PM CPMS data (as applicable). The quarterly reports are due within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st. Submission of these quarterly reports in PDF files shall end with the report that covers the fourth calendar quarter of 2023. Beginning with the first calendar quarter of 2024, the compliance averages shall no longer be reported separately, but shall be incorporated into the quarterly compliance reports described in paragraph (g) of this section. In addition to the compliance averages for PM CEMS, PM CPMS, and/or HAP metals CEMS, the quarterly compliance reports described in paragraph (g) of this section must also include the 30- (or, if applicable 90-) boiler operating day rolling average emission rates for Hg, HCl, HF, and/or SO_2, if you have elected to (or are required to) continuously monitor these pollutants. Further, if your EGU or common stack is in an averaging plan, your quarterly compliance reports must identify all of the EGUs or common stacks in the plan and must include all of the 30- (or 90-) group boiler operating day rolling weighted average emission rates (WAERs) for the averaging group.

(3) [Reserved]

(4) You must submit semiannual compliance reports as required under paragraphs (b) through (d) of this section, ending with a report covering the semiannual period from July 1 through December 31, 2023, and Notifications of Compliance Status as required under section 63.10030(e), as PDF files. Quarterly compliance reports shall be submitted in XML format thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

* * * * *

(6) All reports and notifications described in paragraphs (f) introductory text, (f)(1), (2), and (4) of this section shall be submitted to the EPA in the specified format and at the specified frequency, using the ECMPS Client Tool. Each PDF version of a stack test report, CEMS RATA report, PM CEMS correlation test report, RRA report, and RCA report must include sufficient information to assess compliance and to demonstrate that the reference method testing was done properly. Note that EPA will continue to accept, as necessary, PDF reports that are being phased out at the end of 2023, if the submission deadlines for those reports extend beyond December 31, 2023. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

* * * * *

(vii) An indication of the type of PDF report or notification being submitted;

* * * * *

(xi) The date the performance test was completed (if applicable) and the test number (if applicable); and

* * * * *

(g) Starting with a report for the first calendar quarter of 2024, you must use the ECMPS Client Tool to submit quarterly electronic compliance reports. Each quarterly compliance report shall include the applicable data elements in sections 2 through 13 of appendix E to this subpart. For each stack test summarized in the compliance report, you must also submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart. The compliance reports and associated appendix E information must be submitted no later than 60 days after the end of each calendar quarter.

(h) On and after January 1, 2024, initial Notifications of Compliance Status (if any) shall be submitted in accordance with 40 CFR 63.9(h)(2)(ii), as PDF files, using the ECMPS Client Tool. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each Notification.

(i) If you have elected to use paragraph (2) of the definition of ''startup'' in 40 CFR 63.10042, then, for startup and shutdown incidents that occur on or prior to December 31, 2023, you must include the information in 40 CFR 63.10031(c)(5) in the semiannual compliance report, in a PDF file. If you have elected to use paragraph (2) of the definition of ''startup'' in 40 CFR 63.10042, then, for startup and shutdown event(s) that occur on or after January 1, 2024, you must use the ECMPS Client Tool to submit the information in 40 CFR 63.10031(c)(5) and 40 CFR 63.10020(e) along with each quarterly compliance report, in a PDF file, starting with a report for the first calendar quarter of 2024. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each startup and shutdown report.

(j) If you elect to use a certified PM CEMS to monitor PM emissions continuously to demonstrate compliance with this subpart and have begun recording valid data from the PM CEMS prior to November 9, 2020, you must use the ECMPS Client Tool to submit a detailed report of your PS 11 correlation test (see appendix B to part 60 of this chapter) in a PDF file no later than 60 days after that date. For a correlation test completed on or after November 9, 2020, but prior to January 1, 2024, you must submit the PDF report no later than 60 days after the date on which the test is completed. For a correlation test completed on or after January 1, 2024, you must submit the PDF report according to section 7.2.4 of appendix C to this subpart. The applicable data elements in paragraph (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

(k) If you elect to demonstrate compliance using a PM CPMS or an

approved HAP metals CEMS, you must submit quarterly reports of your QA/QC activities (*e.g.,* calibration checks, performance audits), in a PDF file, beginning with a report for the first quarter of 2024, if the PM CPMS or HAP metals CEMS is used for the compliance demonstration in that quarter. Otherwise, submit a report for the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance. These reports are due no later than 60 days after the end of each calendar quarter. The applicable data elements in paragraph (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

■ 11. Section 63.10032 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.10032 What records must I keep?

(a) You must keep records according to paragraphs (a)(1) and (2) of this section. If you are required to (or elect to) continuously monitor Hg and/or HCl and/or HF and/or PM emissions, or if you elect to use a PM CPMS, you must keep the records required under appendix A and/or appendix B and/or appendix C and/or appendix D to this subpart. If you elect to conduct periodic (*e.g.,* quarterly or annual) performance stack tests, then, for each test completed on or after January 1, 2024, you must keep records of the applicable data elements under 40 CFR 63.7(g). You must also keep records of all data elements and other information in appendix E to this subpart that apply to your compliance strategy.

(1) In accordance with 40 CFR 63.10(b)(2)(xiv), a copy of each notification or report that you submit to comply with this subpart. You must also keep records of all supporting documentation for the initial Notifications of Compliance Status, semiannual compliance reports, or quarterly compliance reports that you submit.

* * * * *

■ 12. Section 63.10042 is amended by:

■ a. In the definition ''*Diluent cap*'' adding the word ''PM,'' after the word ''HF,'';

■ b. In the definition ''*Monitoring system malfunction or out of control period*'' removing the words ''*or out of control period*''; and

■ c. Adding the definition ''*Out of control period*'' in alphabetical order.

The addition reads as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Out-of-control period, as it pertains to continuous monitoring systems, means any period:

(1) Beginning with the hour corresponding to the completion of a daily calibration or quality assurance audit that indicates that the instrument fails to meet the applicable acceptance criteria; and

(2) Ending with the hour corresponding to the completion of an additional calibration or quality assurance audit following corrective action showing that the instrument meets the applicable acceptance criteria.

* * * * *

■ 13. Table 3 to subpart UUUUU is amended by revising the entries ''3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup'' and ''4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown'' to read as follows:

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS

If your EGU is . . .	You must meet the following . . .
* * * * * * *	
3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup.	a. You have the option of complying using either of the following work practice standards: (1) If you choose to comply using paragraph (1) of the definition of ''startup'' in § 63.10042, you must operate all CMS during startup. Startup means either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on site use). For startup of a unit, you must use clean fuels as defined in § 63.10042 for ignition. Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies except dry scrubber and SCR. You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation. You must comply with all applicable emissions limits at all times except for periods that meet the applicable definitions of startup and shutdown in this subpart. You must keep records during startup periods. You must provide reports concerning activities and startup periods, as specified in § 63.10011(g) and § 63.10021(h) and (i). If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning startup periods as follows: For startup periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i). (2) If you choose to comply using paragraph (2) of the definition of ''startup'' in § 63.10042, you must operate all CMS during startup. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of startup. For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent possible, taking into account considerations such as boiler or control device integrity, throughout the startup period. You must have sufficient clean fuel capacity to engage and operate your PM control device within one hour of adding coal, residual oil, or solid oil-derived fuel to the unit. You must meet the startup period work practice requirements as identified in § 63.10020(e). Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s). You must comply with the applicable emission limits beginning with the hour after startup ends. You must engage and operate your PM control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel.

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS—Continued

* * * * * * *

If your EGU is . . .	You must meet the following . . .
	You must start all other applicable control devices as expeditiously as possible, considering safety and manufacturer/supplier recommendations, but, in any case, when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this subpart that require operation of the control devices. b. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. c. If you choose to use just one set of sorbent traps to demonstrate compliance with the applicable Hg emission limit, you must comply with the limit at all times; otherwise, you must comply with the applicable emission limit at all times except for startup and shutdown periods. d. You must collect monitoring data during startup periods, as specified in § 63.10020(a) and (e). You must keep records during startup periods, as provided in §§ 63.10021(h) and 63.10032. You must provide reports concerning activities and startup periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning startup periods as follows: For startup periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i).
4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of shutdown for those pollutants for which a CMS is used. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices and continue to operate those control devices after the cessation of coal, residual oil, or solid oil-derived fuel being fed into the EGU and for as long as possible thereafter considering operational and safety concerns. In any case, you must operate your controls when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this subpart and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the clean fuels defined in § 63.10042 and must be used to the maximum extent possible, taking into account considerations such as not compromising boiler or control device integrity. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup periods and shutdown periods at which time you must meet this work practice. You must collect monitoring data during shutdown periods, as specified in § 63.10020(a). You must keep records during shutdown periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown. You must provide reports concerning activities and shutdown periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning shutdown periods as follows: For shutdown periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for shutdown periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i).

* * * * *

■ 14. Table 8 to subpart UUUUU is revised to read as follows:

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS

[In accordance with 40 CFR 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
1. The electronic reports required under 40 CFR 63.10031 (a)(1), if you continuously monitor Hg emissions.
2. The electronic reports required under 40 CFR 63.10031 (a)(2), if you continuously monitor HCl and/or HF emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
3. The electronic reports required under 40 CFR 63.10031(a)(3), if you continuously monitor PM emissions. Reporting of hourly PM emissions data using ECMPS shall begin with the first operating hour after: January 1, 2024, or the hour of completion of the initial PM CEMS correlation test, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
4. The electronic reports required under 40 CFR 63.10031(a)(4), if you elect to use a PM CPMS. Reporting of hourly PM CPMS response data using ECMPS shall begin with the first operating hour after January 1, 2024, or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
5. The electronic reports required under 40 CFR 63.10031(a)(5), if you continuously monitor SO_2 emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS—Continued

[In accordance with 40 CFR 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
6. PDF reports for all performance stack tests completed prior to January 1, 2024 (including 30- or 90-boiler operating day Hg LEE test reports and PM test reports to set operating limits for PM CPMS), according to the introductory text of 40 CFR 63.10031(f) and 40 CFR 63.10031(f)(6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed. For a PM test that is used to set an operating limit for a PM CPMS, the report must also include the information in 40 CFR 63.10023(b)(2)(vi). For each performance stack test completed on or after January 1, 2024, submit the test results in the relevant quarterly compliance report under 40 CFR 63.10031(g), together with the applicable reference method information in sections 17 through 31 of appendix E to this subpart.
7. PDF reports for all RATAs of Hg, HCl, HF, and/or SO_2 monitoring systems completed prior to January 1, 2024, and for correlation tests, RRAs and/or RCAs of PM CEMS completed prior to January 1, 2024, according to 40 CFR 63.10031(f)(1) and (6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed. For each SO_2 or Hg system RATA completed on or after January 1, 2024, submit the electronic test summary required by appendix A to this subpart or part 75 of this chapter (as applicable) together with the applicable reference method information in sections 17 through 30 of appendix E to this subpart, either prior to or concurrent with the relevant quarterly emissions report. For each HCl or HF system RATA, and for each correlation test, RRA, and RCA of a PM CEMS completed on or after January 1, 2024, submit the electronic test summary in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable, together with the applicable reference method information in sections 17 through 30 of appendix E to this subpart.
8. Quarterly reports, in PDF files, that include all 30-boiler operating day rolling averages in the reporting period derived from your PM CEMS, approved HAP metals CEMS, and/or PM CPMS, according to 40 CFR 63.10031(f)(2) and (6). These reports are due no later than 60 days after the end of each calendar quarter. The final quarterly rolling averages report in PDF files shall cover the fourth calendar quarter of 2023. Starting with the first quarter of 2024, you must report all 30-boiler operating day rolling averages for PM CEMS, approved HAP metals CEMS, PM CPMS, Hg CEMS, Hg sorbent trap systems, HCl CEMS, HF CEMS, and/or SO_2 CEMS (or 90-boiler operating day rolling averages for Hg systems), in XML format, in the quarterly compliance reports required under 40 CFR 63.10031(g). If your EGU or common stack is in an averaging plan, each quarterly compliance report must identify the EGUs in the plan and include all of the 30- or 90- group boiler operating day WAERs for the averaging group. The quarterly compliance reports must be submitted no later than 60 days after the end of each calendar quarter.
9. The semiannual compliance reports described in 40 CFR 63.10031(c) and (d), in PDF files, according to 40 CFR 63.10031(f)(4) and (6). The due dates for these reports are specified in 40 CFR 63.10031(b). The final semiannual compliance report shall cover the period from July 1, 2023, through December 31, 2023.
10. Notifications of compliance status, in PDF files, according to 40 CFR 63.10031(f)(4) and (6) until December 31, 2023, and according to 40 CFR 63.10031(h) thereafter.
11. Quarterly electronic compliance reports, in accordance with 40 CFR 63.10031(g), starting with a report for the first calendar quarter of 2024. The reports must be in XML format and must include the applicable data elements in sections 2 through 13 of appendix E to this subpart. These reports are due no later than 60 days after the end of each calendar quarter.
12. Quarterly reports, in PDF files, that include the applicable information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) pertaining to startup and shutdown events, starting with a report for the first calendar quarter of 2024, if you have elected to use paragraph 2 of the definition of startup in 40 CFR 63.10042 (see 40 CFR 63.10031(i)). These PDF reports shall be submitted no later than 60 days after the end of each calendar quarter, along with the quarterly compliance reports required under 40 CFR 63.10031(g).
13. A test report for the PS 11 correlation test of your PM CEMS, in accordance with 40 CFR 63.10031(j). If, prior to November 9, 2020, you have begun using a certified PM CEMS to demonstrate compliance with this subpart, use the ECMPS Client Tool to submit the report, in a PDF file, no later than 60 days after that date. For correlation tests completed on or after November 9, 2020, but prior to January 1, 2024, submit the report, in a PDF file, no later than 60 days after the date on which the test is completed. For correlation tests completed on or after January 1, 2024, submit the test results electronically, according to section 7.2.4 of appendix C to this subpart, together with the applicable reference method data in sections 17 through 31 of appendix E to this subpart.
14. Quarterly reports that include the QA/QC activities for your PM CPMS or approved HAP metals CEMS (as applicable), in PDF files, according to 40 CFR 63.10031(k). The first report shall cover the first calendar quarter of 2024, if the PM CPMS or HAP metals CEMS is in use during that quarter. Otherwise, reporting begins with the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance. These reports are due no later than 60 days after the end of each calendar quarter.

* * * * *

■ 15. Table 9 to subpart UUUUU is amended by:

■ a. Revising the entries ''63.9''and ''63.10(c)(7) and (8)''; and

■ b. Adding the entry ''§ 63.10(e)(3)(v) and (vi)''.

The addition and revision read as follows:

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU

[* * * * * * *]

Citation	Subject	Applies to subpart UUUUU
*	* *	* * * * *
§ 63.9	Notification Requirements	Yes, except (1) for the 60-day notification prior to conducting a performance test in § 63.9(e); instead use a 30-day notification period per § 63.10030(d), (2) the notification of the CMS performance evaluation in § 63.9(g)(1) is limited to RATAs, and (3) the information required per § 63.9(h)(2)(i); instead provide the applicable information in § 63.10030(e)(1) through (8), for the initial notification of compliance status, only.
*	* *	* * * * *
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS — identifying exceedances and excess emissions.	Applies only through December 31, 2023.
§ 63.10(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Applies only through December 31, 2023.
*	* *	* * * * *
§ 63.10(e)(3)(v) and (vi)	Excess emissions and CMS performance reports.	Applies only through December 31, 2023.
*	* *	* * * * *

■ 16. Appendix A to subpart UUUUU is amended by revising sections 5.1.1, 7.1.1.2.1, 7.1.3.3, 7.1.4.3, 7.1.8.2, and 7.2.3.1 to read as follows:

Appendix A to Subpart UUUUU of Part 63—HG Monitoring Provisions

* * * * *

5. Ongoing Quality Assurance (QA) and Data Validation

* * * * *

5.1.1 *Required QA Tests.* Periodic QA testing of each Hg CEMS is required following initial certification. The required QA tests, the test frequencies, and the performance specifications that must be met are summarized in Table A–2, below. All tests must be performed with the affected unit(s) operating (*i.e.,* combusting fuel), however, the daily calibration may optionally be performed off-line. The RATA must be performed at normal load, but no particular load level is required for the other tests. For each test, follow the same basic procedures in section 4.1.1 of this appendix that were used for initial certification.

* * * * *

7. Recordkeeping and Reporting

* * * * *

7.1.1.2.1 *Electronic.* The electronic monitoring plan records must include the following: unit or stack ID number(s); monitoring location(s); the Hg monitoring methodologies used; emissions controls; Hg monitoring system information, including, but not limited to: Unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate Hg emissions; and Hg monitor span and range information. The electronic monitoring plan shall be evaluated and submitted using the ECMPS Client Tool provided by the Clean Air Markets Division in the Office of Atmospheric Programs of the EPA.

* * * * *

7.1.3.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.1.4.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. Note that when a single quality-assured Hg concentration value is obtained for a particular data collection period, that single concentration value is applied to each operating hour of the data collection period.

* * * * *

7.1.8.2 The hourly Hg emissions rate (lb/TBtu or lb/GWh, as applicable), calculated according to section 6.2.1 or 6.2.2 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), if valid values of Hg concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.2.3.1 For an EGU that begins reporting hourly Hg concentrations with a previously-certified Hg monitoring system, submit the monitoring plan information in section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of Hg emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the CEMS. Also submit the monitoring plan information in section 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

■ 17. Appendix B to subpart UUUUU is amended by:

■ a. Revising the heading and introductory text of section 2.3;

■ b. Revising sections 9.4, 10.1.3.3, 10.1.7.2, 10.1.8.1.1, 10.1.8.1.2, and 10.1.8.1.3;

■ c. Adding sections 10.1.8.1.4 through 10.1.8.1.12;
■ d. Revising sections 11.3.1, 11.4 introductory text, and 11.4.1;
■ e. Adding sections 11.4.1.1 through 11.4.1.9;
■ f. Revising section 11.4.2 introductory text;
■ g. Revising sections 11.4.3.11 and 11.4.3.12;
■ h. Re-designating section 11.4.3.13 as 11.4.3.14;
■ i. Adding new section 11.4.3.13;
■ j. Re-designating section 11.4.4 as 11.4.13;
■ k. Adding sections: 11.4.4 introductory text; 11.4.4.1 through 11.4.4.7; 11.4.5 introductory text; 11.4.5.1; 11.4.5.1.1 through 11.4.5.1.9; 11.4.5.2 introductory text; 11.4.5.2.1 through 11.4.5.2.6; 11.4.6 introductory text; 11.4.6.1 through 11.4.6.8, 11.4.7 introductory text; 11.4.7.1 through 11.4.7.6; 11.4.8 introductory text; 11.4.8.1 through 11.4.8.15; 11.4.9 introductory text; 11.4.9.1 through 11.4.9.5; 11.4.10 introductory text; 11.4.10.1 through 11.4.10.8; 11.4.11 introductory text; 11.4.11.1 through 11.4.11.7; 11.4.12 introductory text; 11.4.12.1 through 11.4.12.9; and 11.4.13; and revising section 11.5.1.

The revisions and additions read as follows:

Appendix B to Subpart UUUUU of Part 63—HC_L and HF Monitoring Provisions

* * * * *

2. Monitoring of HC_L and/or HF Emissions

* * * * *

2.3 *Monitoring System Equipment, Supplies, Definitions, and General Operation.*

The following provisions apply:

* * * * *

9. Data Reduction and Calculations

* * * * *

9.4 Use Equation A–5 in appendix A of this subpart to calculate the required 30-boiler operating day rolling average HCl or HF emission rates. Report each 30-boiler operating day rolling average to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. The term E_{ho} in Equation A–5 must be in the units of the applicable emissions limit.

* * * * *

10. Recordkeeping Requirements

* * * * *

10.1.3.3 The pollutant concentration, for each hour in which a quality-assured value is obtained. For HCl and HF, record the data in parts per million (ppm), with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

* * * * *

10.1.7.2 The hourly HCl and/or HF emissions rate (lb/MMBtu, or lb/MWh, as applicable), for each hour in which valid values of HCl or HF concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Round off the emission rate to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

10.1.8.1.1 For each required 7-day and daily calibration drift test or daily calibration error test (including daily calibration transfer standard tests) of the HCl or HF CEMS, record the test date(s) and time(s), reference gas value(s), monitor response(s), and calculated calibration drift or calibration error value(s). If you use the dynamic spiking option for the mid-level calibration drift check under PS–18, you must also record the measured concentration of the native HCl in the flue gas before and after the spike and the spiked gas dilution factor. When using an IP–CEMS under PS–18, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.2 For the required gas audits of an FTIR HCl or HF CEMS that is following PS 15, record the date and time of each spiked and unspiked sample, the audit gas reference values and uncertainties. Keep records of all calculations and data analyses required under sections 9.1 and 12.1 of Performance Specification 15, and the results of those calculations and analyses.

10.1.8.1.3 For each required RATA of an HCl or HF CEMS, record the beginning and ending date and time of each test run, the reference method(s) used, and the reference method and HCl or HF CEMS run values. Keep records of stratification tests performed (if any), all of the raw field data, relevant process operating data, and all of the calculations used to determine the relative accuracy.

10.1.8.1.4 For each required beam intensity test of an HCl IP–CEMS under PS–18, record the test date and time, the known attenuation value (%) used for the test, the concentration of the high-level reference gas used, the full-beam and attenuated beam intensity levels, the measured HCl concentrations at full-beam intensity and attenuated intensity and the percent difference between them, and the results of the test. For each required daily beam intensity check of an IP–CEMS under Procedure 6, record the beam intensity measured including the units of measure and the results of the check.

10.1.8.1.5 For each required measurement error (ME) test of an HCl monitor, record the date and time of each gas injection, the reference gas concentration (low, mid, or high) and the monitor response for each of the three injections at each of the three levels. Also record the average monitor response and the ME at each gas level and the related calculations. For ME tests conducted on IP–CEMS, also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.6 For each required level of detection (LOD) test of an HCl monitor performed in a controlled environment, record the test date, the concentrations of the reference gas and interference gases, the results of the seven (or more) consecutive measurements of HCl, the standard deviation, and the LOD value. For each required LOD test performed in the field, record the test date, the three measurements of the native source HCl concentration, the results of the three independent standard addition (SA) measurements known as standard addition response (SAR), the effective spike addition gas concentration (for IP–CEMS, the equivalent concentration of the reference gas), the resulting standard addition detection level (SADL) value and all related calculations. For extractive CEMS performing the SA using dynamic spiking, you must record the spiked gas dilution factor.

10.1.8.1.7 For each required ME/level of detection response time test of an HCl monitor, record the test date, the native HCl concentration of the flue gas, the reference gas value, the stable reference gas readings, the upscale/downscale start and end times, and the results of the upscale and downscale stages of the test.

10.1.8.1.8 For each required temperature or pressure measurement verification or audit of an IP–CEMS, keep records of the test date, the temperatures or pressures (as applicable) measured by the calibrated temperature or pressure reference device and the IP–CEMS, and the results of the test.

10.1.8.1.9 For each required interference test of an HCl monitor, record (or obtain from the analyzer manufacturer records of): The date of the test; the gas volume/rate, temperature, and pressure used to conduct the test; the HCl concentration of the reference gas used; the concentrations of the interference test gases; the baseline HCl and HCl responses for each interferent combination spiked; and the total percent interference as a function of span or HCl concentration.

10.1.8.1.10 For each quarterly relative accuracy audit (RAA) of an HCl monitor, record the beginning and ending date and time of each test run, the reference method

used, the HCl concentrations measured by the reference method and CEMS for each test run, the average concentrations measured by the reference method and the CEMS, and the calculated relative accuracy. Keep records of the raw field data, relevant process operating data, and the calculations used to determine the relative accuracy.

10.1.8.1.11 For each quarterly cylinder gas audit (CGA) of an HCl monitor, record the date and time of each injection, and the reference gas concentration (zero, mid, or high) and the monitor response for each injection. Also record the average monitor response and the calculated ME at each gas level. For IP–CEMS, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.12 For each quarterly dynamic spiking audit (DSA) of an HCl monitor, record the date and time of the zero gas injection and each spike injection, the results of the zero gas injection, the gas concentrations (mid and high) and the dilution factors and the monitor response for each of the six upscale injections as well as the corresponding native HCl concentrations measured before and after each injection. Also record the average dynamic spiking error for each of the upscale gases, the calculated average DSA Accuracy at each upscale gas concentration, and all calculations leading to the DSA Accuracy.

* * * * *

11. Reporting Requirements

* * * * *

11.3.1 For an EGU that begins reporting hourly HCl and/or HF concentrations with a previously-certified CEMS, submit the monitoring plan information in section 10.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of HCl and/or HF emissions after having implemented another allowable compliance option under this subpart, submit the information in section 10.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the CEMS. Also submit the monitoring plan information in section 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

11.4 *Certification, Recertification, and Quality-Assurance Test Reporting Requirements.* Except for daily QA tests (*i.e.,* calibrations and flow monitor interference checks), which are included in each electronic quarterly emissions report, use the ECMPS Client Tool to submit the results of all required certification, recertification, quality-assurance, and diagnostic tests of the monitoring systems required under this appendix electronically. Submit the test results either prior to or concurrent with the relevant quarterly electronic emissions report. However, for RATAs of the HCl monitor, if this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the test, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period changes from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data must be invalidated and resubmission of the affected emission report(s) is required.

11.4.1 For each daily calibration drift (or calibration error) assessment (including daily calibration transfer standard tests), and for each 7-day calibration drift test of an HCl or HF monitor, report:

11.4.1.1 Facility ID information;

11.4.1.2 The monitoring component ID;

11.4.1.3 The instrument span and span scale;

11.4.1.4 For each gas injection, the date and time, the calibration gas level (zero, mid or other), the reference gas value (ppm), and the monitor response (ppm);

11.4.1.5 A flag to indicate whether dynamic spiking was used for the upscale value (extractive HCl monitors only);

11.4.1.6 Calibration drift or calibration error (percent of span or reference gas, as applicable);

11.4.1.7 When using the dynamic spiking option, the measured concentration of native HCl before and after each mid-level spike and the spiked gas dilution factor;

11.4.1.8 When using an IP–CEMS, also report the measured concentration of native HCl before and after each upscale measurement, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas; and

11.4.1.9 Reason for test (for the 7-day CD test, only).

11.4.2 For each quarterly gas audit of an HCl or HF CEMS that is following PS 15, report:

* * * * *

11.4.3.11 Standard deviation, using either Equation 2–4 in section 12.3 of PS 2 in appendix B to part 60 of this chapter or Equation 10 in section 12.6.5 of PS 18;

11.4.3.12 Confidence coefficient, using either Equation 2–5 in section 12.4 of PS 2 in appendix B to part 60 of this chapter or Equation 11 in section 12.6.6 of PS 18;

11.4.3.13 t-value; and

11.4.3.14 *Relative Accuracy.* For FTIR monitoring systems following PS 15, calculate the relative accuracy using Equation 2–6 of PS 2 in appendix B to part 60 of this chapter or, if applicable, according to the alternative procedure for low emitters described in section 3.1.2.2 of this appendix. For HCl CEMS following PS 18, calculate the relative accuracy according to section 12.6 of PS 18. If applicable use a flag to indicate that the alternative relative accuracy specification for low emitters has been applied.

11.4.4 For each 3-level ME test of an HCl monitor, report:

11.4.4.1 Facility ID information;

11.4.4.2 Monitoring component ID;

11.4.4.3 Instrument span and span scale;

11.4.4.4 For each gas injection, the date and time, the calibration gas level (low, mid, or high), the reference gas value in ppm and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;

11.4.4.5 For extractive CEMS, the mean reference value and mean of measured values at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18;

11.4.4.6 ME at each reference gas level; and

11.4.4.7 Reason for test.

11.4.5 Beam intensity tests of an IP CEMS:

11.4.5.1 For the initial beam intensity test described in PS 18 in appendix B to part 60 of this chapter, report:

11.4.5.1.1 Facility ID information;

11.4.5.1.2 Date and time of the test;

11.4.5.1.3 Monitoring system ID;

11.4.5.1.4 Reason for test;

11.4.5.1.5 Attenuation value (%);

11.4.5.1.6 High level gas concentration (ppm);

11.4.5.1.7 Full and attenuated beam intensity levels, including units of measure;

11.4.5.1.8 Measured HCl concentrations at full and attenuated beam intensity (ppm); and

11.4.5.1.9 Percentage difference between the HCl concentrations.

11.4.5.2 For the daily beam intensity check described in Procedure 6 of appendix F to Part 60 of this chapter, report:

11.4.5.2.1 Facility ID information;

11.4.5.2.2 Date and time of the test;

11.4.5.2.3 Monitoring system ID;

11.4.5.2.4 The attenuated beam intensity level (limit) established in the initial test;

11.4.5.2.5 The beam intensity measured during the daily check; and

11.4.5.2.6 Results of the test (pass or fail).

11.4.6 For each temperature or pressure verification or audit of an HCl IP–CEMS, report:

11.4.6.1 Facility ID information;

11.4.6.2 Date and time of the test;

11.4.6.3 Monitoring system ID;

11.4.6.4 Type of verification (temperature or pressure);

11.4.6.5 Stack sensor measured value;

11.4.6.6 Reference device measured value;

11.4.6.7 Results of the test (pass or fail); and

11.4.6.8 Reason for test.

11.4.7 For each interference test of an HCl monitoring system, report:

11.4.7.1 Facility ID information;
11.4.7.2 Date of test;
11.4.7.3 Monitoring system ID;
11.4.7.4 Results of the test (pass or fail);
11.4.7.5 Reason for test; and
11.4.7.6 A flag to indicate whether the test was performed: On this particular monitoring system; on one of multiple systems of the same type; or by the manufacturer on a system with components of the same make and model(s) as this system.
11.4.8 For each LOD test of an HCl monitor, report:
11.4.8.1 Facility ID information;
11.4.8.2 Date of test;
11.4.8.3 Reason for test;
11.4.8.4 Monitoring system ID;
11.4.8.5 A code to indicate whether the test was done in a controlled environment or in the field;
11.4.8.6 HCl reference gas concentration;
11.4.8.7 HCl responses with interference gas (seven repetitions);
11.4.8.8 Standard deviation of HCl responses;
11.4.8.9 Effective spike addition gas concentrations;
11.4.8.10 HCl concentration measured without spike;
11.4.8.11 HCl concentration measured with spike;
11.4.8.12 Dilution factor for spike;
11.4.8.13 The controlled environment LOD value (ppm or ppm-meters);
11.4.8.14 The field determined standard addition detection level (SADL in ppm or ppm-meters); and
11.4.8.15 Result of LDO/SADL test (pass/fail).
11.4.9 For each ME or LOD response time test of an HCl monitor, report:
11.4.9.1 Facility ID information;
11.4.9.2 Date of test;
11.4.9.3 Monitoring component ID;
11.4.9.4 The higher of the upscale or downscale tests, in minutes; and
11.4.9.5 Reason for test.
11.4.10 For each quarterly RAA of an HCl monitor, report:
11.4.10.1 Facility ID information;
11.4.10.2 Monitoring system ID;
11.4.10.3 Begin and end time of each test run;
11.4.10.4 The reference method used;
11.4.10.5 The reference method and CEMS values for each test run, including the units of measure;
11.4.10.6 The mean reference method and CEMS values for the three test runs;
11.4.10.7 The calculated relative accuracy, percent; and
11.4.10.8 Reason for test.
11.4.11 For each quarterly cylinder gas audit of an HCl monitor, report:
11.4.11.1 Facility ID information;
11.4.11.2 Monitoring component ID;
11.4.11.3 Instrument span and span scale;
11.4.11.4 For each gas injection, the date and time, the reference gas level (zero, mid, or high), the reference gas value in ppm, and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;
11.4.11.5 For extractive CEMS, the mean reference gas value and mean monitor response at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level -see Equation 6A in PS 18;
11.4.11.6 ME at each reference gas level; and
11.4.11.7 Reason for test.
11.4.12 For each quarterly DSA of an HCl monitor, report:
11.4.12.1 Facility ID information;
11.4.12.2 Monitoring component ID;
11.4.12.3 Instrument span and span scale;
11.4.12.4 For the zero gas injection, the date and time, and the monitor response (*Note:* The zero gas injection from a calibration drift check performed on the same day as the upscale spikes may be used for this purpose.);
11.4.12.5 Zero spike error;
11.4.12.6 For the upscale gas spiking, the date and time of each spike, the reference gas level (mid- or high-), the reference gas value (ppm), the dilution factor, the native HCl concentrations before and after each spike, and the monitor response for each gas spike;
11.4.12.7 Upscale spike error;
11.4.12.8 DSA at the zero level and at each upscale gas level; and
11.4.12.9 Reason for test.
11.4.13 *Reporting Requirements for Diluent Gas, Flow Rate, and Moisture Monitoring Systems.* For the certification, recertification, diagnostic, and QA tests of stack gas flow rate, moisture, and diluent gas monitoring systems that are certified and quality-assured according to part 75 of this chapter, report the information in section 10.1.8.2 of this appendix.

* * * * *

11.5.1 The owner or operator of any affected unit shall use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator in an XML format specified by the Administrator, for each affected unit (or group of units monitored at a common stack). If the certified HCl or HF CEMS is used for the initial compliance demonstration, HCl or HF emissions reporting shall begin with the first operating hour of the 30-boiler operating day compliance demonstration period. Otherwise, HCl or HF emissions reporting shall begin with the first operating hour after successfully completing all required certification tests of the CEMS.

* * * * *

■ 18. Subpart UUUUU of part 63 is amended by adding appendix C to read as follows:

Appendix C to Subpart UUUUU of Part 63—PM Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous measurement of filterable PM emissions from affected EGUs under this subpart. A PM CEMS is used together with other CMS and (as applicable) parametric measurement devices to quantify PM emissions in units of the applicable standard (*i.e.,* lb/MMBtu or lb/MWh).

1.2 *Initial Certification and Recertification Procedures.*

You, as the owner or operator of an affected EGU that uses a PM CEMS to demonstrate compliance with a filterable PM emissions limit in Table 1 or 2 to this subpart must certify and, if applicable, recertify the CEMS according to PS–11 in appendix B to part 60 of this chapter.

1.3 *Quality Assurance and Quality Control Requirements.* You must meet the applicable quality assurance requirements of Procedure 2 in appendix F to part 60 of this chapter.

1.4 *Missing Data Procedures.* You must not substitute data for missing data from the PM CEMS. Any process operating hour for which quality-assured PM concentration data are not obtained is counted as an hour of monitoring system downtime.

1.5 *Adjustments for Flow System Bias.* When the PM emission rate is reported on a gross output basis, you must not adjust the data recorded by a stack gas flow rate monitor for bias, which may otherwise be required under section 75.24 of this chapter.

2. Monitoring of PM Emissions

2.1 *Monitoring System Installation Requirements.* Flue gases from the affected EGUs under this subpart vent to the atmosphere through a variety of exhaust configurations including single stacks, common stack configurations, and multiple stack configurations. For each of these configurations, 40 CFR 63.10010(a) specifies the appropriate location(s) at which to install CMS. These CMS installation provisions apply to the PM CEMS and to the other CMS and parametric monitoring devices that provide data for the PM emissions calculations in section 6 of this appendix.

2.2 *Primary and Backup Monitoring Systems.* In the electronic monitoring plan described in section 7 of this appendix, you must create and designate a primary monitoring system for PM and for each additional parameter (*i.e.,* stack gas flow rate, CO_2 or O_2 concentration, stack gas moisture content, as applicable). The primary system must be used to report hourly PM concentration values when the system is able to provide quality-assured data, *i.e.,* when the system is ''in control.'' However, to increase data availability in the event of a primary monitoring system outage, you may install, operate, maintain, and calibrate a redundant backup monitoring system. A redundant backup system is one that is permanently installed at the unit or stack location and is kept on ''hot standby'' in case the primary monitoring system is unable to provide quality-assured data. You must represent each redundant backup system as a unique monitoring system in the electronic monitoring plan. You must certify each redundant backup monitoring system according to the applicable provisions in section 4 of this appendix. In addition, each redundant monitoring system must meet the applicable on-going QA requirements in section 5 of this appendix.

3. PM Emissions Measurement Methods

The following definitions, equipment specifications, procedures, and performance criteria are applicable

3.1 *Definitions.* All definitions specified in section 3 of PS–11 in appendix B to part 60 of this chapter and section 3 of Procedure 2 in appendix F to part 60 of this chapter are applicable to the measurement of filterable PM emissions from electric utility steam generating units under this subpart. In addition, the following definitions apply:

3.1.1 *Stack operating hour* means a clock hour during which flue gases flow through a particular stack or duct (either for the entire hour or for part of the hour) while the associated unit(s) are combusting fuel.

3.1.2 *Unit operating hour* means a clock hour during which a unit combusts any fuel, either for part of the hour or for the entire hour.

3.2 *Continuous Monitoring Methods.*

3.2.1 Installation and Measurement Location. You must install the PM CEMS according to 40 CFR 63.10010 and Section 2.4 of PS–11.

3.2.2 Units of Measure. For the purposes of this subpart, you shall report hourly PM concentrations in units of measure that correspond to your PM CEMS correlation curve (*e.g.,* mg/acm, mg/acm @ 160 °C, mg/wscm, mg/dscm).

3.2.3 Other Necessary Data Collection. To convert hourly PM concentrations to the units of the applicable emissions standard (*i.e.,* lb/MMBtu or lb/MWh), you must collect additional data as described in sections 3.2.3.1 and 3.2.3.2 of this appendix. You must install, certify, operate, maintain, and quality-assure any stack gas flow rate, CO_2, O_2, or moisture monitoring systems needed for this purpose according to sections 4 and 5 of this appendix. The calculation methods for the emission limits described in sections 3.2.3.1 and 3.2.3.2 of this appendix are presented in section 6 of this appendix.

3.2.3.1 Heat Input-Based Emission Limits. To demonstrate compliance with a heat input-based PM emission limit in Table 2 to this subpart, you must provide the hourly stack gas CO_2 or O_2 concentration, along with a fuel-specific F_c factor or dry-basis F-factor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to the units of the standard.

3.2.3.2 Gross Output-Based Emission Limits. To demonstrate compliance with a gross output-based PM emission limit in Table 1 or Table 2 to this subpart, you must provide the hourly gross output in megawatts, along with data from a certified stack gas flow rate monitor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to units of the standard.

4. Certification and Recertification Requirements

4.1 *Certification Requirements.* You must certify your PM CEMS and the other CMS used to determine compliance with the applicable emissions standard before the PM CEMS can be used to provide data under this subpart. Redundant backup monitoring systems (if used) are subject to the same certification requirements as the primary systems.

4.1.1 PM CEMS. You must certify your PM CEMS according to PS–11 in appendix B to part 60 of this chapter. A PM CEMS that has been installed and certified according to PS–11 as a result of another state or federal regulatory requirement or consent decree prior to the effective date of this subpart shall be considered certified for this subpart if you can demonstrate that your PM CEMS meets the PS–11 acceptance criteria based on the applicable emission standard in this subpart.

4.1.2 Flow Rate, Diluent Gas, and Moisture Monitoring Systems. You must certify the continuous monitoring systems that are needed to convert PM concentrations to units of the standard or (if applicable) to convert the measured PM concentrations from wet basis to dry basis or vice-versa (*i.e.,* stack gas flow rate, diluent gas (CO_2 or O_2) concentration, or moisture monitoring systems), in accordance with the applicable provisions in section 75.20 of this chapter and appendix A to part 75 of this chapter.

4.1.3 Other Parametric Measurement Devices. Any temperature or pressure measurement devices that are used to convert hourly PM concentrations to standard conditions must be installed, calibrated, maintained, and operated according to the manufacturers' instructions.

4.2 *Recertification.*

4.2.1 You must recertify your PM CEMS if it is either: moved to a different stack or duct; moved to a new location within the same stack or duct; modified or repaired in such a way that the existing correlation is altered or impacted; or replaced.

4.2.2 The flow rate, diluent gas, and moisture monitoring systems that are used to convert PM concentration to units of the emission standard are subject to the recertification provisions in section 75.20(b) of this chapter.

4.3 *Development of a New or Revised Correlation Curve.* You must develop a new or revised correlation curve if:

4.3.1 An RCA is failed and the new or revised correlation is developed according to section 10.6 in Procedure 2 of appendix F to part 60 of this chapter; or

4.3.2 The events described in paragraph (1) or (2) in section 8.8 of PS–11 occur.

5. Ongoing Quality Assurance (QA) and Data Validation

5.1 *PM CEMS.*

5.1.1 Required QA Tests. Following initial certification, you must conduct periodic QA testing of each primary and (if applicable) redundant backup PM CEMS. The required QA tests and the PS that must be met are found in Procedure 2 of appendix F to part 60 of this chapter (Procedure 2). Except as otherwise provided in section 5.1.2 of this appendix, the QA tests shall be done at the frequency specified in Procedure 2.

5.1.2 RRA and RCA Test Frequencies.

5.1.2.1 The test frequency for RRAs of the PM CEMS shall be annual, *i.e.,* once every 4 calendar quarters. The RRA must either be performed within the fourth calendar quarter after the calendar quarter in which the previous RRA was completed or in a grace period (see section 5.1.3, below). When a required annual RRA is done within a grace period, the deadline for the next RRA is 4 calendar quarters after the quarter in which the RRA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.2 The test frequency for RCAs of the PM CEMS shall be triennial, *i.e.,* once every 12 calendar quarters. If a required RCA is not completed within 12 calendar quarters after the calendar quarter in which the previous RCA was completed, it must be performed in a grace period immediately following the twelfth calendar quarter (see section 5.1.3, below). When an RCA is done in a grace period, the deadline for the next RCA shall be 12 calendar quarters after the calendar quarter in which the RCA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.3 Successive quarterly audits (*i.e.,* ACAs and, if applicable, sample volume audits (SVAs)) shall be conducted at least 60 days apart.

5.1.3 Grace Period. A grace period is available, immediately following the end of the calendar quarter in which an RRA or RCA of the PM CEMS is due. The length of the grace period shall be the lesser of 720 EGU (or stack) operating hours or 1 calendar quarter.

5.1.4 RCA and RRA Acceptability. The results of your RRA or RCA are considered acceptable provided that the criteria in section 10.4(5) of Procedure 2 in appendix F to part 60 of this chapter are met for an RCA or section 10.4(6) of Procedure 2 in appendix F to part 60 of this chapter are met for an RRA.

5.1.5 Data Validation. Your PM CEMS is considered to be out-of-control, and you may not report data from it as quality-assured, when, for a required certification, recertification, or QA test, the applicable acceptance criterion (either in PS–11 in appendix B to part 60 of this chapter or Procedure 2 in appendix F to part 60 of this chapter) is not met. Further, data from your PM CEMS are considered out-of-control, and may not be used for reporting, when a required QA test is not performed on schedule or within an allotted grace period. When an out-of-control period occurs, you must perform the appropriate follow-up actions. For an out-of-control period triggered by a failed QA test, you must perform and pass the same type of test in order to end the out-of-control period. For a QA test that is not performed on time, data from the PM CEMS remain out-of-control until the required test has been performed and passed. You must count all out-of-control data periods of the PM CEMS as hours of monitoring system downtime.

5.2 *Stack Gas Flow Rate, Diluent Gas, and Moisture Monitoring Systems.* The ongoing QA test requirements and data validation criteria for the primary and (if applicable) redundant backup stack gas flow rate, diluent gas, and moisture monitoring systems are specified in appendix B to part 75 of this chapter.

5.3 *QA/QC Program Requirements.* You must develop and implement a QA/QC program for the PM CEMS and the other equipment that is used to provide data under this subpart. You may store your QA/QC plan

electronically, provided that the information can be made available expeditiously in hard copy to auditors and inspectors.

5.3.1 General Requirements.

5.3.1.1 Preventive Maintenance. You must keep a written record of the procedures needed to maintain the PM CEMS and other equipment that is used to provide data under this subpart in proper operating condition, along with a schedule for those procedures. At a minimum, you must include all procedures specified by the manufacturers of the equipment and, if applicable, additional or alternate procedures developed for the equipment.

5.3.1.2 Recordkeeping Requirements. You must keep a written record describing procedures that will be used to implement the recordkeeping and reporting requirements of this appendix.

5.3.1.3 Maintenance Records. You must keep a record of all testing, maintenance, or repair activities performed on the PM CEMS, and other equipment used to provide data under this subpart in a location and format suitable for inspection. You may use a maintenance log for this purpose. You must maintain the following records for each system or device: The date, time, and description of any testing, adjustment, repair, replacement, or preventive maintenance action performed, and records of any corrective actions taken. Additionally, you must record any adjustment that may affect the ability of a monitoring system or measurement device to make accurate measurements, and you must keep a written explanation of the procedures used to make the adjustment(s).

5.3.2 Specific Requirements for the PM CEMS.

5.3.2.1 Daily, and Quarterly Quality Assurance Assessments. You must keep a written record of the procedures used for daily assessments of the PM CEMS. You must also keep records of the procedures used to perform quarterly ACA and (if applicable) SVA audits. You must document how the test results are calculated and evaluated.

5.3.2.2 Monitoring System Adjustments. You must document how each component of the PM CEMS will be adjusted to provide correct responses after routine maintenance, repairs, or corrective actions.

5.3.2.3 Correlation Tests, Annual and Triennial Audits. You must keep a written record of procedures used for the correlation test(s), annual RRAs, and triennial RCAs of the PM CEMS. You must document how the test results are calculated and evaluated.

5.3.3 Specific Requirements for Diluent Gas, Stack Gas Flow Rate, and Moisture Monitoring Systems. The QA/QC program requirements for the stack gas flow rate, diluent gas, and moisture monitoring systems described in section 3.2.3 of this appendix are specified in section 1 of appendix B to part 75 of this chapter.

5.3.4 Requirements for Other Monitoring Equipment. For the equipment required to convert readings from the PM CEMS to standard conditions (*e.g.,* devices to measure temperature and pressure), you must keep a written record of the calibrations and/or other procedures used to ensure that the devices provide accurate data.

5.3.5 You may store your QA/QC plan electronically, provided that you can make the information available expeditiously in hard copy to auditors or inspectors.

6. Data Reduction and Caculations

6.1 *Data Reduction and Validation.*

6.1.1 You must reduce the data from PM CEMS to hourly averages, in accordance with 40 CFR 60.13(h)(2) of this chapter.

6.1.2 You must reduce all CEMS data from stack gas flow rate, CO_2, O_2, and moisture monitoring systems to hourly averages according to 40 CFR 75.10(d)(1) of this chapter.

6.1.3 You must reduce all other data from devices used to convert readings from the PM CEMS to standard conditions to hourly averages according to 40 CFR 60.13(h)(2) or 40 CFR 75.10(d)(1) of this chapter. This includes, but is not limited to, data from devices used to measure temperature and pressure, or, for cogeneration units that calculate gross output based on steam characteristics, devices to measure steam flow rate, steam pressure, and steam temperature.

6.1.4 Do not calculate the PM emission rate for any unit or stack operating hour in which valid data are not obtained for PM concentration or for any parameter used in the PM emission rate calculations (*i.e.,* gross output, stack gas flow rate, stack temperature, stack pressure, stack gas moisture content, or diluent gas concentration, as applicable).

6.1.5 For the purposes of this appendix, part 75 substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content are not considered to be valid data.

6.1.6 Operating hours in which PM concentration is missing or invalid are hours of monitoring system downtime. The use of substitute data for PM concentration is not allowed.

6.1.7 You must exclude all data obtained during a boiler startup or shutdown operating hour (as defined in 40 CFR 63.10042) from the determination of the 30-boiler operating day rolling average PM emission rates.

6.2 *Calculation of PM Emission Rates.* Unless your PM CEMS is correlated to provide PM concentrations at standard conditions, you must use the calculation methods in sections 6.2.1 through 6.2.3 of this appendix to convert measured PM concentration values to units of the emission limit (lb/MMBtu or lb/MWh, as applicable).

6.2.1 PM concentrations must be at standard conditions in order to convert them to units of the emissions limit. If your PM CEMS measures PM concentrations at standard conditions, proceed to section 6.2.2 or 6.2.3, below (as applicable). However, if your PM CEMS measures PM concentrations in units of mg/acm or mg/acm at a specified temperature (*e.g.,* 160 °C), you must first use one of the following equations to convert the hourly PM concentration values from actual to standard conditions:

$$C_{std} = C_a \left(\frac{460 + T_s}{P_s} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \quad \text{(Eq. C-1)}$$

or

$$C_{std} = C_a \left(\frac{460 + T_{CEMS}}{P_{CEMS}} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \quad \text{(Eq. C-2)}$$

Where:

C_{std} = PM concentration at standard conditions

C_a = PM concentration at measurement conditions

T_s = Stack Temperature (°F)

T_{CEMS} = CEMS Measurement Temperature (°F)

P_{CEMS} = CEMS Measurement Pressure (in. Hg)

P_s = Stack Pressure (in. Hg)

T_{std} = Standard Temperature (68 °F)

P_{std} = Standard Pressure (29.92 in. Hg).

6.2.2 Heat Input-Based PM Emission Rates (Existing EGUs, Only). Calculate the hourly heat input-based PM emission rates (if applicable), in units of lb/MMBtu, according to sections 6.2.2.1 and 6.2.2.2 of this appendix.

6.2.2.1 You must select an appropriate emission rate equation from among Equations 19–1 through 19–9 in appendix A–7 to part 60 of this chapter to convert the hourly PM concentration values from section 6.2.1 of this appendix to units of lb/MMBtu. Note that the EPA test Method 19 equations require the pollutant concentration to be expressed in units of lb/scf; therefore, you must first multiply the PM

concentration by 6.24×10^{-8} to convert it from mg/scm to lb/scf.

6.2.2.2 You must use the appropriate carbon-based or dry-basis F-factor in the emission rate equation that you have selected. You may either use an F-factor from Table 19–2 of EPA test Method 19 in appendix A–7 to part 60 of this chapter or from section 3.3.5 or section 3.3.6 of appendix F to part 75 of this chapter.

6.2.2.3 If the hourly average O_2 concentration is above 14.0% O_2 (19.0% for an IGCC) or the hourly average CO_2 concentration is below 5.0% CO_2 (1.0% for an IGCC), you may calculate the PM emission rate using the applicable diluent cap value (as defined in 40 CFR 63.10042 and specified in 40 CFR 63.10007(f)(1)), provided that the diluent gas monitor is operating and recording quality-assured data).

6.2.2.4 If your selected EPA test Method 19 equation requires a correction for the stack gas moisture content, you may either use quality-assured hourly data from a certified part 75 moisture monitoring system, a fuel-specific default moisture value from 40 CFR 75.11(b) of this chapter, or a site-specific default moisture value approved by the Administrator under section 75.66 of this chapter.

6.2.3 Gross Output-Based PM Emission Rates. For each unit or stack operating hour, if C_{std} is measured on a wet basis, you must use Equation C–3 to calculate the gross output-based PM emission rate (if applicable). Use Equation C–4 if C_{std} is measured on a dry basis:

$$E_{heo} = 6.24\ x\ 10^{-8}\ \left(\frac{C_{std}\ Q_s}{MW}\right) \qquad \text{(Eq. C-3)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh)

C_{std} = PM concentration from section 6.2.1 (mg/scm), wet basis

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis)

MW = Gross output (megawatts)

6.24×10^{-8} = Conversion factor

or

$$E_{heo} = 6.24\ x\ 10^{-8}\ \left(\frac{C_{std}\ Q_s}{MW}\right)\left(1 - B_{ws}\right) \qquad \text{(Eq. C-4)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh)

C_{std} = PM concentration from section 6.2.1 (mg/scm), dry basis

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis)

MW = Gross output (megawatts)

B_{ws} = Proportion by volume of water vapor in the stack gas

6.24×10^{-8} = Conversion factor

6.2.4 You must calculate the 30–boiler operating day rolling average PM emission rates according to 40 CFR 63.10021(b).

7. Recordkeeping and Reporting

7.1 *Recordkeeping Provisions.* For the PM CEMS and the other necessary CMS and parameter measurement devices installed at each affected unit or common stack, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with 40 CFR 63.10033. The file shall contain the applicable information in sections 7.1.1 through 7.1.11 of this appendix.

7.1.1 Monitoring Plan Records. For each EGU or group of EGUs monitored at a common stack, you must prepare and maintain a monitoring plan for the PM CEMS and the other CMS(s) needed to convert PM concentrations to units of the applicable emission standard.

7.1.1.1 Updates. If you make a replacement, modification, or change in a certified CEMS that is used to provide data under this appendix (including a change in the automated data acquisition and handling system (DAHS)) or if you make a change to the flue gas handling system and that replacement, modification, or change affects information reported in the monitoring plan (*e.g.,* a change to a serial number for a component of a monitoring system), you shall update the monitoring plan.

7.1.1.2 Contents of the Monitoring Plan. For the PM CEMS, your monitoring plan shall contain the applicable information in sections 7.1.1.2.1 and 7.1.1.2.2 of this appendix. For required stack gas flow rate, diluent gas, and moisture monitoring systems, your monitoring plan shall include the applicable information required for those systems under 40 CFR 75.53 (g) and (h) of this chapter.

7.1.1.2.1 Electronic. Your electronic monitoring plan records must include the following information: Unit or stack ID number(s); unit information (type of unit, maximum rated heat input, fuel type(s), emission controls); monitoring location(s); the monitoring methodologies used; monitoring system information, including (as applicable): Unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate emissions; operating range and load information; monitor span and range information; units of measure of your PM concentrations (see section 3.2.2); and appropriate default values. Your electronic monitoring plan shall be evaluated and submitted using the ECMPS Client Tool provided by the Clean Air Markets Division (CAMD) in EPA's Office of Atmospheric Programs.

7.1.1.2.2 Hard Copy. You must keep records of the following items: Schematics and/or blueprints showing the location of the PM monitoring system(s) and test ports; data flow diagrams; test protocols; and miscellaneous technical justifications. The hard copy portion of the monitoring plan must also explain how the PM concentrations are measured and how they are converted to the units of the applicable emissions limit. The equation(s) used for the conversions must be documented. Electronic storage of the hard copy portion of the monitoring plan is permitted.

7.1.2 Operating Parameter Records. You must record the following information for each operating hour of each EGU and also for each group of EGUs utilizing a monitored common stack, to the extent that these data are needed to convert PM concentration data to the units of the emission standard. For non-operating hours, you must record only the items in sections 7.1.2.1 and 7.1.2.2 of this appendix. If you elect to or are required to comply with a gross output-based PM standard, for any hour in which there is gross output greater than zero, you must record the items in sections 7.1.2.1 through 7.1.2.3 and (if applicable) 7.1.2.5 of this appendix; however, if there is heat input to the unit(s) but no gross output (*e.g.,* at unit startup), you must record the items in sections 7.1.2.1, 7.1.2.2, and, if applicable, section 7.1.2.5 of this appendix. If you elect to comply with a heat input-based PM standard, you must record only the items in sections 7.1.2.1, 7.1.2.2, 7.1.2.4, and, if applicable, section 7.1.2.5 of this appendix.

7.1.2.1 The date and hour;

7.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from 1 hundredth to 1 quarter of an hour, at your option);

7.1.2.3 The hourly gross output (rounded to nearest MWe);

7.1.2.4 If applicable, the F_c factor or dry-basis F-factor used to calculate the heat input-based PM emission rate; and

7.1.2.5 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

7.1.3 PM Concentration Records. For each affected unit or common stack using a PM CEMS, you must record the following

information for each unit or stack operating hour:

7.1.3.1 The date and hour;

7.1.3.2 Monitoring system and component identification codes for the PM CEMS, as provided in the electronic monitoring plan, if your CEMS provides a quality-assured value of PM concentration for the hour;

7.1.3.3 The hourly PM concentration, in units of measure that correspond to your PM CEMS correlation curve, for each operating hour in which a quality-assured value is obtained. Record all PM concentrations with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

7.1.3.4 A special code, indicating whether or not a quality-assured PM concentration is obtained for the hour; and

7.1.3.5 Monitor data availability for PM concentration, as a percentage of unit or stack operating hours calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to 40 CFR 75.32 of this chapter.

7.1.4 Stack Gas Volumetric Flow Rate Records.

7.1.4.1 When a gross output-based PM emissions limit must be met, in units of lb/MWh, you must obtain hourly measurements of stack gas volumetric flow rate during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.4.2 When hourly measurements of stack gas flow rate are needed, you must keep hourly records of the flow rates and related information, as specified in 40 CFR 75.57(c)(2) of this chapter.

7.1.5 Records of Diluent Gas (CO_2 or O_2) Concentration.

7.1.5.1 When a heat input-based PM emission limit must be met, in units of lb/MMBtu, you must obtain hourly measurements of CO_2 or O_2 concentration during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.5.2 When hourly measurements of diluent gas concentration are needed, you must keep hourly CO_2 or O_2 concentration records, as specified in 40 CFR 75.57(g) of this chapter.

7.1.6 Records of Stack Gas Moisture Content.

7.1.6.1 When corrections for stack gas moisture content are needed to demonstrate compliance with the applicable PM emissions limit:

7.1.6.1.1 If you use a continuous moisture monitoring system, you must keep hourly records of the stack gas moisture content and related information, as specified in 40 CFR 75.57(c)(3) of this chapter.

7.1.6.1.2 If you use a fuel-specific default moisture value, you must represent it in the electronic monitoring plan required under section 7.1.1.2.1 of this appendix.

7.1.7 PM Emission Rate Records. For applicable PM emission limits in units of lb/MMBtu or lb/MWh, you must record the following information for each affected EGU or common stack:

7.1.7.1 The date and hour;

7.1.7.2 The hourly PM emissions rate (lb/MMBtu or lb/MWh, as applicable), calculated according to section 6.2.2 or 6.2.3 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. You must calculate the PM emission rate only when valid values of PM concentration and all other required parameters required to convert PM concentration to the units of the standard are obtained for the hour;

7.1.7.3 An identification code for the formula used to derive the hourly PM emission rate from measurements of the PM concentration and other necessary parameters (*i.e.,* Equation C–3 or C–4 in section 6.2.3 of this appendix or the applicable EPA test Method 19 equation);

7.1.7.4 If applicable, indicate that the diluent cap has been used to calculate the PM emission rate; and

7.1.7.5 If applicable, indicate that the default electrical load (as defined in 40 CFR 63.10042) has been used to calculate the hourly PM emission rate.

7.1.7.6 Indicate that the PM emission rate was not calculated for the hour, if valid data are not obtained for PM concentration and/or any of the other parameters in the PM emission rate equation. For the purposes of this appendix, substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content reported under part 75 of this chapter are not considered to be valid data. However, when the gross output (as defined in 40 CFR 63.10042) is reported for an operating hour with zero output, the default electrical load value is treated as quality-assured data.

7.1.8 Other Parametric Data. If your PM CEMS measures PM concentrations at actual conditions, you must keep records of the temperatures and pressures used in Equation C–1 or C–2 to convert the measured hourly PM concentrations to standard conditions.

7.1.9 Certification, Recertification, and Quality Assurance Test Records. For any PM CEMS used to provide data under this subpart, you must record the following certification, recertification, and quality assurance information:

7.1.9.1 The test dates and times, reference values, monitor responses, monitor full scale value, and calculated results for the required 7-day drift tests and for the required daily zero and upscale calibration drift tests;

7.1.9.2 The test dates and times and results (pass or fail) of all daily system optics checks and daily sample volume checks of the PM CEMS (as applicable);

7.1.9.3 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly ACAs;

7.1.9.4 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly SVAs of extractive PM CEMS;

7.1.9.5 The test dates and times, reference method readings and corresponding PM CEMS responses (including the units of measure), and the calculated results for all PM CEMS correlation tests, RRAs and RCAs. For the correlation tests, you must indicate which model is used (*i.e.,* linear, logarithmic, exponential, polynomial, or power) and record the correlation equation. For the RRAs and RCAs, the reference method readings and PM CEMS responses must be reported in the same units of measure as the PM CEMS correlation;

7.1.9.6 The cycle time and sample delay time for PM CEMS that operate in batch sampling mode; and

7.1.9.7 Supporting information for all required PM CEMS correlation tests, RRAs, and RCAs, including records of all raw reference method and monitoring system data, the results of sample analyses to substantiate the reported test results, as well as records of sampling equipment calibrations, reference monitor calibrations, and analytical equipment calibrations.

7.1.10 For stack gas flow rate, diluent gas, and moisture monitoring systems, you must keep records of all certification, recertification, diagnostic, and on-going quality-assurance tests of these systems, as specified in 40 CFR 75.59(a) of this chapter.

7.1.11 For each temperature measurement device (*e.g.,* resistance temperature detector or thermocouple) and pressure measurement device used to convert measured PM concentrations to standard conditions according to Equation C–1 or C–2, you must keep records of all calibrations and other checks performed to ensure that accurate data are obtained.

7.2 *Reporting Requirements.*

7.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM emissions from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

7.2.1.1 Notifications, in accordance with section 7.2.2 of this appendix;

7.2.1.2 Monitoring plan reporting, in accordance with section 7.2.3 of this appendix;

7.2.1.3 Certification, recertification, and quality assurance test submittals, in accordance with section 7.2.4 of this appendix; and

7.2.1.4 Electronic quarterly emissions report submittals, in accordance with section 7.2.5 of this appendix.

7.2.2 Notifications. You must provide notifications for each affected unit (or group of units monitored at a common stack) under this subpart in accordance with 40 CFR 63.10030.

7.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using PM CEMS to measure PM emissions, you must make electronic and hard copy monitoring plan submittals as follows:

7.2.3.1 For an EGU that begins reporting hourly PM concentrations on January 1, 2024, with a previously certified PM CEMS, submit the monitoring plan information in

section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of PM emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the PM CEMS. Also submit the monitoring plan information in 40 CFR 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

7.2.3.2 Whenever an update of the monitoring plan is required, as provided in section 7.1.1.1 of this appendix, you must submit the updated information either prior to or concurrent with the relevant quarterly electronic emissions report.

7.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool. Hard copy portions of the monitoring plan shall be submitted to the appropriate delegated authority.

7.2.4 Certification, Recertification, and Quality-Assurance Test Reporting. Except for daily quality assurance tests of the required monitoring systems (*i.e.,* calibration error or drift tests, sample volume checks, system optics checks, and flow monitor interference checks), you must submit the results of all required certification, recertification, and quality-assurance tests described in sections 7.1.9.1 through 7.1.9.6 and 7.1.10 of this appendix electronically (except for test results previously submitted, *e.g.,* under the Acid Rain Program), using the ECMPS Client Tool. Submit the results of the quality assurance test (*i.e.,* RCA or RRA) or, if applicable, a new PM CEMS correlation test, either prior to or concurrent with the relevant quarterly electronic emissions report. If this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the quality assurance test or correlation, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. For an RRA or RCA, if the applicable audit specifications are met, the status of the emissions data in the relevant time period changes from provisional to quality-assured, and no further action is required. For a successful correlation test, apply the correlation equation retrospectively to the raw data to change the provisional status of the data to quality-assured, and resubmit the affected emissions report(s). However, if the applicable performance specifications are not met, the provisional data must be invalidated, and resubmission of the affected quarterly emission report(s) is required. For a failed RRA or RCA, you must take corrective actions and proceed according to the applicable requirements found in sections 10.5 through 10.7 of Procedure 2 until a successful quality assurance test report is submitted. If a correlation test is unsuccessful, you may not report quality-assured data from the PM CEMS until the results of a subsequent correlation test show that the specifications in section 13.0 of PS 11 are met.

7.2.5 Quarterly Reports.

7.2.5.1 For each affected EGU (or group of EGUs monitored at a common stack), the owner or operator must use the ECMPS Client Tool to submit electronic quarterly emissions reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

7.2.5.1.1 The first calendar quarter of 2024; or

7.2.5.1.2 The calendar quarter in which the initial PM CEMS correlation test is completed.

7.2.5.2 You must submit the electronic reports within 30 days following the end of each calendar quarter, except for EGUs that have been placed in long-term cold storage (as defined in section 72.2 of this chapter).

7.2.5.3 Each of your electronic quarterly reports shall include the following information:

7.2.5.3.1 The date of report generation;

7.2.5.3.2 Facility identification information;

7.2.5.3.3 The information in sections 7.1.2 through 7.1.7 of this appendix that is applicable to your PM emission measurement methodology; and

7.2.5.3.4 The results of all daily quality assurance assessments, *i.e.,* calibration drift checks and (if applicable) sample volume checks of the PM CEMS, calibration error tests of the other continuous monitoring systems that are used to convert PM concentration to units of the standard, and (if applicable) flow monitor interference checks.

7.2.5.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that all PM emissions from the affected unit(s) under this subpart have been correctly and fully monitored, the owner or operator must submit a compliance certification in support of each electronic quarterly emissions monitoring report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

■ 19. Subpart UUUUU of part 63 is amended by adding appendix D, to read as follows:

Appendix D to SUBPART UUUUU of Part 63—PM CPMS Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous monitoring of the output from a PM CPMS, for the purpose of assessing continuous compliance with an applicable emissions limit in Table 1 or Table 2 to this subpart.

1.2 *Summary of the Method.* The output from an instrument capable of continuously measuring PM concentration is continuously recorded, either in milliamps, PM concentration, or other units of measure. An operating limit for the PM CPMS is established initially, based on data recorded by the monitoring system during a performance stack test. The performance test is repeated annually, and the operating limit is reassessed. In-between successive performance tests, the output from the PM CPMS serves as an indicator of continuous compliance with the applicable emissions limit.

2. Continuous Monitoring of the PM CPMS Output

2.1 *System Design and Performance Criteria.* The PM CPMS must meet the design and performance criteria specified in 40 CFR 63.10010(h)(1)(i) through (iii) and 40 CFR 63.10023(b)(2)(iii) and (iv). In addition, an automated DAHS is required to record the output from the PM CPMS and to generate the quarterly electronic data reports required under section 3.2.4 of this appendix.

2.2 *Installation Requirements.* Install the PM CPMS at an appropriate location in the stack or duct, in accordance with 40 CFR 63.10010(a).

2.3 *Determination of Operating Limits.*

2.3.1 In accordance with 40 CFR 63.10007(a)(3), 40 CFR 63.10011(b), 40 CFR 63.10023(a), and Table 6 to this subpart, you must determine an initial site-specific operating limit for your PM CPMS, using data recorded by the monitoring system during a performance stack test that demonstrates compliance with one of the following emissions limits in Table 1 or Table 2 to this subpart: Filterable PM; total non-Hg HAP metals; total HAP metals including Hg (liquid oil-fired units, only); individual non-Hg HAP metals; or individual HAP metals including Hg (liquid oil-fired units, only).

2.3.2 In accordance with 40 CFR 63.10005(d)(2)(i), you must perform the initial stack test no later than the applicable date in 40 CFR 63.9984(f), and according to 40 CFR 63.10005(d)(2)(iii) and 63.10006(a), the performance test must be repeated annually to document compliance with the emissions limit and to reassess the operating limit.

2.3.3 Calculate the operating limits according to 40 CFR 63.10023(b)(1) for existing units, and 40 CFR 63.10023(b)(2) for new units.

2.4 *Data Reduction and Compliance Assessment.*

2.4.1 Reduce the output from the PM CPMS to hourly averages, in accordance with 40 CFR 63.8(g)(2) and (5).

2.4.2 To determine continuous compliance with the operating limit, you must calculate 30-boiler operating day rolling average values of the output from the PM CPMS, in accordance with 40 CFR 63.10010(h)(3) through (6), 40 CFR 63.10021(c), and Table 7 to this subpart.

2.4.3 In accordance with 40 CFR 63.10005(d)(2)(ii), 40 CFR 63.10022(a)(2), and Table 4 to this subpart, the 30-boiler operating day rolling average PM CPMS output must be maintained at or below the operating limit. However, if exceedances of the operating limit should occur, you must follow the applicable procedures in 40 CFR 63.10021(c)(1) and (2).

3. RECORDKEEPING AND REPORTING.

3.1 *Recordkeeping Provisions.* You must keep the applicable records required under

40 CFR 63.10032(b) and (c) for your PM CPMS. In addition, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with 40 CFR 63.10033.

3.1.1 Monitoring Plan Records.

3.1.1.1 You must develop and maintain a site-specific monitoring plan for your PM CPMS, in accordance with 63.10000(d).

3.1.1.2 In addition to the site-specific monitoring plan required under 40 CFR 63.10000(d), you must use the ECMPS Client Tool to prepare and maintain an electronic monitoring plan for your PM CPMS.

3.1.1.2.1 Contents of the Electronic Monitoring Plan. The electronic monitoring plan records must include the unit or stack ID number(s), monitoring location(s), the monitoring methodology used (*i.e.,* PM CPMS), the current operating limit of the PM CPMS (including the units of measure), unique system and component ID numbers, the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

3.1.1.2.2 Electronic Monitoring Plan Updates. If you replace or make a change to a PM CPMS that is used to provide data under this subpart (including a change in the automated DAHS) and the replacement or change affects information reported in the electronic monitoring plan (*e.g.,* changes to the make, model and serial number when a PM CPMS is replaced), you must update the monitoring plan.

3.1.2 Operating Parameter Records. You must record the following information for each operating hour of each affected unit and for each group of units utilizing a common stack. For non-operating hours, record only the items in sections 3.1.2.1 and 3.1.2.2 of this appendix.

3.1.2.1 The date and hour;

3.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from 1 hundredth to 1 quarter of an hour, at the option of the owner or operator); and

3.1.2.3 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

3.1.3 PM CPMS Output Records. For each affected unit or common stack using a PM CPMS, you must record the following information for each unit or stack operating hour:

3.1.3.1 The date and hour;

3.1.3.2 Monitoring system and component identification codes for the PM CPMS, as provided in the electronic monitoring plan, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained;

3.1.3.3 The hourly average output from the PM CPMS, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained, either in milliamps, PM concentration, or other units of measure, as applicable;

3.1.3.4 A special code for each operating hour in which the PM CPMS is out-of-control and a valid value of the output parameter is not obtained; and

3.1.3.5 Percent monitor data availability for the PM CPMS, calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to section 75.32 of this chapter.

3.1.4 Records of PM CPMS Audits and Out-of-Control Periods. In accordance with 40 CFR 63.10010(h)(7), you must record, and make available upon request, the results of PM CPMS performance audits, as well as the dates of PM CPMS out-of-control periods and the corrective actions taken to return the system to normal operation.

3.2 *Reporting Requirements.*

3.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM CPMS data from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

3.2.1.1 Notifications, in accordance with section 3.2.2 of this appendix;

3.2.1.2 Monitoring plan reporting, in accordance with section 3.2.3 of this appendix;

3.2.1.3 Report submittals, in accordance with sections 3.2.4 and 3.2.5 of this appendix.

3.2.2 Notifications. You must provide notifications for the affected unit (or group of units monitored at a common stack) in accordance with 40 CFR 63.10030.

3.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using a PM CPMS you must make monitoring plan submittals as follows:

3.2.3.1 For units using the PM CPMS compliance option prior to January 1, 2024, submit the electronic monitoring plan information in section 3.1.1.2.1 of this appendix prior to or concurrent with the first required electronic quarterly report. For units switching to the PM CPMS methodology on or after January 1, 2024, submit the electronic monitoring plan no later than 21 days prior to the date on which the PM test is performed to establish the initial operating limit.

3.2.3.2 Whenever an update of the electronic monitoring plan is required, as provided in section 3.1.1.2.2 of this appendix, the updated information must be submitted either prior to or concurrent with the relevant quarterly electronic emissions report.

3.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool.

3.2.3.4 In accordance with 40 CFR 63.10000(d), you must submit the site-specific monitoring plan described in section 3.1.1.1 of this appendix to the Administrator, if requested.

3.2.4 Electronic Quarterly Reports.

3.2.4.1 For each affected EGU (or group of EGUs monitored at a common stack) that is subject to the provisions of this appendix, reporting of hourly responses from the PM CPMS will begin either with the first operating hour in the third quarter of 2023 or the first operating hour after completion of the initial stack test that establishes the operating limit, whichever is later. The owner or operator must then use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

3.2.4.1.1 The first calendar quarter of 2024; or

3.2.4.1.2 The calendar quarter in which the initial operating limit for the PM CPMS is established.

3.2.4.2 The electronic quarterly reports must be submitted within 30 days following the end of each calendar quarter, except for units that have been placed in long-term cold storage (as defined in section 72.2 of this chapter).

3.2.4.3 Each electronic quarterly report shall include the following information:

3.2.4.3.1 The date of report generation;

3.2.4.3.2 Facility identification information; and

3.2.4.3.3 The information in sections 3.1.2 and 3.1.3 of this appendix.

3.2.4.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that the output from the PM CPMS has been correctly and fully monitored, the owner or operator shall submit a compliance certification in support of each electronic quarterly report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

3.2.5 Performance Stack Test Results. You must use the ECMPS Client Tool to report the results of all performance stack tests conducted to document compliance with the applicable emissions limit in Table 1 or Table 2 to this subpart, as follows:

3.2.5.1 Report a summary of each test electronically, in XML format, in the relevant quarterly compliance report under 40 CFR 63.10031(g); and

3.2.5.2 Provide a complete stack test report as a PDF file, in accordance with 40 CFR 63.10031(f) or (h), as applicable.

■ 20. Subpart UUUUU of part 63 is amended by adding appendix E, to read as follows:

Appendix E to Subpart UUUUU of Part 63—Data Elements

1.0 You must record the electronic data elements in this appendix that apply to your compliance strategy under this subpart. The applicable data elements in sections 2 through 13 of this appendix must be reported in the quarterly compliance reports required under 40 CFR 63.10031(g), in an XML format prescribed by the Administrator, starting with a report that covers the first quarter of 2024. For stack tests used to demonstrate compliance, RATAs, PM CEMS correlations, RRAs and RCAs that are completed on and after January 1, 2024, the applicable data elements in sections 17 through 30 of this appendix must be reported in an XML format prescribed by the Administrator, and the information in section 31 of this appendix must be reported in as one or more PDF files.

2.0 *MATS Compliance Report Root Data Elements.* You must record the following data elements and include them in each quarterly compliance report:

2.1 Energy Information Administration's Office of Regulatory Information Systems (ORIS) Code;
2.2 Facility Name;
2.3 Facility Registry Identifier;
2.4 Title 40 Part;
2.5 Applicable Subpart;
2.6 Calendar Year;
2.7 Calendar Quarter; and
2.8 Submission Comment (optional)

3.0 *Performance Stack Test Summary.* If you elect to demonstrate compliance using periodic performance stack testing (including 30-boiler operating day Hg LEE tests), record the following data elements for each test:
3.1 Parameter
3.2 Test Location ID;
3.3 Test Number;
3.4 Test Begin Date, Hour, and Minute;
3.5 Test End Date, Hour, and Minute;
3.6 Timing of Test (either performed on-schedule according to 40 CFR 63.10006(f), or was late);
3.7 Averaging Plan Indicator;
3.8 Averaging Group ID (if applicable);
3.9 EPA Test Method Code;
3.10 Emission Limit, Including Units of Measure;
3.11 Average Pollutant Emission Rate;
3.12 LEE Indicator;
3.13 LEE Basis (if applicable); and
3.14 Submission Comment (optional)

4.0 *Operating limit Data (PM CPMS, only):*
4.1 Parameter Type;
4.2 Operating Limit; and
4.3 Units of Measure.

5.0 *Performance Test Run Data.* For each run of the performance stack test, record the following data elements:
5.1 Run Number
5.2 Run Begin Date, Hour, and Minute;
5.3 Run End Date, Hour, and Minute;
5.4 Pollutant Concentration and Units of Measure;
5.5 Emission Rate;
5.6 EPA Test Method 19 Equation (if applicable);
5.7 Total Sampling Time; and
5.8 Total Sample Volume.

6.0 *Conversion Parameters.* For the parameters that are used to convert the pollutant concentration to units of the emission standard (including, as applicable, CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, F-factors, and gross output), record:
6.1 Parameter Type;
6.2 Parameter Source; and
6.3 Parameter Value, Including Units of Measure.

7.0 *Quality Assurance Parameters:* For key parameters that are used to quality-assure the reference method data (including, as applicable, filter temperature, percent isokinetic, leak check results, percent breakthrough, percent spike recovery, and relative deviation), record:
7.1 Parameter Type;
7.2 Parameter Value; and
7.3 Pass/Fail Status.

8.0 *Averaging Group Configuration.* If a particular EGU or common stack is included in an averaging plan, record the following data elements:
8.1 Parameter Being Averaged;
8.2 Averaging Group ID; and
8.3 Unit or Common Stack ID.

9.0 *Compliance Averages.* If you elect to (or are required to) demonstrate compliance using continuous monitoring system(s) on a 30-boiler operating day rolling average basis (or on a 30- or 90-group boiler operating day rolling WAER basis, if your monitored EGU or common stack is in an averaging plan), you must record the following data elements for each average emission rate (or, for units in an averaging plan, for each WAER):
9.1 Unit or Common Stack ID;
9.2 Averaging Group ID (if applicable);
9.3 Parameter Being Averaged;
9.4 Date;
9.5 Average Type;
9.6 Units of Measure; and
9.7 Average Value.
9.8 Comment Field.

10.0 *Unit Information.* You must record the following data elements for each EGU:
10.1 Unit ID;
10.2 Date of Last Tune-up; and
10.3 Emergency Bypass Information. If your coal-fired EGU, solid oil-derived fuel-fired EGU, or IGCC is equipped with a main stack and a bypass stack (or bypass duct) configuration, and has qualified to use the LEE compliance option, you must report the following emergency bypass information annually, in the compliance report for the fourth calendar quarter of the year:
10.3.1 The number of emergency bypass hours for the year, as a percentage of the EGU's annual operating hours;
10.3.2 A description of each emergency bypass event during the year, including the cause and corrective actions taken;
10.3.3 An explanation of how clean fuels were burned to the maximum extent possible during each emergency bypass event;
10.3.4 An estimate of the emissions released during each emergency bypass event. You must also show whether LEE status has been retained or lost, based on the emissions estimate and the results of the previous LEE retest; and
10.3.5 If there were no emergency bypass events during the year, a statement to that effect.

11.0 *Fuel Usage Information.* If subject to an emissions limit, record the following monthly fuel usage information:
11.1 Calendar Month;
11.2 Each Type of Fuel Used During the Calendar Month in the Quarter;
11.3 Quantity of Each Type of Fuel Combusted in Each Calendar Month in the Quarter, with Units of Measure;
11.4 New Fuel Type Indicator (if applicable); and
11.5 Date of Performance Test Using the New Fuel (if applicable.

12.0 *Malfunction Information (if applicable):* If there was a malfunction of the process equipment or control equipment during the reporting period that caused (or may have caused) an exceedance of an emissions or operating limit, record:
12.1 Event Begin Date and Hour (if known);
12.2 Event End Date and Hour;
12.3 Malfunction Description; and
12.4 Corrective Action.

13.0 *Deviations and Monitoring Downtime.* If there were any deviations or monitoring downtime during the reporting period, record:
13.1 Unit, Common Stack, or Averaging Group ID;
13.2 The nature of the deviation, as either:
13.2.1 Emission limit exceeded;
13.2.2 Operating limit exceeded;
13.2.3 Work practice standard not met;
13.2.4 Testing requirement not met;
13.2.5 Monitoring requirement not met;
13.2.6 Monitoring downtime incurred; or
13.2.7 Other requirement not met.
13.3 A description of the deviation, or monitoring downtime, as follows:
13.3.1 For a performance stack test or a 30- (or 90-) boiler operating day rolling average that exceeds an emissions or operating limit, record the parameter (*e.g.,* HCl, Hg, PM), the limit that was exceeded, and either the date of the non-complying performance test or the beginning and ending dates of the non-complying rolling average;
13.3.2 If an unmonitored bypass stack was used during the reporting period, record the total number of hours of bypass stack usage;
13.3.3 For periods where valid monitoring data are not reported during the reporting period, record the monitored parameter, the total source operating time (hours), and the total number of hours of monitoring deviation or downtime and other information, as indicated, for:
13.3.3.1 Monitoring system malfunctions/repairs (deviation and downtime);
13.3.3.2 Out-of-control periods/repairs (deviation and downtime);
13.3.3.3 Non-monitoring equipment malfunctions (downtime);
13.3.3.4 QA/QC activities (excluding zero and span checks) (downtime);
13.3.3.5 Routine maintenance (downtime);
13.3.3.6 Other known causes (downtime); and
13.3.3.7 Unknown causes (downtime).
13.3.4 If a performance stack test was due within the quarter but was not done, record the parameter (*e.g.,* HCl, PM), the test deadline, and a statement that the test was not done as required;
13.3.5 For a late performance stack test conducted during the quarter, record the parameter, the test deadline, and the number of days that elapsed between the test deadline and the test completion date.
13.4 Record any corrective actions taken in response to the deviation.
13.5 If there were no deviations and/or no monitoring downtime during the quarter, record a statement to that effect.

14.0 *Reference Method Data Elements.* For each of the following tests that is completed on and after January 1, 2024, you must record and report the applicable electronic data elements in sections 17 through 29 of this appendix, pertaining to the reference method(s) used for the test (see section 16 of this appendix).
14.1 Each quarterly, annual, or triennial stack test used to demonstrate compliance (including 30- (or 90-) boiler operating day Hg LEE tests and PM tests used to set operating limits for PM CPMS);

14.2 Each RATA of your Hg, HCl, HF, or SO_2 CEMS or each RATA of your Hg sorbent trap monitoring system; and

14.3 Each correlation test, RRA and each RCA of your PM CEMS.

15.0 You must report the applicable data elements for each test described in section 14 of this appendix in an XML format prescribed by the Administrator.

15.1 For each stack test completed during a particular calendar quarter and contained in the quarterly compliance report, you must submit along with the quarterly compliance report, the data elements in sections 17 and 18 of this appendix (which are common to all tests) and the applicable data elements in sections 19 through 31 of this appendix associated with the reference method(s) used.

15.2 For each RATA, PM CEMS correlation, RRA, or RCA, when you use the ECMPS Client Tool to report the test results as required under appendix A, B, or C to this subpart or, for SO_2 RATAs under part 75 of this chapter, you must submit along with the test results, the data elements in sections 17 and 18 of this appendix and, for each test run, the data elements in sections 19 through 30 of this appendix that are associated with the reference method(s) used.

15.3 For each stack test, RATA, PM CEMS correlation, RRA, and RCA, you must also provide the information described in section 31 of this appendix as a PDF file, either along with the quarterly compliance report (for stack tests) or together with the test results reported under appendix A, B, or C to this subpart or part 75 of this chapter (for RATAs, RRAs, RCAs, or PM CEMS correlations).

16.0 *Applicable Reference Methods.* One or more of the following EPA reference methods is needed for the tests described in sections 14.1 through 14.3 of this appendix: Method 1, 2, 3A, 4, 5, 5D, 6C, 26, 26A, 29, and/or 30B.

16.1 Application of EPA test Methods 1 and 2. If you use periodic stack testing to comply with an *output-based* emissions limit, you must determine the stack gas flow rate during each performance test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. For EPA test Methods 5, 5D, 26A and 29, which require isokinetic sampling, the delta-P readings made with the pitot tube and manometer at the EPA test Method 1 traverse points, taken together with measurements of stack gas temperature, pressure, diluent gas concentration (from a separate EPA test Method 3A or 3B test) and moisture, provide the necessary data for the EPA test Method 2 flow rate calculations. Note that even if you elect to comply with a *heat input-based* standard, when EPA test Method 5, 5D, 26A, or 29 is used, you must still use EPA test Method 2 to determine the average stack gas velocity (v_s), which is needed for the percent isokinetic calculation. The EPA test Methods 26 and 30B do not require isokinetic sampling; therefore, when either of these methods is used, if the stack gas flow rate is needed to comply with the applicable *output-based* emissions limit, you must make a separate EPA test Method 2 determination during each test run.

16.2 Application of EPA test Method 3A. If you elect to perform periodic stack testing to comply with a *heat input-based* emissions limit, a separate measurement of the diluent gas (CO_2 or O_2) concentration is required for each test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. The EPA test Method 3A is the preferred CO_2 or O_2 test method, although EPA test Method 3B may be used instead. Diluent gas measurements are also needed for stack gas molecular weight determinations when using EPA test Method 2.

16.3 Application of EPA test Method 4. For performance stack tests, depending on which equation is used to convert pollutant concentration to units of the standard, measurement of the stack gas moisture content, using EPA test Method 4, may also be required for each test run. The EPA test Method 4 moisture data are also needed for the EPA test Method 2 calculations (to determine the molecular weight of the gas) and for the RATA of an Hg CEMS that measures on a wet basis, when EPA test Method 30B is used. Other applications that require EPA test Method 4 moisture determinations include: RATAs of an SO_2 monitor, when the reference method and CEMS data are measured on a different moisture basis (wet or dry); conversion of wet-basis pollutant concentrations to the units of a *heat input-based* emissions limit when certain EPA test Method 19 equations are used (*e.g.,* Eq. 19–3, 19–4, or 19–8); and stack gas molecular weight determinations. When EPA test Method 5, 5D, 26A, or 29 is used for the performance test, the EPA test Method 4 moisture determination may be made by using the water collected in the impingers together with data from the dry gas meter; alternatively, a separate EPA test Method 4 determination may be made. However, when EPA test Method 26 or 30B is used, EPA test Method 4 must be performed separately.

16.4 Applications of EPA test Methods 5 and 5D. The EPA test Method 5 (or, if applicable 5D) must be used for the following applications: To demonstrate compliance with a filterable PM emissions limit; for PM tests used to set operating limits for PM CPMS; and for the initial correlations, RRAs and RCAs of a PM CEMS.

16.5 Applications of EPA test Method 6C. If you elect to monitor SO_2 emissions from your coal-fired EGU as a surrogate for HCl, the SO_2 CEMS must be installed, certified, operated, and maintained according to 40 CFR part 75. Part 75 allows the use of EPA test Methods 6, 6A, 6B, and 6C for the required RATAs of the SO_2 monitor. However, in practice, only instrumental EPA test Method 6C is used.

16.6 Applications of EPA test Methods 26 and 26A. The EPA test Method 26A may be used for quarterly HCl or HF stack testing, or for the RATA of an HCl or HF CEMS. The EPA test Method 26 may be used for quarterly HCl or HF stack testing; however, for the RATAs of an HCl monitor that is following PS 18 and Procedure 6 in appendices B and F to part 60 of this chapter, EPA test Method 26 may only be used if approved upon request.

16.7 Applications of EPA test Method 29. The EPA test Method 29 may be used for periodic performance stack tests to determine compliance with individual or total HAP metals emissions limits. For coal-fired EGUs, the total HAP emissions limits exclude Hg.

16.8 Applications of EPA test Method 30B. The EPA test Method 30B is used for 30- (or 90-) boiler operating day Hg LEE tests and RATAs of Hg CEMS and sorbent trap monitoring systems, and it may be used for quarterly Hg stack testing (oil-fired EGUs, only).

17.0 *Facility and Test Company Information.* In accordance with 40 CFR 63.7(e)(3), a test is defined as three or more runs of one or more EPA Reference Method(s) conducted to measure the amount of a specific regulated pollutant, pollutants, or surrogates being emitted from a particular EGU (or group of EGUs that share a common stack), and to satisfy requirements of this subpart. On or after January 1, 2024, you must report the data elements in sections 17 and 18, each time that you complete a required performance stack test, RATA, PM CEMS correlation, RRA, or RCA at the affected EGU(s), using EPA test Method 5, 5B, 5D, 6C, 26, 26A, 29, or 30B. You must also report the applicable data elements in sections 19 through 25 of this appendix for each test. If any separate, corresponding EPA test Method 2, 3A, or 4 test is conducted in order to convert a pollutant concentration to the units of the applicable emission standard given in Table 1 or Table 2 of this subpart or to convert pollutant concentration from wet to dry basis (or vice-versa), you must also report the applicable data elements in sections 26 through 31 of this appendix.

The applicable data elements in sections 17 through 31 of this appendix must be submitted separately, in XML format, along with the quarterly Compliance Report (for stack tests) or along with the electronic test results submitted to the ECMPS Client Tool (for CMS performance evaluations). The Electronic Reporting Tool (ERT) or an equivalent schema can be utilized to create this XML file. *Note:* Ideally, for all of the tests completed at a given facility in a particular calendar quarter, the applicable data elements in sections 17 through 31 of this appendix should be submitted together in one XML file. However, as shown in Table 8 to this subpart, the timelines for submitting stack test results and CMS performance evaluations are not identical. Therefore, for calendar quarters in which both types of tests are completed, it may not be possible to submit the applicable data elements for all of those tests in a single XML file; separate submittals may be necessary to meet the applicable reporting deadlines.

17.1 Part;
17.2 Subpart;
17.3 ORIS Code;
17.4 Facility Name;
17.5 Facility Address;
17.6 Facility City;
17.7 Facility County;
17.8 Facility State;
17.9 Facility Zip Code;
17.10 Facility Point of Contact;
17.11 Facility Contact Phone Number;
17.12 Facility Contact Email;

17.13 EPA Facility Registration System Number;
17.14 Source Classification Code;
17.15 State Facility ID;
17.16 Project Number;
17.17 Name of Test Company;
17.18 Test Company Address;
17.19 Test Company City;
17.20 Test Company State;
17.21 Test Company Zip Code;
17.22 Test Company Point of Contact;
17.23 Test Company Contact Phone Number;
17.24 Test Company Contact Email; and
17.25 Test Comment (optional, PM CPMS operating limits, if applicable).

18.0 *Source Information Data Elements.* You must report the following data elements, as applicable, for each source for which at least one test is included in the XML file:
18.1 Source ID (sampling location);
18.2 Stack (duct) Diameter (circular stack) (in.);
18.3 Equivalent Diameter (rectangular duct or stack) (in.);
18.4 Area of Stack;
18.5 Control Device Code; and
18.6 Control Device Description.

19.0 *Run-Level and Lab Data Elements for EPA test Methods 5, 5B, 5D, 26A, and 29.* You must report the appropriate Source ID (*i.e.,* Data Element 18.1) and the following data elements, as applicable, for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, or 26A. If your EGU is oil-fired and you use EPA test Method 26A to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant. When you use EPA test Method 29 to measure the individual HAP metals, total filterable HAP metals and total HAP metals, report only the run-level data elements (19.1, 19.3 through 19.30, and 19.38 through 19.41), and the point-level and lab data elements in sections 20 and 21 of this appendix:
19.1 Test Number;
19.2 Pollutant Name;
19.3 EPA Test Method;
19.4 Run Number;
19.5 Corresponding Reference Method(s), if applicable;
19.6 Corresponding Reference Method(s) Run Number, if applicable;
19.7 Number of Traverse Points;
19.8 Run Begin Date;
19.9 Run Start Time (clock time start);
19.10 Run End Date;
19.11 Run End Time (clock time end);
19.12 Barometric Pressure;
19.13 Static Pressure;
19.14 Cumulative Elapsed Sampling Time;
19.15 Percent O_2;
19.16 Percent CO_2;
19.17 Pitot Tube ID;
19.18 Pitot Tube Calibration Coefficient;
19.19 Nozzle Calibration Diameter;
19.20 F-Factor (F_d, F_w, or F_c);
19.21 Calibration Coefficient of Dry Gas Meter (Y);
19.22 Total Volume of Liquid Collected in Impingers and Silica Gel;
19.23 Percent Moisture—Actual;
19.24 Dry Molecular Weight of Stack Gas;
19.25 Wet Molecular Weight of Stack Gas;
19.26 Initial Reading of Dry Gas Meter Volume (dcf);
19.27 Final Reading of Dry Gas Meter Volume (dcf);
19.28 Stack Gas Velocity—fps;
19.29 Stack Gas Flow Rate—dscfm;
19.30 Type of Fuel;
19.31 Pollutant Mass Collected (value);
19.32 Pollutant Mass Unit of Measure;
19.33 Detection Limit Flag;
19.34 Pollutant Concentration;
19.35 Pollutant Concentration Unit of Measure;
19.36 Pollutant Emission Rate;
19.37 Pollutant Emission Rate Units of Measure (in units of the standard);
19.38 Compliance Limit Basis (heat input or electrical output);
19.39 Heat Input or Electrical Output Unit of Measure;
19.40 Process Parameter (value);
19.41 Process Parameter Unit of Measure;
19.42 Converted Concentration for PM CEMS only; and
19.43 Converted Concentration Units (units of correlation for PM CEMS).

20.0 *Point-Level Data Elements for EPA test Methods 5, 5B, 5D, 26A, & 29.* To link the point-level data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the following point-level data elements for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, 26A, or 29. Note that these data elements are required for all EPA test Method 29 applications, whether the method is being used to measure the total or individual HAP metals concentrations:
20.1 Traverse Point ID;
20.2 Stack Temperature;
20.3 Differential Pressure Reading (ΔP);
20.4 Orifice Pressure Reading (ΔH);
20.5 Dry Gas Meter Inlet Temperature;
20.6 Dry Gas Meter Outlet Temperature; and
20.7 Filter Temperature.

21.0 *Laboratory Results for EPA test Methods 29 Total or Individual Multiple HAP Metals.* If you use EPA test Method 29 and elect to comply with the total or individual HAP metals standards, you must report run-level data elements 19.1 through 19.34 in Section 19, and the point-level data elements in Section 20. To link the laboratory data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the results of the laboratory analyses. Regardless of whether you elect to comply with the total HAP metals standard or the individual HAP metals standard, you must report the front half catch, the back half catch, and the sum of the front and back half catches collected with EPA test Method 29 for each individual HAP metal and for the total HAP metals. The list of individual HAP metals is Antimony, Arsenic, Beryllium, Cadmium, Chromium, Cobalt, Lead, Manganese, Nickel, Selenium, and Mercury (if applicable). You must also calculate and report the pollutant emission rates(s) in relation to the standard(s) with which you have elected to comply and the units specified in Table 5 as follows:
21.1 Each Individual HAP metal total mass collected:
21.1.1 Pollutant Name;
21.1.2 Pollutant Mass Collected;
21.1.3 Pollutant Mass Units of Measure; and
21.1.4 Detection Limit Flag.
21.2 Each Individual HAP metal Front Half:
21.2.1 Pollutant Name;
21.2.2 Pollutant Mass Collected;
21.2.3 Pollutant Mass Units of Measure; and
21.2.4 Detection Limit Flag.
21.3 Each Individual HAP metal Back Half:
21.3.1 Pollutant Name;
21.3.2 Pollutant Mass Collected;
21.3.3 Pollutant Mass Units of Measure; and
21.3.4 Detection Limit Flag.
21.4 Each Individual HAP metal concentration:
21.4.1 Pollutant Name;
21.4.2 Pollutant Concentration; and
21.4.3 Pollutant Concentration Units of Measure.
21.5 Each Individual HAP metal emission rate in units of the standard:
21.5.1 Pollutant Name;
21.5.2 Pollutant Emission Rate; and
21.5.3 Pollutant Emission Rate Units of Measure.
21.6 Each Individual HAP metal emission rate in units of lbs/MMBTU or lbs/MW (per Table 5):
21.6.1 Pollutant Name;
21.6.2 Pollutant Emission Rate; and
21.6.3 Pollutant Emission Rate Units of Measure.
21.7 Total Filterable HAP metals mass collected:
21.7.1 Pollutant Name;
21.7.2 Pollutant Mass Collected;
21.7.3 Pollutant Mass Units of Measure; and
21.7.4 Detection Limit Flag.
21.8 Total Filterable HAP metals concentration:
21.8.1 Pollutant Name;
21.8.2 Pollutant Concentration; and
21.8.3 Pollutant Concentration Units of Measure.
21.9 Total Filterable HAP metals in units of lbs/MMBtu or lbs/MW (per Table 5):
21.9.1 Pollutant Name;
21.9.2 Pollutant Emission Rate; and
21.9.3 Pollutant Emission Rate Units of Measure.
21.10 Total HAP metals mass collected:
21.10.1 Pollutant Name;
21.10.2 Pollutant Mass Collected;
21.10.3 Pollutant Mass Units of Measure; and
21.10.4 Detection Limit Flag.
21.11 Total HAP metals concentration
21.11.1 Pollutant Name;
21.11.2 Pollutant Concentration; and
21.11.3 Pollutant Concentration Units of Measure.
21.12 Total HAP metals Emission Rate in Units of the Standard:

21.12.1 Pollutant Name;
21.12.2 Pollutant Emission Rate; and
21.12.3 Pollutant Emission Rate Units of Measure.
21.13 Total HAP metals Emission Rate in lbs/MMBtu or lbs/MW (per Table 5):
21.13.1 Pollutant Name;
21.13.2 Pollutant Emission Rate; and
21.13.3 Pollutant Emission Rate Units of Measure.
22.0 *Run-Level and Lab Data Elements for EPA test Method 26.* If you use EPA test Method 26, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each test run. If your EGU is oil-fired and you use EPA test Method 26 to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant:
22.1 Test Number;
22.2 Pollutant Name;
22.3 EPA Test Method;
22.4 Run Number;
22.5 Corresponding Reference Method(s), if applicable;
22.6 Corresponding Reference Method(s) Run Number, if applicable;
22.7 Number of Traverse Points;
22.8 Run Begin Date;
22.9 Run Start Time (clock start time);
22.10 Run End Date;
22.11 Run End Time (clock end time);
22.12 Barometric Pressure;
22.13 Cumulative Elapsed Sampling Time;
22.14 Calibration Coefficient of Dry Gas Meter (Y);
22.15 Initial Reading of Dry Gas Meter Volume (dcf);
22.16 Final Reading of Dry Gas Meter Volume (dcf);
22.17 Percent O_2;
22.18 Percent CO_2;
22.19 Type of Fuel;
22.20 F-Factor (F_d, F_w, or F_c);
22.21 Pollutant Mass Collected (value);
22.22 Pollutant Mass Units of Measure;
22.23 Detection Limit Flag;
22.24 Pollutant Concentration;
22.25 Pollutant Concentration Unit of Measure;
22.26 Compliance Limit Basis (heat input or electrical output);
22.27 Heat Input or Electrical Output Unit of Measure;
22.28 Process Parameter (value);
22.29 Process Parameter Unit of Measure;
22.30 Pollutant Emission Rate; and
22.31 Pollutant Emission Rate Units of Measure (in the units of the standard).
23.0 *Point-Level Data Elements for EPA test Method 26.* To link the point-level data in this section with the run-level data in the XML schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 22.3), Run Number (Data Element 22.4), and Run Begin Date (Data Element 22.8) from section 22 and the following point-level data elements for each run of each EPA test Method 26 test:
23.1 Traverse Point ID;
23.2 Filter Temperature; and
23.3 Dry Gas Meter Temperature.
24.0 *Run-Level Data for EPA test Method 30B.* You must report Source ID (*i.e.* Data Element 18.1) and the following run-level data elements for each EPA test Method 30B test run:
24.1 Test Number;
24.2 Pollutant Name;
24.3 EPA Test Method;
24.4 Run Number;
24.5 Corresponding Reference Method(s), if applicable;
24.6 Corresponding Reference Method(s) Run Number, if applicable;
24.7 Number of Traverse Points;
24.8 Run Begin Date;
24.9 Run Start Time (clock time start);
24.10 Run End Date;
24.11 Run End Time (clock time end);
24.12 Barometric Pressure;
24.13 Percent O_2;
24.14 Percent CO_2;
24.15 Cumulative Elapsed Sampling Time;
24.16 Calibration Coefficient of Dry Gas Meter Box A (Y);
24.17 Initial Reading of Dry Gas Meter Volume (A);
24.18 Final Reading of Dry Gas Meter Volume (A);
24.19 Calibration Coefficient of Dry Gas Meter Box B (Y);
24.20 Initial Reading of Dry Gas Meter Volume (B);
24.21 Final Reading of Dry Gas Meter Volume (B);
24.22 Gas Sample Volume Units of Measure;
24.23 Post-Run Leak Rate (A);
24.24 Post-Run Leak Check Vacuum (A);
24.25 Post-Run Leak Rate (B);
24.26 Post-Run Leak Check Vacuum (B);
24.27 Sorbent Trap ID (A);
24.28 Pollutant Mass Collected, Section 1 (A);
24.29 Pollutant Mass Collected, Section 2 (A);
24.30 Mass of Spike on Sorbent Trap A;
24.31 Total Pollutant Mass Trap A;
24.32 Sorbent Trap ID (B);
24.33 Pollutant Mass Collected, Section 1 (B);
24.34 Pollutant Mass Collected, Section 2 (B);
24.35 Mass of Spike on Sorbent Trap B;
24.36 Total Pollutant Mass Trap B;
24.37 Pollutant Mass Units of Measure;
24.38 Pollutant Average Concentration;
24.39 Pollutant Concentration Units of Measure;
24.40 Method Detection Limit;
24.41 Percent Spike Recovery;
24.42 Type of Fuel;
24.43 F-Factor (F_d, F_w, or F_c);
24.44 Compliance Limit Basis (heat input or electrical output);
24.45 Heat Input or Electrical Output Unit of Measure;
24.46 Process Parameter (value);
24.47 Process Parameter Unit of Measure;
24.48 Pollutant Emission Rate; and
24.49 Pollutant Emission Rate Unit of Measure (in the units of the standard).
25.0 *Point-Level Data Elements for EPA test Method 30B.* You must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 24.3), Run Number (Data Element 24.4), and Run Begin Date (Data Element 24.8) and the following point-level data elements for each run of each EPA test Method 30B test:
25.1 Traverse Point ID;
25.2 Dry Gas Meter Temperature (A);
25.3 Sample Flow Rate (A) (L/min);
25.4 Dry Gas Meter Temperature (B); and
25.5 Sample Flow Rate (B) (L/min).
26.0 *Pre-Run Data Elements for EPA test Methods 3A and 6C.* You must report the Source ID (*i.e.,* Data Element 18.1) and the following pre-run data elements for each SO_2 RATA using instrumental EPA test Method 6C, and for each instrumental EPA test Method 3A O_2 or CO_2 test that is performed to convert a pollutant concentration to the units of measure of the applicable emission unit of standard in Table 1 or 2 of this subpart:
26.1 Test Number;
26.2 EPA Test Method;
26.3 Calibration Gas Cylinder Analyte;
26.4 Cylinder Gas Units of Measure;
26.5 Date of Calibration;
26.6 Calibration Low-Level Gas Cylinder ID;
26.7 Calibration Low-Level Gas Concentration;
26.8 Calibration Low-Level Cylinder Expiration Date;
26.9 Calibration Mid-Level Gas Cylinder ID;
26.10 Calibration Mid-Level Gas Concentration;
26.11 Calibration Mid-Level Cylinder Expiration Date;
26.12 Calibration High-Level Gas Cylinder ID;
26.13 Calibration Span (High-Level) Gas Concentration;
26.14 Calibration High-Level Cylinder Expiration Date;
26.15 Low-Level Gas Response;
26.16 Low-Level Calibration Error;
26.17 Low-Level Alternate Performance Specification (APS) Flag;
26.18 Mid-Level Gas Response;
26.19 Mid-Level Calibration Error;
26.20 Mid-Level APS Flag;
26.21 High-Level Gas Response;
26.22 High-Level Calibration Error; and
26.23 High-Level APS Flag.
27.0 *Run-Level Data Elements for EPA test Methods 3A and 6C.* You must report the Source ID (*i.e.,* Data Element 18.1) and following run-level data elements for each run of each SO_2 RATA using instrumental EPA test Method 6C, and for each run of each corresponding instrumental EPA test Method 3A test that is performed to convert a pollutant concentration to the applicable emission unit of standard in Table 1 or 2 of this subpart:
27.1 Test Number;
27.2 Pollutant or Analyte Name;
27.3 EPA Test Method;
27.4 Run Number;
27.5 Corresponding Reference Method(s), if applicable;
27.6 Corresponding Reference Method(s) Run Number(s), if applicable;
27.7 Number of Traverse Points;
27.8 Run Begin Date;
27.9 Run Start Time (clock time start);
27.10 Run End Date;
27.11 Run End Time (clock time end);
27.12 Cumulative Elapsed Sampling Time;
27.13 Upscale (mid or high) Gas Level;

27.14 Pre-Run Low-Level Response;
27.15 Pre-Run Low-Level System Bias;
27.16 Pre-Run Low-Level Bias APS Flag;
27.17 Pre-Run Upscale (mid or high) Response;
27.18 Pre-Run Upscale (mid or high) System Bias;
27.19 Pre-Run Upscale (mid or high) Bias APS Flag;
27.20 Post-Run Low-Level Response;
27.21 Post-Run Low-Level System Bias;
27.22 Post-Run Low-Level Bias APS Flag;
27.23 Post-Run Low-Level Drift;
27.24 Post-Run Low-Level Drift APS Flag;
27.25 Post-Run Upscale (mid or high) Response;
27.26 Post-Run Upscale (mid or high) System Bias;
27.27 Post-Run Upscale (mid or high) System Bias APS Flag;
27.28 Post-Run Upscale (mid or high) Drift;
27.29 Post-Run Upscale (mid or high) Drift APS Flag;
27.30 Unadjusted Raw Emissions Average Concentration;
27.31 Calculated Average Concentration, Adjusted for Bias (C_{gas});
27.32 Concentration Units of Measure (Dry or wet);
27.33 Type of Fuel;
27.34 Process Parameter (value); and
27.35 Process Parameter Units of Measure.

28.0 *Run-Level Data Elements for EPA test Method 2.* When you make a separate determination of the stack gas flow rate using EPA test Method 2 separately, corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the stack gas flow rate, you must report the Source ID (*i.e.,* Data Element 18.1) and following run-level data elements for each EPA test Method 2 test run:
28.1 Test Number;
28.2 EPA Test Method;
28.3 Run Number;
28.4 Number of Traverse Points;
28.5 Run Begin Date;
28.6 Run Start Time (clock time start);
28.7 Run End Date;
28.8 Run End Time (clock time end);
28.9 Pitot Tube ID;
28.10 Pitot Tube Calibration Coefficient;
28.11 Barometric Pressure;
28.12 Static Pressure;
28.13 Percent O_2;
28.14 Percent CO_2;
28.15 Percent Moisture—actual;
28.16 Dry Molecular Weight of Stack Gas;
28.17 Wet Molecular Weight of Stack Gas;
28.18 Stack Gas Velocity—fps; and
28.19 Stack Gas Flow Rate—dscfm.

29.0 *Point-Level Data Elements for EPA test Method 2.* For each run of each separate EPA test Method 2 test, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 28.2), Run Number (Data Element 28.3), and Run Begin Date (Data Element 28.5) and the following point-level data elements:
29.1 Traverse Point ID;
29.2 Stack Temperature; and
29.3 Differential Pressure Reading (ΔP).

30.0 *Run-Level Data Elements for EPA test Method 4.* When you make a separate EPA test Method 4 determination of the stack gas moisture content corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the moisture content, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each EPA test Method 4 test run:
30.1 Test Number;
30.2 EPA Test Method;
30.3 Run Number;
30.4 Number of Traverse Points;
30.5 Run Begin Date;
30.6 Run Start Time (clock time start);
30.7 Run End Date;
30.8 Run End Time (clock time end);
30.9 Barometric Pressure;
30.10 Calibration Coefficient of Dry Gas Meter (Y);
30.11 Volume of Water Collected in Impingers and Silica Gel;
30.12 Percent Moisture-actual;
30.13 Initial Reading of Dry Gas Meter Volume (dcf);
30.14 Final Reading of Dry Gas Meter Volume (dcf); and
30.15 Dry Gas Meter Temperature (average).

31.0 *Other Information for Each Test or Test Series.* You must provide each test included in the XML data file described in this appendix with supporting documentation, in a PDF file submitted concurrently with the XML file, such that all the data required to be reported by 40 CFR 63.7(g) are provided. That supporting data include but are not limited to diagrams showing the location of the test site and the sampling points, laboratory report(s) including analytical calibrations, calibrations of source sampling equipment, calibration gas cylinder certificates, raw instrumental data, field data sheets, quality assurance data (*e.g.* field recovery spikes) and any required audit results and stack testers' credentials (if applicable). The applicable data elements in 40 CFR 63.10031(f)(6)(i) through (xii) of this section must be entered into ECMPS with each PDF submittal; the test number(s) (see 40 CFR 63.10031(f)(6)(xi)) must be included. The test number(s) must match the test number(s) in sections 19 through 31 of this appendix (as applicable).

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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